

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd August, 2016

The House met at 2.30 p.m.

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

PRAYERS

(Hon. Naicca took several bottles of water from the Dispatch Box)

Hon. Speaker: Hon. Member for Mumias West, there is an increase in the number of people coughing. I am wondering whether lack of water or too much of it could be the cause.

PETITIONS

DELAY IN ISSUANCE OF CITIZENSHIP TO IMMIGRANTS IN KENYA

Hon. (Ms.) Sunjeev: I, the undersigned, on behalf of the concerned immigrants who are residing and working in Kenya draw the attention of the House to the following:-

THAT, Article 15 of the Constitution provides for citizenship by registration for any person who has been a lawful resident in Kenya for a continuous period of, at least, seven years and who satisfies the conditions prescribed by an Act of Parliament.

THAT, there have been several cases of delay of issuance of citizenship to persons who qualify for citizenship by registration.

THAT, this has caused frustration to these concerned individuals as their fate is unknown, and as a result of delayed citizenship application response many have been forced to apply for work permits severally which is costly.

THAT, failure to issue applicants with citizenship has violated their rights in respect of equality and freedom from discrimination in failing to process their application for Kenyan citizenship.

THAT, there have been allegations of high level of corruption at Immigration Department, therefore, rendering the applicants helpless.

THAT, the issues in respect of which this Petition is made are not pending before any court of law or any constitutional or legal body.

THAT, efforts to resolve the matter have been futile.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security: -

- (i) Recommends that the relevant Government agency undertakes investigations to establish why there is backlog at Immigration Department and recommend necessary measures to resolve the matter;
- (ii) ensures that the petitioners' plight is addressed; and,

(iii) makes any other order or direction that it deems fit in the circumstances of the Petition.

And your petitioners will forever pray.

Thank you.

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. I join my colleague in welcoming this Petition. Further to the issues raised by Hon. Sunjeev that the Immigration Department has completely stopped issuing citizenship to eligible persons, I wish to add that the Committee also looks into the fact that, that department seems allergic to giving citizenship to eligible persons from the African continent especially from the regions that qualify to get Kenyan citizenship. They seem to have a general liking for China and India. So, we would be well advised whether those individuals from African countries should bother to apply for citizenship.

I welcome it and look forward to the responses to her prayers.

Thank you.

Hon. Ogolla: I support the Petition. The issue of citizenship is critical to the country. Some element of due diligence is required. While this is supposed to be the case, it does not necessarily mean that the Immigration Department has to be slow in executing the applications.

The Committee needs to look at the reasons behind this because many delays are in most cases related to issues of corruption which is not very good for this country.

(Loud consultations)

Hon. Speaker: Even though it is a Tuesday afternoon and I know you have just come from the constituencies, consult in low tones.

Hon. (Ms.) Ngetich: Thank you, Hon. Speaker. I also want to support this Petition and add that our Constitution allows for dual citizenship. However, we have not seen this implemented.

Secondly, on petitions, this House has always received petitions. They are discussed but I always wonder where they end up when we get their reports. Why are they not being implemented? It is like there is no track of what happens to the reports that arise out of the petitions that are brought to this House.

Allow me also to take this opportunity to express my sincere appreciation to His Excellency the President of the Republic of Kenya for assenting to the Engineering Technologists and Technicians Bill that is now known as the Kenya Engineering Technology Act, 2016.

I also want to appreciate this House for supporting and passing the Bill. I want to believe that the law in place now will play a key role in bringing sanity particularly to the building and construction industry.

Today, we witnessed another building collapsing in Kariobangi. Sometime back, a building collapsed in Huruma. The provisions of this Act which are also in line with Vision 2030 will ensure that we reduce unemployment and overdependence on the West. I read recently in one of the gutter Press that one country is intending to import 1,400 workers to come and construct the coal mining industry. This is very unfortunate because we have our own youth who can be employed and who can ably take up that responsibility. I want to thank the Government for supporting the industry. Right now, they are undertaking the construction of technical training institutes in every constituency. I want to urge the youth to make use of access to train as technicians and supply the country with labour.

I support that the Petition.

Thank you.

Hon. Wakhungu: Thank you, Hon. Speaker. I also want to add my voice to this Petition which is very critical. You have ruled before that it has to be done within 60 days but if you look at the records, you will realise that most petitions are coming way after 90 days or so.

I have a friend who has lived in this country for more than 15 years. He has applied for citizenship but it has not been forthcoming. Instead, you hear cases of corruption. It is high time we moved with speed. Before somebody is given citizenship, we must do a proper background check so that we do not allow criminals from other countries to come and settle here. I hope that the Committee is going to expedite this Petition so that it comes here on time.

Thank you.

Hon. Speaker: The Petition is referred to the relevant Departmental Committee to act within the prescribed period in our Standing Orders.

ILLEGAL GRAZING IN TSAVO WEST NATIONAL PARK

Hon. Mwadime: I, the undersigned, on behalf of the residents of Mwatate Constituency, draw the attention of the House to the following:-

THAT, Tsavo West National Park offers some of the most magnificent game viewing in the world and attractions including elephants, rhinos, hippos, lions, cheetah, leopards and buffalos among others.

THAT, illegal grazing of animals in the National Park has resulted to movement of wild animals towards human settlement areas in search of greener pastures, and in the process leading to human-wildlife conflict.

THAT, the park is not fenced and the area is vast thus making it easily accessible by people who freely graze their animals.

THAT, the Kenya Wildlife Service (KWS) has failed in their mandate of safeguarding the park from such invasion.

THAT, multiple efforts to resolve the matter with the relevant authorities and Government bodies have not borne any fruit.

THAT, the issues in respect of which this Petition is made are not pending before any Court of Law or before any constitutional or statutory body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:-

- i. recommends that the KWS deploys more officers to the park to assist in manning the vast area and removing herders who illegally graze their domestic animals in national parks;
- ii. recommends that action is taken against these illegal herders by the relevant Government agencies;
- iii. recommends that the KWS erects a perimeter fence along the Tsavo West National Park to stop the wild animals from migrating to areas of human settlement; and,
- iv. makes any other order and/or direction that it deems fit in the circumstances of the matter for the welfare of the communities residing near national parks.

And your Petitioners will forever pray.

Thank you.

Hon. Speaker: Hon. Members, before we proceed, allow me to recognise the presence, in both the Speaker's Gallery and the Public Gallery, of students and pupils from St. Judy Academy, Ainabkoi Constituency, Uasin Gishu County; the Pures Project, First Lady's Initiative, C/O State House Nairobi; Josna Primary School, Nairobi County; Kaloleni Primary School, Nairobi County; Vipingo Muslim Secondary School, Kilifi County; Bukuria Academy, Migori County and Father Cunningham Academy, Nakuru County.

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

Let us have Hon. Cyprian Kubai.

Hon. Kubai Iringo: Thank you, Hon. Speaker for giving me this opportunity to support the Petition by Hon. Mwadime.

Human-wildlife conflicts in Kenya have become a daily phenomenon and it high time the authorities or the powers that be addressed this issue once and for all. I do not see why animals live on very vast land which should otherwise have been occupied by people. The animals have now occupied the entire area to an extent that they cannot be contained and yet the Kenya Wildlife Service (KWS) has very many game rangers. This is because the KWS recruits game rangers every year. Why can they not contain those animals? We know that there are wild animals which live in zoos. They live in the middle of cities with people but they never interfere with the people's daily lives. In Kenya, wild animals stray into homesteads after traversing thousands of acres of land. Somebody somewhere is negligent.

Finally, I brought a petition on 2nd June, pertaining to land issues which are very sensitive. The petition was committed to the Committee on Lands. When I sought clarification last time, the Vice-Chair of the Committee gave an undertaking to ensure that the petition is expedited but to date, it has not been dealt with. I can see the Vice-Chair of the Committee on Lands is seated there but he is not listening to me. Could he respond?

Hon. Speaker: Yes, Hon. Abdikadir Omar.

Hon. Aden: Thank you, Hon. Speaker. I wish to put my word in support of the Petition brought by Hon. Mwadime. Indeed, there is a great challenge between the societies that live adjacent to the parks and the game rangers. Sometimes straying into the parks becomes a matter of necessity in life. It is only if you are a herdsman like me that you will realise that when there is very serious drought, this can happen. The Government should seriously consider curving out small portions of our national parks and game reserves for herders to move in their livestock for grazing at certain times. If such an arrangement is made and it is well managed, there will absolutely be no problem. Balambala Constituency, which I represent borders both the Kora and the Meru National Parks. I can tell you that our people have no interest in harming wildlife. They are after the little green grass that is sometimes found in the parks only. Game rangers have used this as an excuse to extort money from people. In many cases, like it happened in the recent past, they injured people. There is need for dialogue between the societies that live adjacent to the parks and the managers of those parks, because the people are the owners of those parcels of land. If that is done there will be controlled grazing of livestock in those areas.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Wario, you have the Floor.

Hon. Wario: Ahsante, Mhe. Spika. Ninamatatizo mawili na tetesi iloyoletwa mbele yako na Mhe. Mwadime. Kwanza, inafaa ibainike na Wakenya kwamba asilimia 90 ya mbuga za wanyamapori ziko katika sehemu za wafugaji. Pili, kuna sheria katika Kenya ambayo inasema ukipatikana ndani ya mbuga ya wanyamapori utatozwa faini au ufungwe jela kwa muda fulani. Sasa kama sheria hiyo tayari inatekelezwa, tetesi hii itatua nini leo? Kazi anayotaka kufanya

Mhe. Mwadime imefanywa kupitia sheria hiyo. Hata ukipatikana ndani ya mbuga ya wanyamapori, utashtakiwa kisha utozwe faini ama ufungwe gerezeni. Kuna sheria tayari. Ni nini mpya Mhe. Mwadime anatuambia katika hii *Petition*?

Pili, sehemu nyingi za *national parks* ziko katika sehemu ya wafugaji. Inafaa tutafute njia mwafaka kama hiyo sheria haitoshi kutatua matatizo hayo. Hii *Petition* haileti mambo mapya kwa hili Bunge leo.

Ahsante Mhe. Spika.

Hon. Speaker: Nevertheless, it beholds me to refer the Petition to the relevant committee of the House which I am sure Hon. Ali Wario will appear and prosecute the particular argument he appears to be conversant with.

Let us have Hon. Bady Twalib.

Hon. Bady: Ahsante sana, Mhe. Spika kwa kunipatia nafasi hii ili nami pia niunge mkono Mhe. Mwadime. Kitu ambacho ningependa kutofautiana na Mhe. Ali Wario ni kwamba Sheria iko, lakini tetesi huja baada ya ile sheria iliyowekwa kuwa haitumiki. Hi indio maana watu wa pale huweka tetesi ili waone namna wanaweza kusikizwa. Kwa hivyo, ni vizuri vile Mbunge wa Voi Mhe. Mwadime amezungumzia juu ya tetesi za wanyama pori ili kuhakikisha kuwa Serikali imepeleka maofisa wakutosha kwa hizo mbuga za wanyama. Inafaa tuangalia sehemu zote ambazo ziko na shida na mambo ya wanyama wapori ili sehemu hizo zihifadhiwe vizuri.

Mhe. Spika, katika nchi hii ya Kenya, wanyama wa pori wanaokaa katika mbuga mara nyingi hutoka na wanadhuru wananchi ambao wanaishi karibu na mbuga hizo. Hata hivyo, Serikali haijahakikisha kwamba wale ambao wameadhirika wamelipwa. Kwa hivyo, ni muhimu Serikali, kupitia tetesi hizi, ihakikishe kwamba yeyote anayeumizwa na mnyama wa pori amelipwa kwa haraka ili maisha yake yaweze kuendelea.

Kwa hayo machache, hata mimi ninataka kuwa miongoni mwa wale waliounga mkono tetesi hizi ambazo zimeletwa na Mhe. Mwadime. Nina hakika kamati inayohusika itaweza kuwashughulikia ili watu wa Voi wasaidike.

Ahsante sana Mhe. Spika.

Hon. Speaker: Well, that should conclude it. The Petition is referred to the relevant Committee of the House for consideration. I hope the Committee will take on board the complaints which have been raised by some Members, especially those who have said that they have presented their petitions here and they have not received any response.

Hon. Members, I now want to make a Communication which is related to those complaints.

COMMUNICATION FROM THE CHAIR

APPROVAL OF STATUTORY INSTRUMENTS

Hon. Members, whereas Article 94(1) of the Constitution vests the legislative authority of the Republic of Kenya in the National Parliament, Clauses (4) and (5) of the said Article allows Parliament to, through Acts of Parliament, delegate legislative powers to other persons or bodies to make provisions for those legislations to have the full force of the law in Kenya. The Statutory Instruments Act, 2013 requires such delegated provisions to be subjected, where applicable, to parliamentary approval.

In fulfillment of the provisions of the said Act, persons and bodies exercising delegated powers continue to make and submit to this House various statutory instruments as required under Section 11 of the Statutory Instruments Act, 2013.

Upon submission to the House, the instruments are effectively committed to the Committee on Delegated Legislation for consideration in accordance with Sections 12 and 13 of the Statutory Instruments Act, 2013. The sequence of approval under the Act is, however, cast in the negative whereby Parliament is not required to approve the whole of the provisions, but is only required to disapprove or annul those provisions that it does not agree to.

Hon. Members, as at today, Tuesday, 2nd August, 2016, the following statutory instruments have been laid on the Table of this House, pursuant to Section 11 of the Act, and are yet to be concluded:-

- (i) Legal Notice No.197 of 2015 on the Mediation (Pilot Project) Rules, 2015 and the Explanatory Memorandum, laid on the Table of the House on Wednesday, 10th February, 2016;
- (ii) Legal Notice No.225 of 2015 on Witness Protection Rules, 2015 and the Explanatory Memoranda, laid on the Table of the House on Wednesday, 10th February, 2016;
- (iii) Legal Notice No.35 of 2016 on the Capital Markets (Licensing Requirements) (General Amendment) Regulations, 2016 and the Explanatory Memorandum, laid on the Table of the House on Tuesday, 12th April, 2016;
- (iv) Legal Notice No.36 of 2016 on the Capital Markets (Securities) (Public Officers Listing and Disclosure) (Amendment) Regulations, 2016 and the Explanatory Memorandum, laid on the Table of the House on Thursday, 12th April, 2016;
- (v) Legal Notice No.37 of 2016 on the Capital Markets (Derivatives Markets) Regulations, 2015 and the Explanatory Memorandum, laid on the Table of the House on Tuesday, 12th April, 2016;
- (vi) Legal Notice No.47 of 2016 on the Insolvency Regulations, 2016 and the Explanatory Memorandum, laid on the Table of the House on Thursday, 14th April, 2016;
- (vii) Legal Notice No.62 of 2016 on the Traffic (Registration Plates) Rules, 2016 and the Explanatory Memorandum, laid on the Table of the House on Tuesday, 7th June, 2016;
- (viii) Gazette Notice No.1420 of 2016 on the Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 and the Explanatory Memorandum, laid on the Table of the House on Tuesday, 12th April, 2016; and,
- (ix) Gazette Notice No.1421 of 2016 on the Guidelines on Prevention of Money Laundering and Terrorism Financing in Capital Markets, 2015 and the Explanatory Memorandum, laid on the Table of the House on Tuesday, 12th April, 2016.

Hon. Members, allow me to remind the House that upon committal of these statutory instruments, the Committee on Delegated Legislation is required under the Act to:-

- (a) scrutinise the statutory instruments for compliance with the matters specified under Section 13 of the Act together with such other requirements as may exist in the Interpretation and General Provisions Act (Cap. 2 of the Laws of Kenya) relating to subsidiary legislation;

(b) confer with the regulation-making authority in the manner contemplated under Section 16 of the Act; and,

(c) table a report in the House containing only a resolution that the statutory instrument or a part of it be revoked as contemplated under Section 15 of the Act.

Hon. Members, you may recall that Section 15 of the Statutory Instruments Act, 2013 was amended through the Statute Law (Miscellaneous Amendments) Act of 2015, which amendment introduced a timeline within which the National Assembly is required to consider any statutory instrument laid before it. For clarity, the new Section 15 of the Act provides as follows in Sub-section (2)–

“Where the Committee does not make the report referred to in Sub-section (1) within twenty eight days after the date of referral of the statutory instrument to the Committee under Section 12, or such other period as the House may, by resolution approve, the statutory instrument shall be deemed to have fully met the relevant considerations referred to in Section 13.”

Clearly, the 28 days contemplated in the above-mentioned provision in respect of the statutory instruments listed in this Communication have expired. Since the Committee has neither reported to this House a proposed annulment of any of the affected statutory instruments nor sought any extension of time for consideration of the said statutory instruments as contemplated in the Act, the House is deemed to have had no objection to those statutory instruments and the said statutory instruments have the full force of approval by the House.

In this regard, and in accordance with the provisions of the Statutory Instruments Act as read together with Standing Order 210, the Clerk is now required to convey these facts to the respective regulation-making authorities so that they are notified that the instruments have the force of law as no objections have been made by the National Assembly.

Hon. Members, I hasten to add that this guidance does not apply to specific subsidiary legislation where positive approval of the National Assembly or indeed, both Houses under the specific statutes is mandatory. Under such circumstances, the House would not be time-bound unless there is an express provision prescribing the period within which the National Assembly or both Houses ought to approve or reject such subsidiary legislation.

It is worth noting that in contrast to other Committees which have a wide range of mandate, the Committee on Delegated Legislation is solely charged with the responsibility of considering delegated legislation. It is in my view that limiting the mandate of this Committee to considering statutory instruments was guided by the principle and nature of urgency with which such instruments ought to be given parliamentary approval so as to enjoy the benefit of having the full force of the law. This House ought not to abdicate this duty conferred on it by the Constitution by delaying consideration and approval of statutory instruments or allowing such instruments to automatically assume clearance by the House by operation of the law albeit without scrutiny as may be in the current case.

The Chairperson and Members of this Committee are, therefore, encouraged to embrace the spirit of Standing Order 183 by establishing sub-committees with a view to expediting consideration of statutory instruments within the specified timelines.

The House and officers of the House are accordingly guided.

Thank you.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table: -

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year that ended 30th June, 2015 and the Certificate therein:-

- i. Occupational Safety and Health Fund
- ii. Child Welfare Society of Kenya
- iii. Constituencies Development Fund, Embakasi North Constituency
- iv. Constituency Development Fund, Kajiado West Constituency
- v. Jomo Kenyatta Foundation.

The Report of the Auditor-General on the Financial Statements of Occupational Safety and Health Fund for the year ended 30th June, 2014 and the Certificate therein;

The Annual Report and Financial Statements for Higher Education Loans Board for the year 2013/2014.

The Annual Report and Financial Statements for the National Social Security Fund (NSSF) for the year ended 30th June, 2014.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Members, lower your decibels because I think it is important that we are able to listen to one another. Indeed, I am surprised. I do not see the Chairperson of the Committee on Delegated Legislation or even the Vice-Chair or any Member thereof. Hon. Simba Arati, the Member for Dagoretti North, you belong to that Committee which is asleep. Nine statutory instruments have just lapsed. So, they are now operational notwithstanding that they were referred to your Committee. So, get your Chairperson and Vice Chair and see what it is that you can do. Form sub-committees please.

Hon. Simba I am sure you can agree that you can have a Committee of whatever number that you find appropriate so that you can be able to consider those issues. We expect you to be active and working even within Committees. At least, you are honest enough to acknowledge you are a Member of the Committee even though it is being shown in bad light.

Let us have the Chairperson, Departmental Committee on Environment and Natural Resources.

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. Following your directions, I beg to lay the following Paper on the Table:-

The Mediated Version of the Water Bill, 2014.

Hon. Speaker: Indeed, that is in compliance with Article 113(2).

The Chairperson, Departmental Committee on Energy, Communication and Information, you have the Floor.

Hon. Kamau: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table: -

The Report of the Departmental Committee on Energy, Communication and Information on the crisis facing the music industry on payments of royalties and review of the legal framework for the music industry.

Hon. Speaker: Very well. Let us now have the Chairperson, Departmental Committee on Agriculture, Livestock and Cooperatives.

Hon. Nooru: Hon. Speaker. I beg to lay the following Papers on the Table of the House, today, Tuesday, 2nd August 2016: -

The Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on its consideration of the Potatoes Produce and Marketing Bill, Senate Bill No. 22 of 2014.

Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Chairperson, Departmental Committee on Transport, Public Works and Housing, Hon. Kamanda.

Hon. Kamanda: I am sorry, Hon. Speaker. When you have a reverend near you and he is telling you how in future you will go to heaven, you listen to him first.

Hon. Speaker. I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee Transport, Public Works and Housing ---

Hon. Speaker: Which one is that? We are not there. Are you giving notice of Motion or you are laying a Paper?

Hon. Kamanda: Hon. Speaker, I gave notice of this Motion on 27th July, 2016.

Hon. Speaker: That is the next Order.

Let us move on to the next Order. Hon. Kamanda, you can---

Hon. Kamanda: I have already done it.

Hon. Speaker: So, there is nothing?

Hon. Kamanda: Yes.

Hon. Speaker: It is okay. Let us have Hon. Emanikor. You had indicated there is a Paper you are laying. Let us allow Hon. Emanikor to proceed.

(Loud consultations)

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker. I beg to give notice of the following Motion: -

Hon. Speaker, save me from the noise of the pastoralists around here.

Hon. Speaker: You appear to have ferried all the way from your county the most active Member, the Member for Turkana South. Do not let him sit next to you because you will not be able to transact business.

(Laughter)

NOTICE OF MOTION

ESTABLISHMENT OF COMPREHENSIVE EMPLOYMENT POLICY FOR PUBLIC SERVANTS

Hon. (Ms.) Emanikor: Hon. Speaker, I beg to give notice of the following Motion: -

THAT, aware that a sufficiently skilled and trained workforce is an essential pillar for the attainment of Kenya's Vision 2030; further aware that the number of doctors, accountants, engineers, teachers, nurses, lecturers, scientists and other professionals in the public sector undertaking further studies of specialised skills within or outside the country is on the increase; deeply concerned that quite a number of professionals seemingly get demoralised by the fact that on returning from studies abroad or after undertaking further studies locally, they are either deployed to lower positions, placed below supervisors

whose skills they exceed or stagnate in the same positions they were before furthering their skills; further concerned by the fact that most of them thereafter opt to leave public service for the private sector, civil society or Non-Governmental Organisations (NGOs) or even migrate abroad in search of greener pastures leading to regrettable brain drain; this House resolves that the Government establishes a comprehensive policy to guarantee career advancement, promotions, and security of tenure for public servants and officers who undertake to refine their skills through further studies.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order! What is your point of order, Hon. Gumbo?

POINT OF ORDER

ISSUES PERTAINING SECURITY OF PARLIAMENT BUILDINGS

Hon. (Eng.) Gumbo: Hon. Speaker, I beg your indulgence to rise under Standing Order No.1 to raise a matter which I believe affects all Members of Parliament. It is also a big concern to me. The point of order I rise to raise touches on Chapter 14 of the Constitution on national security. Article 238(1) is on the principles of national security.

Article 238(1) states that national security is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity and other national interests.

One of the key national interests is the institution of Parliament. Article 238(2) of the Constitution states:-

“The national security of Kenya shall be promoted and guaranteed in accordance with the following principles:-

- (a) national security is subject to the authority of this Constitution and Parliament;
- (b) national security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms;
- (c) in performing their functions and exercising their powers, national security organs shall respect the diverse culture of the communities within Kenya; and,
- (d) recruitment by the national security organs shall reflect the diversity of the Kenyan people in equitable proportions.”

Article 239 of the Constitution lists the national security organs as the Kenya Defence Forces (KDF), the National Intelligence Service (NIS), and the National Police Service (NPS). Article 239(2) states that the primary object of the national security organs and security system is to promote and guarantee national security in accordance with the principles mentioned under Article 238(2) of the Constitution.

I have read those relevant sections of the Constitution to bring to your attention a matter which has bothered me for a while. On that basis, I wish to indulge you so that you help us to understand who is in charge of the security of Parliament and by extension, parliamentarians. I made these observations out of the concerns I have, which concern all the Members of this House. For the past one year, all entrances to Parliament, including ancillary buildings and other

pertinences have been manned by strangers. I call them “strangers” because I do not know who they are. They seem to exercise more powers than the organs of national security that I have stated above.

These strangers used to dress in National Youth Service (NYS) uniforms, which then changed to orange reflector jackets. They have now changed to dark suits. What is strange and unacceptable is the fact that we still have both the regular police officer and General Service Unit (GSU) personnel at the entrances of Parliament Buildings. They seem to be powerless in the hands of these people. They are the ones who inspect our vehicles, and occasionally order our personal security to disembark from our cars.

(Applause)

Many times, these strangers do their work with absolute lack of decorum. Their preferred mode of communication is barking orders at Members of Parliament. I have stated clearly the organs of national security. The key features of national security organs are the following:-

- (a) they observe a clear chain of command;
- (b) each member of the national security organ can be identified through a unique force number;
- (c) all members of the national security organ observe strict codes of discipline; and,
- (d) each member undergoes a rigorous training programme specific to the provision of security.

Suspicion about the roles of these people is not confined to Members of Parliament alone. I had a word with the police officers who man the entrances to Parliament and the ancillary buildings. They confessed to me that they do not understand the roles of these people. A number of them treat the police officers with disdain and suspicion, which will compromise the security of Parliament and that of Members. Indeed, they are murmured to be a private army which is working on behalf of specific individuals either within or outside Parliament. If this is true, those are very serious allegations. Therefore, I ask questions which I kindly and most humbly request you to address. Who are these people manning the security at the entrances to Parliament? Whom do they answer to, and what is their chain of command? Why can the police not do their work because all the entrances to Parliament Buildings and the ancillary buildings have police officers stationed there? What training have these people undergone to give them the necessary competences to do the work they purport to be doing?

Those strangers invade the privacy of other vehicles, and by extension the privacy of Members of Parliament, in the name of inspecting them. What exactly do they look for? Are they trained to know what they are looking for? What precautions have been taken to avoid instances of suspicions and clashes between these people and the police officers manning the entrances to Parliament and its ancillary buildings? Why should Hon. Members continue to be subjected to this degrading invasion of personal privacy by strangers whose identities and purposes are not clear? With all these unanswered questions, could Members be assured that part of the work of these strangers is not secret profiling? Lastly, if these people were removed, how would the security of Parliament, Hon. Members, parliamentary staff and visitors to Parliament be compromised?

Hon. Speaker: Hon. Gumbo, you do not need to belabour the point because I have listened to this debate in the past, even if not from the Chair. I am happy because you have raised the issue. However, you are out of order. This is not the kind of issue you can claim to be on a

point of order. All you needed to do is to write an administrative letter. You are very good at writing letters. I am surprised you want to politicise the security of Parliament. The security of Parliament is not political. You have raised very good points. A proper communication from the Parliamentary Service Commission (PSC) will be issued, detailing and explaining all the processes. It is irresponsible to suggest that your own Commission has engaged strangers to come and profile Members. Nevertheless, I am not the one who is supposed to answer that question because it was a corporate decision by the Commission. The issues which you have raised will be picked from the HANSARD and then the Commission will write a proper communication, explaining why those persons had to be engaged. After many complaints from Members that the police officers were not doing their job, the Commission had to go out of its way to look for people who can afford to stand at the gate throughout. You cannot have your cake and eat it. Some of the people who are telling you that those people are strangers have refused to stand at the gates. Let me promise you that within the shortest time possible the Commission will issue proper communication explaining and detailing what everybody is supposed to do; what security departments exist within the institution of Parliament and how they are recruited. This is because I do not recruit. The same communication will give details on how they are identified, what training each has undergone so as to be considered for engagement, to do the work that each of them does. As we appreciate, there are departments of the Serjeant-at-Arms, Security, Police, GSU and hound dogs. All those are available within the institution.

It is fair that a proper communication be processed by the Commission so that we can put this matter to rest. I have heard that question raised and watched those debates being made here from time to time. I think they have been raised to the wrong people. This is because when you raise them to the Speaker, he may not respond properly because those are employees of the PSC. Just like your own staffers, you also have partisan staffers. Some people could call them strangers, if they do not know them.

Let me undertake that this matter will be addressed by the Commission so that Members will be made to appreciate who does what and in which place. If people are doing work in places they are not supposed to, that can be addressed by the Commission. I have heard this debate before and I wish Hon. Gumbo had, in his normal way, written his usually detailed administrative letters because that would have been a better way to deal with this issue.

That notwithstanding, I undertake that there will be a proper communication from the PSC. This is because it affects not just this House but also the other House. As we are aware, the Commission has membership from both Houses.

Whereas I thank you, it was not really a point order. I wish you had done it the other way. Nevertheless, it will be addressed. That is what I can undertake. I can see Commissioner Wanga is here. I am sure when they will sit, as a Commission they will deliberate on this matter.

(Hon. Ng'ongo raised his hand)

This Member from “which place” has a habit of shooting his arms in the air. You are out of order! How is it that I am able to notice the interventions by Hon. Ochanda and others? Anyway, it is not necessary for me to hear anything divergent. Hon. Gumbo has laid out the issues as he saw them and he is the only one who claims to rise on a point of order. Let us not allow a point of order to become another argument.

Let us proceed to the next Order.

BILL*Second Reading*

THE KENYA DEFENCE FORCES (AMENDMENT) BILL

Hon. Speaker: Debate on this Bill was concluded. What remains is for the Question to be put which I proceed to do.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

MOTIONS

THE FOREST CONSERVATION AND MANAGEMENT BILL

Hon. Speaker: Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I beg to move the following Motion:-

THAT, the Senate Amendments to the Forest Conservation and Management Bill (National Assembly Bill No.49 of 2015) be now considered.

This is a Bill that went through this House and was sent to the Senate and they have made a raft of amendments to the original Bill. We sent this Bill to them through the Departmental Committee on Environment and Natural Resources.

I just want to highlight where the Committee, under the Chair of Hon. Amina Abdalla, has agreed with the Senate Amendments. On Clauses 2,5,6,8 and 9, the Committee has no problem; the members have agreed with the amendments from the Senate.

Under Clause 9, the Committee has rejected the insertion of New Sub-Clause 3A. Their reason is very fundamental and they are of the view that the circumstances under which a person shall not be eligible are not very clear from the Senate Amendments and the Committee proposes a New Sub-clause 3A.

The Committee has agreed with the amendments on Clauses 14, 20, 25, 26, 36, 39, 43, 45, 47, 48, 49, 50, 51 and 53. They have disagreed again with Clause 72 where the Senate has inserted New Sub-Clause 1A.

In their report the Committee has given a reason that Sub-clause 2 of the Bill already provides for the members of the public to inspect any register. Naturally, therefore that is duplication. They have also rejected the next one which is the insertion of Clause 1(a) and 2.

The Committee has also rejected Clauses 75 and 77. That is the genesis of all this.

Adding to the justification they have given on their rejection of Clause 72(1A) is that all the registers maintained under this section should be open for inspection in the offices of the Chief Conservator of Forests to Members of the public. That is already provided for.

Under Clause 75, the Committee has rejected the Senate amendments which state:-

THAT, Clause 75 be amended by deleting the words "Environmental Management and Co-ordination Act, 1999" appearing in sub-clause (1)

immediately after the words “provisions of the” and substituting therefor the words “Environmental Management and Co-ordination Act, 2015”.”

The reason why the Committee of the National Assembly has rejected this Senate amendment is that the amendment seeks to change the name of the Act from “Environmental Management and Coordination Act, 1999” to “Environmental Management and Coordination Act, 2015”. This amendment should not be adopted as the Environmental Management and Coordination Act, 2015 was not repealing the Act but rather amending the Act. The Committee is saying there was no repealing; what was done was just an amendment to the same Act. The Act, therefore, remains the “Environmental Management and Coordination Act, 1999”.

Finally, the Senate proposes that Clause 77 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a):-

“(aa) The land in sub-section (a) shall not include government settlement schemes already registered before the commencement of this Act.”

The Committee rejected this proposed amendment from the Senate on the basis that it seeks to exclude Government settlement schemes from the category of land registered as forest reserves. The amendment should not be adopted since Government settlement schemes do not fall within the description of forest reserves.

Further, Section 134(2) of the Land Act provides that settlement schemes shall include provisions of access to land for squatters. I am sure the Chair of the Committee will give us the reasons why they have agreed with a number of the Senate amendments.

With those remarks, Hon. Speaker, I beg to move. I request Hon. Amina to second.

Hon. Speaker: Yes, Hon. Amina.

Hon. (Ms.) Abdalla: Hon. Speaker, I beg to second this Report from my Committee on the consideration of Senate amendments. As a matter of notice, this is a new way of moving the Report, so you should communicate the same to all Chairs. I hope you have heard what I have said. The mode of moving this Report is new to me, so you should communicate to the other Chairs.

I want to congratulate the Senate. I must agree that the last two Bills that the Senate has looked at, namely, this Bill and the Water Bill, we see a massive change from the Senate in terms of value addition. It is very clear that the Senate’s legal team is definitely giving good advice to the Senate and they are able to streamline the Bill in such a way that you can see their input is actually valuable. I say this because in the past, all the Senate was fixated about was to give opportunity to the Council of Governors (CoG), but now you can see where we have left out something, they do clean-ups and give us good ideas. We must say that the Senate is actually doing the job which they are supposed to do.

The Leader of the Majority Party has gone through many of the Senate amendments that we have rejected. Basically, our reasons for rejection are either constitutional or based on best practice. The bulk of the amendments that we have agreed to are on the change of the head of the Kenya Forest Service (KFS) from “Director-General” to “Chief Conservator of Forests”. Kenyans love the title “Director-General,” but it does not say exactly what that person does. The head of the KFS is the Chief Conservator of Forests to ensure that we meet our constitutional threshold of 10 per cent forest cover, and that we have plantation forests that are well taken care of. So, the bulk of those amendments relate to the change of the title of the head of the institution of the KFS from “Director-General” to “Chief Conservator of Forests”.

In terms of clean-ups, one example is on Clauses 2 and 9. Whereas the National Assembly defined forest to be a public forest whether it is national or county, we did not go

ahead and clean up the Bill to define public forest. So, the amendments that have been proposed by the Senate mainly intend to clean up those problems.

I must speak to the Senate's amendment to the Third Schedule. The Senate is trying to do what some of our colleagues tried to do when we were on the Third Reading of this Bill, namely, trying to de-gazette forests by amending the Third Schedule. We should not, as a House, support this measure because there is a clear way of de-gazetting a forest and people should go through that process rather than using the Floor of this House to de-gazette forests. The Senate tried to de-gazette 13 gazetted forests through the amendments to the Third Schedule. If we declined that attempt from our colleagues here, we should not allow the Senate to use the backdoor to de-gazette forests.

I wish to state that this time the Senate has done an extremely good job in cleaning up this Bill. It is not that we disagree with the Senate amendments. We are not fully in agreement with the amendments especially when they are too wordy. So, we have rejected the amendments so that we can mediate in a more neutral way. For example, in declining the job of a director to the KFS Board, the Senate has given 13 conditions under which somebody is not qualified to be a director. Most of our Acts have only five conditions namely bankruptcy, violation of the Constitution, mental incapability, among others, but the Senate has gone very far to give 13 conditions. We feel that although they are trying to enhance accountability and transparency in choosing persons to serve in this Board, they are over-legislating and giving too many parameters that can be covered under normal conditions with a maximum of five instead of 13 conditions.

We applaud the Senate for the improvement in reviewing Bills and helping in better quality legislation, but we have to disagree with them on these few conditions so that we get a better Bill.

With those few remarks, I second.

Hon. Speaker: Hon. Members, I hope you listened. I know Hon. Ottichilo is an active Member of this Committee. I hope you listened because remember these are Bills which have had to go to the Senate and they have constitutional deadlines. It was absolutely important that we paid attention to what the Chair of the Committee was explaining so that when we get to the next stage, we will not begin fighting over issues that, perhaps, the Chairperson has explained. Most likely we will hear confirmation from Hon. Ottichilo.

Before I propose the Question, Hon. Members, allow me to recognise pupils from Titus Ngoyoni Primary School in Laisamis Constituency, Marsabit County. I welcome them to observe the proceedings of the House.

(Applause)

(Question proposed)

Hon. Ottichilo, you have added another name – Khasilwa.

Hon. (Dr.) Ottichilo: That is the middle name. Thank you, Hon. Speaker.

I would like to, first, commend the Departmental Committee on Environment and Natural Resources for this very good and detailed analysis of the amendments that were presented by the Senate.

Secondly, for the first time, I want to commend the Senate because this time round they have done a good job. As my Chair has indicated, they have added value to what we had

presented to this House before the Forest Conservation and Management Bill went to the Senate. They have come up with some innovative amendments which are quite commendable.

For example, we had proposed in the Bill that the Director of the Kenya Forest Service should be called “Director-General”. However, through their innovation and research, they proposed that he or she should be called “Chief Conservator of Forests”. After we researched, we found out that worldwide, this position is titled “Chief Conservator of Forests” and not “Director-General”. This was a real value-addition to the Bill.

There are a number of amendments that have been highlighted by both the Leader of the Majority Party and the Chair of the Committee, which we found extremely useful. They add a lot of value to the Bill. When the Bill is finally assented to, it will be very useful and will add value to the usefulness of the forests, particularly to our communities.

One area which the Committee did not agree on is in the Third Schedule, where the Senate was trying to degazette certain forests that had already been gazetted using this Bill. That is not the right way to degazette any forest.

The procedure for degazettement of any forest is very clear. Therefore, as a Committee, we believe that the right procedure should be followed. We should not circumvent the procedure and do the wrong thing.

On the issue of the Environmental Management and Coordination Act (EMCA), the Senate proposed that we amend it to be “Environmental Management and Coordination Act of 2015”. This would not be right because the Amendment Act of 2015 only amended a few Acts. If we deleted “Environmental Management and Coordination EMCA, 1999” and replaced it with “Environmental Management and Coordination Act, 2015”, we would have thrown away the whole Act and remained with only the amendments.

Without belabouring this debate, I thank our Committee and the Senate for the good work. When we go for mediation, we shall agree on the areas that we have disagreed because the Committee’s observations are valid and in line with the legal provisions provided under the Standing Orders, the Act and the Constitution.

Therefore, I beg to support the Bill.

Hon. Speaker: Let us have Hon. Samuel Gichigi.

(Technical hitch)

Hon. Gichigi: Thank you, Hon. Speaker. I support the position taken by our Committee. It is good that both the Senate and the National Assembly have taken this Bill seriously. The issues addressed here regarding our forests might mean life or death for some of us. They are also for posterity.

It is clear from the Constitution that forests are a shared function. The national forests are vested under the authority of the national Government, while forestry is a county function. When serious decisions are made regarding this issue, the suggested amendments to include consultations with the county governments are in order. This is because while the national Government can deal with the national forests, the other forests, including agroforestry, are under the mandate of the counties.

The issue of the Cabinet Secretary initiating a review of the forest policy after every five years is also a good proposal because the environment keeps on changing. At the end of the day, what might be good for our environment today might change in a few years or after a certain period. That proposal is also important.

The proposal by the Senate to change the law on which this Bill is anchored is obviously an error. Perhaps they were not keen on what was before them. I support our Committee that we cannot nullify the entire Bill because of that mistake. When the Mediation Committee is formed, these are some of the issues that need to be raised.

The issue of consultation keeps on rising in the proposed amendments by the Senate. Perhaps, it is high time Parliament - both the Senate and the National Assembly - cleared the air on what consultations are. When we say that the Cabinet Secretary is going to consult with the county government, what do we mean by these consultations? If there is a disagreement, how is it going to be resolved? Sometimes when we pass these laws, these are some of the issues that we need to address.

I agree that the proper terminology for the Chief Executive Officer (CEO) of the Forestry Service should be “Chief Conservator of Forests”. It brings out the importance of the functions of this officer as against the Director-General – a term that has been used in respect of other CEOs.

I support the position adopted by our Committee.

Hon. Speaker: Let us have Hon. Nicholas Gumbo.

An Hon. Member: He is gone.

Hon. Speaker: Let us have Dr. Nyikal.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker for giving me this opportunity to comment on this Bill.

May I also join in congratulating the Departmental Committee on Environment and Natural Resources for the work it has done on the Forest Conservation and Management Bill from the Senate. I am not a Member of the Committee, but it looks like a good work was done.

I want to raise two points on this Bill. The first one is the issue that was raised by the Chairlady of the Committee when she was seconding. She seemed to imply that the procedure of moving the Senate amendments on the Floor of the House was not proper and asked whether you will give guidance on that. She implied that, perhaps, it was not the Leader of the Majority Party who should have moved, but the Chairlady. Maybe, you can give guidance on that for some of us who may not be very clear on that procedure.

The point I want to make is on the amendment on the Third Schedule. It is apparent that the attempt, which was discussed at length in the House, is that some Hon. Members were taking advantage of a Bill that was coming to Parliament to get some land that was already degazetted.

I know we represent constituencies and their interests. However, when we have a national issue like a Bill being discussed, it may not be appropriate to look at certain issues affecting one or two constituencies. We should bring them into effect through the Bill. That is something we should avoid. For that reason, I support the Committee’s rejection of that.

That raises another issue. I have a suspicion that the same Members lobbied the Senate to see if they could pursue the same interest. It raises an issue. Again, we may need guidance on that. If a matter has been lobbied in the House and some Members felt differently on the outcome, is it really proper to go and lobby the Senate?

It raises another bigger issue in my mind. I have seen it in other Bills. The Bills would have gone through public participation when they are in the National Assembly, but when they go to the Senate, we see another lengthy public participation. These are areas over which we need to seek guidance and be clear on. It can lead to a situation of going round in circles on the same Bill where it is discussed here, it goes to the Senate, it comes back and the public is involved. This is something that we need guidance on.

Otherwise, I join the Committee Members who said that good work was done, but I oppose the amendments to the Third Schedule.

Hon. Speaker: Hon. Joyce Akai.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker. I rise to support the Report on the consideration of the Senate amendments to the Forest Conservation and Management Bill.

As my colleagues have said, the Senate amendments were really thorough. We appreciated as a Committee and they enriched the Bill. Most of the amendments were to align the Bill to the Constitution. Some amendments were for the protection of devolution. It is not that this House does not protect devolution. The fact that we agreed with most of these amendments is evident that this House is serious in protecting devolution and supporting county governments.

One of the amendments in Clause 5 is to increase consultations between the Cabinet Secretary (CS) and county governments. This is because communities and county governments have a big role and stake in public forests, particularly in policy reviews. We also agreed to change the classification of forests from national to public. It makes the ownership of forests more inclusive, in that it is a shared function between the counties and the national Government.

Inclusion of a nominee from the Council of Governors (CoG) is also another point we really supported. The amendment on the Kenya Forest Service (KFS) to specify the benefits that go to the community is also one of the key amendments that we supported as a Committee.

Hon. Speaker: Hon. Enoch Wamalwa Kibunguchy.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Speaker. I join all my colleagues in saying that the Senate did a good job. Initially, I thought the Senate would come up with a volume of amendments. I also want to commend them for what they have done. In the original Bill, we were talking about “national forests”, but the Senate saw it fit to call it “public forests”. Public forests are defined in the Constitution.

Let me say something about the Third Schedule. It is very contentious for some of us who come from areas where, for a long time, the former President Moi used to go to places and tell people: “you can settle there”. This happened in Lugari.

Those forests have not been degazetted. We find it very difficult to go through the process that has now been defined in the Constitution because these are areas where people have settled, lived, died, buried, and given birth to kids and grandchildren. It becomes very difficult and I do not know how we are going to resolve this issue. It touches very closely to people in my area. Otherwise, this is generally a good amendment.

I support.

Hon. Speaker: Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Speaker for this opportunity to support this Bill. I am happy the Committee has agreed with the Senate amendments. I am also happy the Senate brought in amendments which are putting more teeth and strengthening this Bill. On top of it, it shows that the national Government and the county governments have to work in tandem. That way, we can make binding laws and move this country forward, not disintegrate our country with issues which can be resolved easily.

I appreciate that all the clauses which were amended have been accepted. We have avoided the mediation part of the exercise and I am happy the Committee also appreciated the same. I thank the Senate for the same.

Hon. Speaker: Hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, Hon. Speaker for giving me a chance to contribute to this Motion. I commend both the National Assembly and the Senate.

More importantly, the National Assembly appreciates the role the Senate has played in improving the Bill. This reduces our differences and clearly shows that the two Houses are working together for this nation. If they have brought something which is good, we embrace it.

If we carry this spirit in other Bills, we will have better Bills to be debated in the House and we will serve this country better. When the Senate came up with the amendment of public forests, community forests and private forests, they referred this to very specific Articles in the Constitution. What is more important is the amendment of removing the word “national” and calling it “public”. This ensures that the community where the forest is based appreciates the forest. They will not see the forest as owned by the national Government. They appreciate that they own the forest and it is for their benefit. So, any administrative activities to be carried out in that area, they are willing to support the Government.

Hon. Speaker, another point which this Bill brings out clearly is to remove the word “Director General” and call this person “Chief Conservator of Forests”. This means that he is the CEO who has been given the mandate to run the forest. Every year, he should tell us what he has done to improve forest coverage. There should be returns every year to show that trees have been planted in certain areas. Normally, when people see a forest, what comes in mind is how to get timber out of it. Nobody thinks how we can improve it. We have had the Mau issue. Kenyans have not seen the Mau Forest as an area which needs to be conserved for us to get water. They see it as a place to get timber, plant maize and get charcoal. If this title changes, it will be very clear that the main role of this institution will be to increase forest coverage.

As we move on, I appreciate the Chairlady, Members of the Committee and the Senate. If all Committees can go that direction, we will move forward. I trust that when we go to the Committee of the whole House where Members raised certain issues and went away, they are not allowed to bring amendments because we will create a circus where we will be moving round from one point to another. If Members had amendments which were not carried, we should not bring them again at the Committee Stage. I do not know whether we will be violating our Standing Orders by re-opening old wounds.

With those few remarks, I support the Motion. Let us move on so that we can pass this Bill and minimise conflict between the two Houses.

Hon. Speaker: The Leader of the Majority Party to reply.

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to reply.

(Question put and agreed to)

THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS
SUBJECT TO RATIFICATION) BILL

Hon. A. B. Duale: Hon. Speaker, I beg to move the following Motion:-

THAT, the Senate Amendments to the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) be now considered.

The Senate has brought forward only two amendments. The first one is the proposed New Clause 9A which deals with conflicts. It is in conflict with the contents of Clause 8 and Clause 10 as shown. I will leave it to the Chair to explain.

The other one is Clause 10 of the Bill. In the opinion of the Committee, they have no problem. They have only rejected the New Clause 9A.

I move and ask Hon. Amina Abdalla to second.

Hon. (Ms) Abdalla: Thank you, Hon. Speaker. I beg to second the consideration of the Senate amendments.

We are rejecting Clause 9 because the Senate is proposing a mechanism that does not give the Senate timelines with which to ratify this natural transaction. It also goes against our own Standing Orders and the Constitution that require us to go to mediation if the two Houses do not agree. The proposal by the Senate says that if the National Assembly approves something and the Senate rejects it, yet it emanated from the other House, it would be stood approved. Our Standing Orders and the Constitution require that if there is disagreement, we go for mediation. That is the reason we have disagreed with the Senate. They had put a lot of effort in putting a lot of clauses, but there is a problem with that. That is why we have disagreed.

We have agreed with them in deleting research in genetic materials from the natural resources exploitation that requires ratification, so that we give research institutions more freedom to carry out research. This was also in our amendment, but due to the heated situation in the Third Reading of this Bill, we were not able to pass it. That is an amendment that had been proposed by Hon. Ottichilo, who was out of the country. So, this amendment is dear to Hon. Ottichilo. We agree with him and the Senate. We accept this amendment to the Schedule.

With those remarks, I beg to second.

(Question proposed)

Hon. Speaker: Hon. Wilber Khasilwa.

Hon. (Dr.) Ottichilo: Thank you, Hon. Speaker. I rise to make my comments on this Report by the Departmental Committee on Environment and Natural Resources and the proposed amendments from the Senate. I wish to agree entirely with my Chair and the Departmental Committee on Environment and Natural Resources on the proposal by the Senate regarding the agreement on what should be done if the two Houses disagree on any amendment. This is clearly defined in the Constitution and in the Standing Orders. There are procedures to be followed and we have been doing so. It would be completely erroneous for us to come up with a procedure that is outside our agreed system of doing business. We would like to maintain mediation in case we disagree. That will be a way of coming up with consensus.

I am very happy about the Senate's agreement that under the Schedule, we should delete all those provisions dealing with genetic material and genetic resources. As my Chair clearly indicated, when the Bill was in this House, the Committee, through me, had proposed to delete this. Unfortunately, I was out of the country and my Chair was overwhelmed with the many amendments and she was not able to present this amendment. As a result, it went through. I am happy the Senate saw the sense why it is important to delete from the Schedule "genetic material" and "genetic resources".

Our research institutions and universities countrywide deal with plant breeding, animal breeding and are always dealing with genetic materials. It is through these genetic materials that we have improvement on plant varieties. That is why we have new plant varieties like Katumani and other new water efficient varieties. Again, through animal breeding, we have new breeds of animals. Every year we have agricultural shows to see new breeds which are out of these genetic materials. Genetic materials are varied. They can be from components of plants and animals to

very tiny genes which you cannot see without the help of electronic microscopes. These are not the ordinary microscopes that we use in secondary schools, but more sophisticated ones. If we do not do this, Parliament will have to establish a high end laboratory with very sophisticated scientists who will identify the genes and materials being used. That is not the work of this House. It is important that we delete this provision. The implication of maintaining this provision is that all the research institutions in the country will shut down. Secondly, all our research programmes in universities will also shut down. We will be shutting down all the institutions that conduct research in this country and you can imagine what will happen.

I commend the Senate for taking up this amendment. As a Committee, we have agreed. I am very happy because this is my original amendment. I support the amendment very strongly and thank the Senate.

Hon. Speaker: Hon. Joyce Emanikor.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker. I support our Committee's rejection of New Clause 9A. Mediation is an important process and we cannot abdicate or run away from it. Indeed, in addition to the tasks we undertake in mediation, the process has given the two Houses an opportunity to bond. Through the agreements, the affiliation between the two Houses has even blossomed and we appreciate one another's contribution through mediation. Mediation increases friendship between the two Houses besides the actual work that we undertake.

Hon. Speaker: Let us hear the Member for Ugunja. I have not heard his voice in the House for quite some time. I think he will make his Maiden Speech.

(Laughter)

Hon. Wandayi: Hon. Speaker, thank you very much for this opportunity. Today you will hear my voice once again.

I just want to comment on the Senate amendments, and more specifically, the amendments to the Schedule. I agree in totality with the Senate in proposing these particular amendments. We have the National Biosafety Authority which is recognised by law to carry out these authorisations. More important is the fact that if this Bill was to pass as it was, we would have given Parliament an administrative and technical job, which it is ill-equipped to perform. Therefore, I agree in totality with the Senate in the sense that now we shall have some sanity. This is because the genetic material transfers happen on a daily basis among institutions of research including university and private researchers. To give that role to Parliament would be curtailing research work in the country.

I support in totality.

Hon. Speaker: Hon. James Wambura.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker, for giving me the opportunity. I also support, particularly the amendments on the Schedule dealing with genetic materials. Normally, people will think it is important to protect yourself in certain areas from exchange with external agencies. If we do that, we will lose out a bit. This is comparable to what we have agreed in the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), where we agreed to a patent system while we do not have so much to protect in the area of patent. Countries like India declined to sign those TRIPS agreements until they had copied a lot. We have done a good thing to leave freedom, so that there can be lot of exchange. We still need more exchange from other partners outside the country.

I support.

Hon. Speaker: There is still one Member willing to contribute. I thought the Leader of the Majority Party was going to reply. Let us hear Hon. Kathuri Murungi.

Hon. Members, since this is the last one, why do we not have a few more of you, so that we can put the Question? I can see some Members contributing and taking off like bullets.

Hon. Murungi: Thank you, Hon. Speaker. I support the amendment and the position taken by the Committee of the National Assembly. These natural resources agreements involve a lot of investments. The New Clause 9A proposes to give the Senate no specific timeline when it should consider the agreement. This means the investors under these agreements will not move forward. I support the position taken by the Committee and concur with the Senate on the amendments on genetic materials. Genetic resources are broad and, therefore, scientists, universities and colleges, which need to go further into research, can explore them perfectly.

I support the amendment.

Hon. Speaker: Let us have the Leader of the Majority Party to reply.

Hon. A.B. Duale: Thank you, Hon. Speaker. I thank the Members. The Senate passed two amendments to this Bill as explained by the Committee Chair. The first amendment was an insertion of a new clause to prescribe the applicable Parliamentary procedure for ratification of agreements relating to transactions covered under the Bill. New Clause 9A proposes that the process commences in the National Assembly and then moves to the Senate for consideration. In a situation where the National Assembly fails to forward its resolutions to the Senate after the expiry of 60 days, then, sub-clauses 5 and 6 of the amendment of the Senate empower the Senate to commence its consideration of the agreement in question. The National Assembly Departmental Committee on Environment and Natural Resources has rejected that amendment. They have given very valid reasons. The justification is very good because they found out that this will create conflicting timelines for consideration of agreements under the Bill by the both Houses.

The Committee has no problem with Clause 10. Now that Hon. Amina is in, I beg to reply.

(Hon. Sumra stood up in his place)

Hon. Speaker: Hon. Sumra, take your seat.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

CONSIDERATION OF SENATE AMENDMENTS TO THE FOREST

CONSERVATION AND MANAGEMENT BILL

*Clause 2**Senate Amendment*

THAT, Clause 2 of the Bill be amended by deleting the definition of the word “forest owner” and substituting therefore the new definition-

“forest owner” means-

- (a) in the case of a public forest, the government as defined in article 62(1)(g) of the Constitution;
- (b) in the case of a community forest, the community as defined in article 63 of the Constitution; and
- (c) in the case of a private forest, the registered owner of the land as defined in article 64 of the Constitution.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, we agree with the Senate amendment to Clause 2. They have been diligent in noting that we changed the definition of “forest” in Clause 30 of the Bill and as such, they are putting this clause in line with that amendment. It is also being diligent to the definition of “community” in the Constitution.

The amendment to sub-clause (b) has the same implication. They also appreciate the ownership of private forest. We agree with the Senate on the amendments.

(Question of the amendment proposed)

Hon. Wakhungu: Hon. Temporary Deputy Chairman, I support the amendment. The amendments from the Senate make a lot of sense. This is just aligning the definitions as they are in the Constitution.

*(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)*

(Senate Amendment to Clause 2 agreed to)

*Clause 5**Senate Amendment*

THAT, Clause 5 be amended-

(a) by deleting the marginal note and substituting therefor the following new marginal note-

Public Forest Policy

(b) in sub-clause (1) by inserting the words “county government and” appearing immediately after the words “in consultation with the”; and

(c) in sub-clause (2) by inserting the words “in consultation with the county government” immediately after the words “forest policy to be reviewed”.

(d) in sub-clause (2) by deleting the word “national” appearing immediately after the words “the Cabinet Secretary shall cause”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the Senate amendment to Clause 5. This is in appreciation of the fact that forest is a shared function. The call by the Senate to have decisions made in consultation with the county government is a welcome move. So, we appreciate that it is both a national and a county function.

I support.

(Question of the amendment proposed)

Hon. Murgor: Hon. Temporary Deputy Chairman, I concur with the sentiments of the Chairlady of the Committee. This clause tends to bring in the two levels of Government because forest is a shared function.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Makali Mulu.

Hon. Mulu: I support the amendments to Clause 5. It has been exhibited by the Chairlady of the Committee that forests are found in counties as well as the national Government. It is important that consultations take place.

*(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)*

(Senate Amendment to Clause 5 agreed to)

Clause 6

Senate Amendment

THAT, Clause 6 be amended-

(a) by deleting the marginal note and substituting therefor the following new marginal note-

Public Forest Strategy

(b) in sub-clause (1) by deleting the word “national” appearing immediately after the words “formulate a” and substituting therefor the word “public”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the proposed amendment. This is a cleanup exercise. We want to congratulate them on this. In Clause 30 of the Bill, our Committee had amended the original Bill to define both “national” and “county forests” as public forests. This amendment is cleaning up what we had left out. We agree with this amendment.

(Question of the amendment proposed)

Hon. (Dr.) Kibunguchy: I agree with this amendment especially deleting the word “public” because it is a definition that is in the Constitution.

Hon. (Eng.) Gumbo: I support the amendment. Although this amendment looks small, it is meant to enrich the Bill and it tends to highlight the fact that this is both the national and the county government function.

*(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)*

(Senate Amendment to Clause 6 agreed to)

*Clause 8
Senate Amendment*

THAT, Clause 8 of the Bill be amended in paragraph (f) by deleting the word “national” appearing immediately after the words “ceremonial use of” and substituting therefor the word “public”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, just as I said in Clause 6, we agree with the Senate on the amendment to Clause 8 because it is replacing the word “national” with “public”. We support.

(Question of the amendment proposed)

Hon. Wakhungu: This is just for purposes of consistency. It is a similar amendment to the one on Clause 6. I support.

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

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

(Senate Amendment to Clause 8 agreed to)

*Clause 9
Senate Amendment*

THAT, Clause 9 (1) of the Bill be amended-

(a) in paragraph (f) by deleting the words “Director-General” appearing at the beginning of the paragraph and substituting therefor the words “Chief Conservator of Forests”;

(b) by deleting sub-paragraph (iv) of paragraph (g) and substituting therefor the following new paragraph “one person nominated by the Council of Governors”; and

(c) by inserting the following new sub-clause immediately after Sub-Clause (3)-

- (3A) A person shall not be appointed to the Board if the person—
- (a) is convicted of a criminal offence and sentenced to imprisonment by a court of competent jurisdiction for a period exceeding six months without the option of a fine;
 - (b) is a member of a governing body of a political party;
 - (c) is disqualified under any written law to hold office of director in a public company, corporation or similar organisation;
 - (d) has previously been removed from public office for contravention of the provisions of the Constitution or any other written law;
 - (e) is adjudged bankrupt or enters into a composition or arrangement with his creditors;
 - (f) was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof;
 - (g) is disqualified under any other written law, or his holding office as such is deemed by the Authority as being, in any way, detrimental to the scheme; and
 - (h) is disqualified under Chapters Six and Thirteen of the Constitution or any other provisions thereof or any written law.

Hon. (Ms.) Abdalla: There are two amendments to Clause 9 and we agree with both. The first amendment is going to be repeated in several other clauses where we are changing the title “Director-General of the Kenya Forest Service (KFS) to “Chief Conservator of Forests.” We agree with the Senate because as Hon. Ottichilo said, during the Second Reading, that title seems to be more widely used and preferred. If there is logging, we will hold him accountable for going against the title of his position.

We also agree with the second amendment, but it is a bit controversial. They are proposing that one person nominated by the Council of Governors (CoG) replaces a representative of the civil society. We agree with them because we appreciate the fact that forestry is a shared function and the input of the CoG representative will be an advantage to this Board.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Komen.

Hon. Mwaita: I support the amendment because that word is more appropriate especially in forests because we are conserving our environment. I want to applaud the Senate for coming up with this appropriate word.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Khasilwa, why are you gesturing very vigorously?

(Laughter)

Hon. (Dr.) Ottichilo: Hon. Temporary Deputy Chairman, I am surprised why my name has been changed because I am always known as Ottichilo.

The Temporary Deputy Chairman (Hon. Cheboi): Are you denouncing “Khasilwa”?

Hon. (Dr.) Ottichilo: I am not denouncing, but it is a name that is not used.

The Temporary Deputy Chairman (Hon. Cheboi): But it is still your name.

Hon. (Dr.) Ottichilo: I support both amendments. Worldwide, Chief Executive Officers (CEOs) of forests are called “Chief Conservator of Forests.” So, this is line with best practice.

Secondly, it is important that in the board that manages forests in the country, the CoG is represented because this is one of the mandates that is given to county governments. It is only logical that the CoG is representative at the Board level.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Khatib.

Hon. Mwashetani: Thank you, Hon. Temporary Deputy Chairman. I would like to support both amendments having in mind that “Director-General” is a word that is used by everybody, but “Chief Conservator of Forests” will specify the skills that the person has. It is important for the governor to be represented because the Constitution is very clear on public land and forestry. The institution which is closer to forests is the governor. So, it is very important for governors to have a representative.

Hon. Wakhungu: On a point of order, Hon. Temporary Deputy Chairman. My point of order is on the title “Chief Conservator of Forests”. We know very well about organisational structure. We need somebody who is at the peak of the organisation. Normally, the position that has been used to describe the Chief Executive Officer (CEO) of the Kenya Forest Service (KFS) is the Director-General. They are guided by the State Corporations Act where we have positions like the “Chief Executive Officer”, “Managing Director” and “General Manager”. Why did you decide to change the title of the person who is at the peak of the organisation to “Chief Conservator of Forests”?

I hope it is replacing the Director-General who is at the apex of this State Corporation, which is in charge of conservation. The Chair of the Committee should explain to us whether they amended the KFS Act to change the title from “Director-General” to “Chief Conservator of Forests”.

For the sake of consistency, I oppose that amendment.

The Temporary Deputy Chairman (Hon. Cheboi): I am not sure that is the correct position, Hon. Wamalwa. It used to be the “Chief Conservator of Forests”, unless there have been changes. However, we can get better clarification from Hon. Amina.

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. The Kenya Forest Service Act, 2005 had changed it to “Director-General”, but we feel that the “Chief Conservator of Forests” is a better title. It is the same way you do not call the Inspector-General of Police the “Director-General of the National Police Service”. That title connotes what exactly his position is. This man is supposed to be the head of an institution which is responsible for ensuring that we conserve our forests. By calling him the “Chief Conservator of Forests”, we have incorporated his responsibility in that title. We support that.

Now that I am on the Floor, I want to note that I had only explained the two definitions which the Committee has agreed with. However, I did not explain the insertion under Clause 9(c) of a new subclause that gives very long conditions for being rejected to be a member of the Board. As I said during my contribution, the conditions that have been stipulated for

disqualification to be a member are so wordy. We, as a Committee, want to reject the amendment for purposes of getting a more concise position on what disqualifies one from being a member of the Board. Whereas we agreed on Clause 9(a) and (b), we disagreed with Clause 9(c). When you are putting the clause to vote, you should do it differently.

The Temporary Deputy Chairman (Hon. Cheboi): That puts us in quite some dilemma. The easier way would have been to put the Question as it is recommended by the Senate. Since you have a specific problem with Clause 9(c), I can use my discretion to put the Question on specific clauses.

Hon. Amina, we have a little problem in this clause. If you have a specific issue, then you should request your colleagues to reject it as a whole, because it will still go to mediation. If we reject Clause 9(c), it will still go to mediation. It will be up to the House to make a decision whether to reject or approve the amendment.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, whereas the Committee agrees with the amendment on Clause 9(a), (b), Clause 9(c) is giving nine conditions for you to be disqualified to be a Board member. The only conditions allowed are being bankrupt, having violated the Constitution and having been jailed. So we are rejecting Clause 9 (c).

The Temporary Deputy Chairman (Hon. Cheboi): Since it is one package, then you have the choice of rejecting it.

Hon. (Ms.) Abdalla: We can reject Clause 9, but in our understanding, we only have a problem with Clause 9(c).

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I do not think we need to belabour the point on this amendment. We will proceed and make the decision. I will give opportunity to a Member, but not to Hon. Wamalwa. I will give opportunity to Hon. Kathuri.

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairman. I want to comment on Clause 9(c) because we had dispensed off Clause 9(a) and (b). I want to concur with the Committee that we should reject the amendment on Clause 9(c) by the Senate because of some of the issues which they are raising, especially in (b), where a person is disqualified from becoming a member of the Board if he is a member of a governing body of a political party.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, Hon. Wakhungu?

Hon. Wakhungu: I do not intend to interrupt Hon. Karithi, but I have a point of order.

Hon. Murungi: Hon. Temporary Deputy Chairman, my name is Hon. Kathuri Murungi and not Hon. Karithi.

Hon. Wakhungu: Sorry. This is a House of records and traditions. I was on the Floor of this House when we were in the Committee of the whole House. Hon. Amina will agree with me. When such an incident happens, it requires the Chair to put a Question on specific clauses, but not to reject the clause in totality. In this case, we agree with the Chair on Clause 9(a) and (b), but we only reject Clause 9(c). I know you have what it takes and you have been here many times. I have also been very attentive to legislative matters, particularly at the Committee of the whole House and I am requesting that we go as per the practice. We accept Clause 9(a) and (b). I request you to put the Question on Clause 9(a), (b) and (c) separately.

The Temporary Deputy Chairman (Hon. Cheboi): Even if we did that, Hon. (Dr.) Wakhungu, we will still take the Clause to mediation. I hope you are not denouncing that name. I can see that there is also a complaint from Hon. (Dr.) Wamalwa, the one who is also known as Hon. Kibunguchy. Sometimes, we have to use these new names. Members must know each

other. There is Hon. Enoch Wamalwa, who is a medic and Hon. (Dr.) Wakhungu, who is a PhD holder; an intellectual. So, Members should know the names of their colleagues. I was surprised that even some Members do not know their own names like Hon. Ottichilo does not know his other name.

Let us proceed this way. Either way, if there will be a rejection, it will go to mediation. So, even if you wanted us to go clause by clause, it is only one clause that you are having a problem with. Then you have a choice. If it is negatived, then it goes to mediation and you deal with (c). This is something that we can do. It is going to be neat and it is up to you Members. You might be agreeing with some parts, but if you think there is a dent somewhere else, you can allow it to go to mediation.

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

(Senate Amendment to Clause 9 negatived)

*Clause 14
Senate Amendment*

THAT, clause 14 of the Bill be amended in-

(a) sub-clause (1) by deleting the words “Director-General” appearing immediately after the words “shall be a” and substituting therefor the words “Chief Conservator of Forests”;

(b) sub-clause (3) by deleting the words “Director-General” appearing at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”.

(c) sub-clause (4) by deleting the words “Director-General” appearing at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”.

(d) sub-clause (5) by deleting the words “Director-General” appearing at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”.

(Question of amendment proposed)

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. This amendment is just replacing the title “Director-General” with “Chief Conservator of Forests”. So, it is a consequential amendment and I support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us give Hon. Benson.

Hon. Mulu: As the Chair has said, this is just a matter of replacing the word “Director-General” with “Chief Conservator of Forests”. I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Kiprotich, let us hear you, if you want to speak to this one.

Hon. Tonui: Thank you, Temporary Deputy Chairman. I also wish to support this. There is no need for this to be referred to mediation. We can sort it out. If the Senate feels it is sweeter to say “Chief Conservator of Forests”, then it is okay.

*(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)*

(Senate Amendment to Clause 14 agreed to)

*Clause 20
Senate Amendment*

THAT, Clause 20 of the Bill be amended in sub-clause (4) paragraph (a) by deleting the words “a chairman” and substituting therefor the words “a chairperson”.

(Question of amendment proposed)

Hon. (Ms.) Abdalla: The Committee agrees with the proposed amendment. This is a very interesting amendment by the Senate which shows they are alert. They are being very gender neutral by replacing the word “chairman” with “chairperson”.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Wanyonyi.

Hon. Wetangula: I support because as the Chair says, it is gender sensitive and brings in something that is in tandem with the Constitution.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Lotiolo Ruto.

Hon. Rotino: Hon. Temporary Deputy Chairman, you have decided to be funny today.

The Temporary Deputy Chairman (Hon. Cheboi): All I am doing is to make Members know each other.

Hon. Rotino: By reminding us our names.

The Temporary Deputy Chairman (Hon. Cheboi): know your neighbour. It is what we call the *Nyumba Kumi* Initiative.

Hon. Rotino: Hon. Temporary Deputy Chairman, I support this because it is proper and they are being gender sensitive. I do not know how it was overlooked in the National Assembly.

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

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

(Senate Amendment to Clause 20 agreed to)

*Clause 25
Senate Amendment*

THAT, Clause 25(2) of the Bill be amended in paragraph (c) by deleting the word “national” appearing immediately after the words “tourism in” and substituting therefor the word “public”.

(Question of amendment proposed)

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. The Committee agrees with the proposed amendment. This is also replacing the word “national” with “public” because both national and county forests are public forests. This is in line with Clause 30 of the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gatheca.

Hon. (Ms.) Gatheca: Thank you, Hon. Temporary Deputy Chairman. I rise to support because this will end confusion and streamline everything for purposes of understanding.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Kipkosgei.

Hon. Murgor: Thank you, Hon. Temporary Deputy Chairman. I support the amendment.

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

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

(Senate Amendment to Clause 25 agreed to)

Clause 26

Senate Amendment

THAT, Clause 26 of the Bill be amended at subsection (2) by deleting the words “controller and” appearing immediately after the words “Board shall submit to the”.

(Question of amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the amendment proposed by the Senate to remove the Controller of Budget from the role of audit and reports of accounts which is the sole mandate of the Auditor-General. At this rate, if the Senate continues like this, the responsibility of vellum production will not be there because they are doing a very good job in cleaning the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Let us here from Hon. Gumbo.

Hon. (Eng.) Gumbo: I support, although I do not quite agree with the Chair of the Committee that the Senate should be doing editing work for the National Assembly. Some of the issues that are being highlighted here should be picked at the Committee stage. It is clearly known that the work of the Controller of Budget and Auditor-General are now quite distinct. We have moved past the error where they had been duplicated.

These issues that are being picked out by the Senate tend to be matters which fall within the domain of editing. This puts emphasis that the Committee and even the National Assembly needs to do a better job.

The Temporary Deputy Chairman (Hon. Cheboi): By the way, what does letter “O” stand for? Is it Otongolo or Ottichilo? Which one?

Hon. (Eng.) Gumbo: That one I got you. So, you can call me Mr. “O”.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Kathuri.

Hon. Murungi: Hon. Temporary Deputy Chairman, yes, I want to support the amendment. I also want to commend the Senate because they are thorough on the Bills we are giving them. Initially, the Committee has been rejecting so many amendments from the Senate. We have really trained them on how to look at our Bills. Therefore, they are on the right track and I support the amendment.

*(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)*

(Senate Amendment to Clause 26 agreed to)

*Clause 36
Senate Amendment*

THAT, Clause 36 of the Bill be amended at sub-clause (2) by deleting the word “national” appearing immediately after the words “declared a” and substituting therefor the word “public”.

(Question of amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the amendment by the Senate because it is a consequential one replacing the word “national” with “public”.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Juma Rashid.

Hon. Bedzimba: Asante, Mhe. Naibu Mwenyekiti wa Muda. Nimesimama kukubaliana na mabadaliko kama yalivyofanywa kwa Ibara 25 kwamba neno “*national*” libadilishwe na “*public*”.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Otucho.

Hon. (Ms.) Otucho: Hon. Temporary Deputy Chairman, you are surprising us today by using names that we hardly use. I want to support. This is similar to the amendment in Clause 25. It takes cognisance of the fact that we have county and national governments. It is bringing inclusivity.

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

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

(Senate Amendment to Clause 36 agreed to)

*Clause 39
Senate Amendment*

THAT, Clause 39 of the Bill be amended at Sub-clause (7) by deleting the word “Director-General” appearing immediately after the words “reserve, the” and substituting therefor the words “Chief Conservator of Forests”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the proposed amendment from the Senate. It is consequential in replacing the word “Director-General” with “Chief Conservator of Forests”.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Akai.

Hon. (Ms.) Emanikor: I support for the reasons given earlier.

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

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

(Senate Amendment to Clause 39 agreed to)

*Clause 43
Senate Amendment*

THAT, Clause 43 the Bill be amended by inserting the following new sub-clause immediately after sub-clause (5)—

(6) The Service shall consider the interests of the local communities in the management of public forests.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the proposed amendment by the Senate. Basically, the Senate is saying that the Service must consider the interest of the local community in the management of public forests. We think that strengthens the clause.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Silas Komen.

Hon. Mwaita: Thank you, Hon. Temporary Deputy Chairman. As I support, I want to agree with the Chair that the Senate is doing a good job in editing these clauses. Community interest is very important, particularly where harvesting of produce is concerned. When they consult with them and consider their interest, it will go a long way o create harmony.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Khasilwa.

Hon. (Dr.) Ottichilo: Thank you, Hon. Temporary Deputy Chairman. I wish to support this amendment. It is very important because in our Constitution public participation is very important. In many cases, there are communities with public forests. So, it is important that the public should participate in the management and decision-making on the forests adjacent to their areas of residence.

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

(Senate Amendment to Clause 43 agreed to)

Clause 45

Senate Amendment

THAT, Clause 45 of the Bill be amended—

(a) by deleting Sub-clause (1) and substituting therefore the sub-clause-

(1) The Service may advertise, receive applications from any person, institution or organization and through a competitive process, approve and enter into an appropriate management agreement for all or part of a public forest.

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

(e) the benefits which the applicant shall extend to the local community.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the two amendments to Clause 45, which include introduction of a competitive process for the recruitment and to ensure that local communities benefit from employment. We support the two amendments.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Dr.) Wamalwa of Likuyani.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Chairman. I would like to zero in on paragraph (e) on the benefit which the applicant shall extend to the local community. This is something we have been talking about all the time. The local community must be considered first for a benefit that is within their area.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Abdallah Khatib.

Hon. Mwashetani: Thank you, Hon. Temporary Deputy Chairman. I stand to support the amendment because it has specified that there has to be a competitive process in the appointment of any officer.

Thank you so much.

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

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

(Senate Amendment to Clause 45 agreed to)

*Clause 47
Senate Amendment*

THAT, Sub-clause (6) of Clause 47 of the Bill be amended by deleting the word “Director-General” where it appears and substituting therefor the word “Chief Conservator of Forests”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, this is a consequential amendment changing “Director-General” to “Chief Conservator of Forests”. The Committee agrees with the Senate.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear Hon. Kiprotich Ronald.

Hon. Tonui: Thank you, Hon. Temporary Deputy Chairman. I support this amendment. It is only clearing up the clause based on previous amendments.
Thank you.

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

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

(Senate Amendment to Clause 47 agreed to)

*Clause 48
Senate Amendment*

THAT, Clause 48(3) of the Bill be amended in paragraph (f) by deleting the word “Director-General” and substituting therefor the words “Chief Conservator of Forests”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the proposed amendment by the Senate. It is changing “Director-General” to “Chief Conservator of Forests.” We support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gathecha.

Hon. (Ms.) Gathecha: Asante, Naibu Mwenyekiti wa Muda. Nasimama kuunga mkono hilo jambo kwa sababu ni la kulainisha mambo ambayo yako katika Katiba na sheria ya misitu ndio watu wasichanganyikiwe na vile mambo yanaendelea.

Asante.

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

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

(Senate Amendment to Clause 48 agreed to)

*Clause 49
Senate Amendment*

THAT, Clause 49(3) be amended in paragraph (b) by deleting the word “Director-General” and substituting therefor the words “Chief Conservator of Forests”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the Senate on that amendment. It changes “Director-General” to “Chief Conservator of Forests.”

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear Hon. Tonui.

Hon. Tonui: Thank you, Hon. Temporary Deputy Chairman. I want to support this amendment. I think the Senate wants to clear the confusion which would be there if we used the words “director-general”.

Thank you.

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

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

(Senate Amendment to Clause 49 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, even as we applaud, we must do it in a certain manner, not the manner in which I have seen Hon. Abdalla doing. We must do it in an organised manner.

*Clause 50
Senate Amendment*

THAT, Clause 50(2) of the Bill be amended by deleting the word “Director-General” appearing at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the Senate amendment to Clause 50. It is changing the title from “Director-General” to “Chief Conservator of Forests.”

The way I am voting is based on the fact that the Senate seems to be following the HANSARD very much, so I want them to know that I have been voting very loudly.

The Temporary Deputy Chairman (Hon. Cheboi): You really do not have to scream. You could still take that vote in the usual manner. Let us hear Hon. Akai Joyce of Turkana.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I stand to support this consequential amendment.

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

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

(Senate Amendment to Clause 50 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Congratulations to Hon. Amina this time!

*Clause 51
Senate Amendment*

THAT, Clause 51 of the Bill be amended—

(a) in sub-clause (1) by—

(i) deleting the words “Director-General” appearing at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”;

(ii) deleting the word “Director-General” appearing immediately after the words “ask the” in paragraph (c) and substituting therefor the word “Chief Conservator of Forests”;

(b) in sub-clause (2) by deleting the words “Director-General” wherever they appear and substituting therefor the words “Chief Conservator of Forests”;

(c) in sub-clause (3) by deleting the words “Director-General” wherever they appear and substituting therefor the words “Chief Conservator of Forests”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. The Committee agrees with the Senate on the proposed amendment, which is basically changing the title from “Director-General” to “Chief Conservator of Forests.”

The Temporary Deputy Chairman (Hon. Cheboi): I give opportunity to Hon. Tonui.

Hon. Tonui: Thank you, Hon. Temporary Deputy Chairman. I want to support this because it simply harmonises the provision with the rest of the amendments.

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

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

(Senate Amendment to Clause 51 agreed to)

*Clause 53
Senate Amendment*

THAT, Clause 53 of the Bill be amended by inserting the word “employment” immediately after the word “education”.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, we agreed with the Senate. Whereas the National Assembly provided a long list of benefits that any concessionaire should give to the local community, the Senate chose to add the word “employment” as a benefit that must accrue to the local community, which we support.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give opportunity to Hon. Marcus Mutua.

Hon. Muluvi: Thank you, Hon. Temporary Deputy Chairman, for calling me by that name. My common name is Hon. Muluvi. I stand to support this amendment. Employment is a key in the country. Therefore, we support the Senate amendment.

Thank you very much.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear Hon. Ottichilo.

Hon. (Dr.) Ottichilo: Thank you, Hon. Temporary Deputy Chairman. I stand to support this amendment. I also want to congratulate the Senate for coming up with this amendment, specifically because in this Bill we are promoting plantation forests. That is to say, private people can go into forest business. Therefore, providing jobs for the local people is very important. It is good this is captured in the Bill so that it becomes mandatory for the investors to employ the people in the locality.

Thank you.

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

(Senate Amendment to Clause 53 agreed to)

*Clause 62
Senate Amendment*

THAT, Clause 62 of the Bill be amended in-

(a) Sub-clause (1) by deleting the word “Director-General” at the beginning of the sub-clause and substituting therefor the words “Chief Conservator of Forests”;

(b) Sub-clause (2) by deleting the word “Director-General” at the beginning of the sub-clause and substituting therefor the word “Chief Conservator of Forests”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, we agree with the Senate on this amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Mary Otucho.

Hon. (Ms.) Otucho: Hon. Temporary Deputy Chairman, I support the amendment. It is consistent with the other amendments. From the outset, it tells the responsibilities of the office.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Philip Lotiolo Ruto Rotino.

Hon. Rotino: Hon. Temporary Deputy Chairman, I support this amendment because the Senate is very thorough on this. They are really trying to look at our population. Employment should be provided through the projects and conservators of forests.

*(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)*

(Senate Amendment to Clause 62 agreed to)

*Clause 63
Senate Amendment*

THAT, Clause 63 of the Bill be amended in Sub-clause (2) by deleting the word “Director-General” appearing at the beginning of the sub-clause, and substituting therefor the words “Chief Conservator of Forests”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the Senate Amendment. It is consequential.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Tonui.

Hon. Tonui: Hon. Temporary Deputy Chairman, I wish to support the amendment. The Senate wants to make it precise and clear. I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Juma Rashid.

Hon. Bedzimba: Mheshimwa Naibu Mwenyekiti wa Muda, nimesimama kuunga mkono mabadiliko haya kusudi yafuatane na yale yote ya awali yaliyokuwa na mabadiliko.

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

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

(Senate Amendment to Clause 63 agreed to)

*Clause 64
Senate Amendment*

THAT, Clause 64 of the Bill be amended in Sub-section (3) by deleting the words “section 39(2)” appearing immediately before the words “provisions of” and substituting therefor the words “section 61”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee agrees with the Senate amendment to Clause 64. The amendment is for the purposes of correct references. We had referred to Section 39 yet the actual Section is 61. We support the amendment.

(Question of the amendment proposed)

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

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

(Senate Amendment to Clause 64 agreed to)

*Clause 72
Senate Amendment*

THAT, Clause 72 of the Bill be amended-

(a) in sub-clause (1) by-

(i) deleting the words “Director-General” appearing immediately after the word “the” and substituting therefor the words “Chief Conservator of Forests”;

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

(b) public forests;

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

(1)-

(1A) The relevant counties will at all times be furnished with pertinent copies of all the relevant documents maintained in the Chief Conservator of Forests register.

(c) in Sub-clause (2) by deleting the words “Director-General” appearing immediately after the words “office of the” and substituting therefor the word “Chief Conservator of Forests”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, there are three sets of amendments to Clause 72. We agree with the Senate on the amendment to replace the word “Director-General” with the words “Chief Conservator of Forests” in sub-clause (1) because it is in line with the changes we have made. We also agree with them in deleting Clause 72(b) and replacing it with “public forests” because it is in line with the amendment of the National Assembly to Clause 30.

We reject the insertion of new Sub-clause (1A) which says that the relevant counties will at all times be furnished with pertinent copies of all relevant documents maintained in the Chief Conservator of Forests register.

The reason for our rejection is that Clause 2 of the Bill already provides for members of the public to inspect any register maintained by the Chief Conservator of Forests. Further, providing a copy of all relevant documents maintained by the Chief Conservator of Forests to all 47 counties would be too cumbersome. Our problem is the mandatory nature of that wording.

The other issue is that they say we should add the provision that all registers maintained under this section should be open for inspection at the Office of the Chief Conservator of Forests. We reject this for lack of clarity.

We agree with two of the amendments and disagree with two.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I now give the Floor to Hon. Tonui.

Hon. Tonui: Hon. Temporary Deputy Chairman, I support the Chair in opposing these amendments. When we talk of all relevant documents, that is too vague. We need to be very clear. This would lead to unnecessary work. It is duplication and I reject the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Abdalla Khatib.

Hon. Mwashetani: Hon. Temporary Deputy Chairman, the amendment by the Senate specifically targets forests which are in particular counties. Requirement that counties be furnished with relevant documents is not a problem, unless there are any clarifications that need to be further done.

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

(Senate Amendment to Clause 72 negatived)

*Clause 75
Senate Amendment*

THAT, Clause 75 be amended by deleting the words “Environmental Management and Co-ordination Act, 1999” appearing in Sub-clause (1) immediately after the words “provisions of the” and substituting therefor the words “Environmental Management and Co-ordination Act, 2015”.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee rejects the Senate Amendment to Clause 75. As Hon. Gumbo who left said, we should not let the editorial work be done by the Senate. These types of amendment were the usual type of amendments that the Senate would come up with in the past, but we had to reject them. This House did not repeal the Environmental Management and Coordination Act, 1999. We made extensive amendments. The Act remains Environmental Management and Coordination Act, 1999. The amendments of 2015 do not constitute a repeal of the 1999 Act. We reject this amendment on that basis.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Murungi.

Hon. Murungi: Hon. Temporary Deputy Chairman, I concur with the Chair of the Committee because on this one, the Senate got it wrong. As she has put it clearly, the Environmental Management and Coordination Act 1999, is what brought about the National Environment Management Authority (NEMA).

Therefore, we made changes to it with the new Constitution in mind. That is why we came up with the Environmental Management and Coordination Act, 2015. I am an active Member of the Committee and we reject this as a Committee. When we go to mediation, we will inform them why it should remain as Environmental Management and Coordination Act, 1999 and should not be changed.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Oner Ogalo.

Hon. Ogalo: Hon. Temporary Deputy Chairman, there is no statute called the Environmental Management and Coordination Act, 2015. The one that exists is Environmental Management and Coordination Act, 1999. The Bill to amend the Act was an Amendment Bill. It was a Bill amending the Act of 1999, but retaining the original Act. There was no repeal. This is a mistake by the Clerks of the Committee in the Senate and the Clerk himself who forwarded the amendments to us.

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

(Senate Amendment to Clause 75 negatived)

Clause 77

Senate Amendment

THAT, Clause 77 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)-

(aa) The land in section (a) shall not include government settlement schemes already registered before the commencement of this Act.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee rejects the proposed amendment to Clause 77. This is normal. When we get to the last clauses, this happens. Through this amendment, the Senate is trying to exclude Government settlement schemes from categories of land registered as forest reserves. The amendment should not be adopted as Government settlement schemes do not fall within the description of forest reserves.

Further, Section 134(2) of the Land Act provides that settlement programmes shall include provisions of access to land to squatters and displaced persons. This amendment is misplaced.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Gathecha.

Hon. (Ms.) Gathecha: Hon. Temporary Deputy Chairman, I rise to reject the said Senate amendment. In line with trying to keep things in order, there is a specific Bill that deals with squatters. This is the Forest Conservation and Management Bill. We do not want any further confusion when it comes to dealing with the issue of squatters, internally displaced persons (IDPs) and our forests.

I reject the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Mutua Marcus.

Hon. Muluvi: Thank you, Hon. Temporary Deputy Chairman. I equally stand to support our Chairlady of the Departmental Committee on Environment and Natural Resources.

In my view, what was being intended was to make an opening for land grabbers to come in. As a result, we decided to reject it.

Thank you.

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

(Senate Amendment to Clause 77 negatived)

The Temporary Deputy Chairman (Hon. Cheboi): I must say that I noticed one Member vote twice. That is obviously out of order. But luckily, because the decibels were very clear, I will say the Nays had it.

The Third Schedule

Senate Amendment

THAT, the Third Schedule to the Bill be amended by-

- (a) deleting item 5;
- (b) deleting item 9;
- (c) deleting item 131;
- (d) deleting item 106;
- (e) deleting item 107;
- (f) deleting item 115;
- (g) deleting item 119;
- (h) deleting item 200;
- (i) deleting item 236;
- (j) deleting item 292;
- (k) deleting item 278;
- (l) deleting item 282;
- (m) deleting item 286; and

(n) deleting item 290

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, the Committee rejects the proposed amendment to the Third Schedule. The amendments are going to degazette the gazetted forests. This amendment has no legal effect because the Bill already has a procedure which is Clause 34 on how to degazette gazetted forests.

I urge the House to reject this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Bady Bady Twalib.

Hon. Bady: Asante sana, Mhe. Naibu Mwenyekiti wa Muda kwa kunipata nafasi hii nichangie. Mimi pia napinga kwa sababu ambazo Mhe. (Bi.) Mwenyekiti ametoa. Naziunga mkono na pamoja twapinga.

Ahsante.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Kathuri Murungi.

Hon. Murungi: I also want to support the rejection of this amendment. There is a clear-cut direction in this Bill on how you can degazette a forest. You cannot just sit down and start degazetting forests and making them, for instance, public land. Even when we were discussing this Bill during the Second Reading, I remember there were such amendments. We rejected them on this Floor.

Therefore, I support this rejection to this amendment.

Thank you.

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

(Senate Amendment to the Third Schedule negatived)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Mover, can you kindly move for reporting?

Hon. (Ms.) Abdalla: Hon. Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Senate Amendments to the Forest Conservation and Management Bill, (National Assembly Bill No. 49 of 2015), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will proceed to move to the Natural Resources (Classes of Transactions Subject to Ratification) Bill, National Assembly Bill No.54, 2015.

CONSIDERATION OF SENATE AMENDMENTS TO THE NATURAL RESOURCES

(CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL

New Clause 9A
Senate Amendment

THAT, the Bill be amended by inserting the following new clause immediately after Clause 9:-

Procedure for approval
by Parliament

9A. (1) The process of approval of an agreement shall commence in the National Assembly.

(2) The National Assembly shall consider an agreement within sixty days of its submission to the National Assembly and shall forward its resolution to the Senate for consideration.

(3) If both Houses —

(a) approve the ratification of an agreement; or

(b) do not approve the ratification of an agreement;

the Speaker of the National Assembly shall, within seven days of the decision, notify the relevant Cabinet Secretary.

(4) Where either the National Assembly or the Senate votes to reject an agreement, the agreement shall be deemed to have been rejected by Parliament and the Speaker of the National Assembly shall, within seven days of the rejection, notify the relevant Cabinet Secretary.

(5) If within sixty days of submission of an agreement to the National Assembly, the National Assembly has not forwarded its resolution on the agreement to the Senate under Subsection (2), the National Assembly shall be deemed to have approved the agreement and the Senate shall commence its consideration of the agreement.

(6) Where the Senate considers an agreement under Subsection (5), the Speaker of the Senate shall, within seven days of the decision, notify the relevant Cabinet Secretary.

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman.

The Committee rejects the proposed amendments by the Senate. The justification is that the proposed amendment is in conflict with the provision of Clauses 8 and 10 of the Bill. Clause 8 allows both Houses of Parliament 60 days within which to conclude consideration of an agreement.

The proposed New Clause 9A allows the National Assembly to consider the agreement and forward its resolutions to the Senate. Clause 9A does not specify a specific period through which the Senate should conclude its work.

Further, Clause 10 provides for mediation, if one House fails to ratify a resolution. However, the New Clause 9A (4) provides that where either resolves not to ratify an agreement, the agreement shall be deemed to have been rejected by Parliament. It is one that refuses we go through mediation. Therefore, that is in conflict with our Standing Orders. So, we reject it.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. M'uthari Joseph.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I also rise to oppose this amendment by the Senate. It closes the window for the opportunity for mediation. As you may be aware, it may happen that the issue at hand could be very important and needs not to be rejected in totality. If there is a joint committee on mediation, it may bring matters into focus and help in the movement forward for this important matter of natural resources.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Oner.

Hon. Ogallo: Hon. Temporary Deputy Chairman, I want to oppose this amendment. There is a riding principle that a two-thirds majority of this Assembly can override both the President and the Senate. If there is a stalemate between the National Assembly and the Senate, there should be mediation. In a case where mediation fails, this House must reserve its right to be required to pass that agreement or reject it with a two-thirds majority.

I reject this and retain the original Clause 9 of the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Members, make your decision.

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

(Senate Amendment to New Clause 9A negatived)

Schedule

Senate Amendment

THAT, the Bill be amended in the Schedule by-

- a) Deleting the tenth row that provides for "Genetic material"; and,
- b) Deleting the eleventh row that provides for "Genetic resources".

(Question of the amendment proposed)

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman.

We agree with the amendments of the Senate to the Schedule. Initially, this was an amendment by Hon. Dr. Ottichilo that we could not move during our Third Reading. It essentially allows more freedom to universities and research institutions to do research on genetic material.

We support.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. I will give a chance to Hon. Akai Emanikor Joyce.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Chairman.

I support the Committee in this amendment. We all know the importance of research in the globe. This amendment will really support the growth of research.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Ottichilo.

Hon. (Dr.) Ottichilo: Hon. Temporary Deputy Chairman, I support my chairlady and the Senate for bringing this amendment. As my chairlady has said, we had proposed it. I had proposed it when this Bill was in this House. Unfortunately, something went wrong and it

slipped. It is good that the Senate saw this and has brought it back. The Committee and I are supporting it.

If this was left to go with the Bill and became an Act, it will mean that all research institutions in the country, including our universities will shut down. You know research in plant and animal husbandry is so important for our food security in this country. Therefore, without the genetic materials, this cannot happen.

Even in medical research, it is genetic tissue that is used to come up with all these different drugs and so on. Even in Artificial Insemination (AI) or the in-vitro fertilisation, it is about genetics. If we were to stop it, it will be impossible.

Finally, Parliament will not have the capacity to vet which genetic material to approve or not. We have no capacity. That is not our business.

I support the amendment by the Senate.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Khatib.

Hon. Mwashetani: Ahsante sana, Naibu Mwenyekiti wa Muda kwa kunipatia fursa hii. Naunga mkono mabadiliko haya. Hata kwa njia na mbinu zote za kuleta mabadiliko na maendeleo katika nchi hii, lazima kuwe na idara ya utafiti. Ikiwa utafiti utapewa kipao mbele ili tuweze kupata ukweli, basi litakuwa ni suala la aula.

Ahsante sana.

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

(Senate Amendment to the Schedule agreed to)

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover moving reporting.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Senate amendments to the Natural Resources (Classes of Transactions Subject to Ratification) Bill, National Assembly Bill No. 54 of 2015 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS AND THIRD READING

CONSIDERATION OF SENATE AMENDMENTS TO THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Chairperson, Hon. Amina Abdalla.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Speaker, I beg to report to the House that the Committee of the whole House has considered the Senate amendments to the Natural Resources (Classes of Transactions Subject to Ratification) Bill, National Assembly Bill No.54 of 2015 and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): I now call on the Mover, Hon. Abdalla.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Speaker, I beg to move that this House doth agree with the Committee in the said Report.

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

Hon. (Dr.) Ottichilo: I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): Hon. M'uthari.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill as amended. It is important that we have passed it. I recognise the importance of forest as part of our natural resources and this Bill clarifies that. As highlighted earlier in the discussion, it gives us the road map on how to manage our very important natural resources, especially when we are struggling with issues related to climate change. The issue of management of our forests is of fundamental importance as we struggle as a country to reach the required forest cover. Giving a clear management system and the policy regarding management of this important asset is important.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Jemutai Kiptui.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Bill because we have said more than once that issues of forest cover are important. Many conferences have taken place globally discussing issues of climate change. When we look around, it is only the plants that will save the planet. We know for sure that we are witnessing many disasters that are related to lack of ground cover.

Our country as per research has less than 10 per cent forest cover which is very risky for us now and for the generations to come. I am happy and thank Hon. Amina for going out of her way, together with her Committee, to ensure that we have the roadmap.

I support.

The Temporary Deputy Speaker (Hon. Cheboi): That will be it. I will not put the Question for obvious reasons. So, we will go to the next one; The Forest Conservation and Management Bill. Let us have the Chairperson.

CONSIDERATION OF SENATE AMENDMENTS TO THE FOREST
CONSERVATION AND MANAGEMENT BILL

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Senate amendments to the Forest

Conservation and Management Bill, National Assembly Bill No.49 of 2015 and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Now can we have the Mover, Hon. Amina.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Speaker, on behalf of the Leader of the Majority Party, I beg to move that this House doth agree with the Committee in the said Report.

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

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Speaker, I beg to second this Motion. I know the importance of conserving and managing our forests, particularly with the good amendments we got from the Senate that have really added value to this Bill.

I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): We have two Hon. Members here starting with Hon. Tonui.

Hon. Tonui: I wish to support the Report by the Committee on the amendments made by the Senate. I want to commend the Senate for the many positive amendments they have brought. They will enrich the Bill so that it serves our people.

The issue of forests is so important to our people. I am very happy that in this Bill, we have captured issues such as benefit sharing so that local communities surrounding forests can benefit from them. It is also important we have public participation on issues of forests. Those are captured in this Bill and that is why we need to support this Report.

The issue of water catchment is also important. We need to address it so that we have reliable sources of water by ensuring that our forests are conserved.

With those few remarks, I support the Report.

Hon. Bady: Ahsante sana Mhe. Naibu Spika wa Muda. Mimi pia nachukua fursa hii kuunga mkono Ripoti hii. Tumeona kuwa hali ya mazingira ni muhimu sana katika hali ya maisha ya mwanadamu. Vile vile, tunaona ya kuwa katika mambo haya ya mazingira na ya misitu, kuna mambo mengi ambayo yanasababishwa na mambo haya kama vile vitega maji. Maji ni muhimu katika kila sehemu ya nchi hii. Bila maji, hatuwezi kupata njia ya kukuza vyakula vyetu na mambo mengine. Vile vile, ningependa kusema kwamba nimeunga mkono Ripoti hii na marekebisho yote ya Seneti. Pia, nampongeza mwenyekiti wa Kamati, Mhe. Amina, kwa kazi nzuri ambayo amefanya. Kama hatungeufanyia Mswada huu marekebisho, basi ingekuwa hali ya “jeke jeke”, kama Waswahili wanavyosema; kwa sababu ingekuwa hatujui mambo yanakuwa namna gani katika mazingira yetu. Maisha hayangekuwa sawasawa. Maji ni uhai na bila maji, maisha yangekuwa sege mnege. Maisha hayangekuwa sawasawa. Kama Waswahili wanavyosema, kama Seneti na Kamati ya Mazingira haingerekebisha mambo haya, mambo haya yangekuwa goji kirba, kirba goji, yaani tunakwenda na tunarudi hapo hapo.

(Laughter)

Kwa hivyo, nakushukuru kwa kunipatia nafasi hii ili nami nichangie katika Ripoti hii na kumpongeza Mhe. Amina kwa kazi nzuri aliyofanya. Asante sana.

The Temporary Deputy Speaker (Hon. Cheboi): What is it Hon. Emanikor? I am sure you did not understand that particular bit.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Speaker, I am just wondering whether it is really in order for the member to use words that we cannot understand. We really do not know whether they are in good or bad faith. He has to explain some of these things.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Akai, do not use the word “we” because I personally understood him perfectly.

(Laughter)

So, if you want to get tutorials on Kiswahili, I think you will move closer to the member and he will interpret a few of them. That is very rich Kiswahili. We should encourage members to use those kinds of terms. I am sure if we were to have Hon. Bedzimba to do the same, he will add to the richness of the language.

Let us have Hon. Oner, hoping that he understood, so that he does not repeat what Hon. Bady said.

Hon. Ogallo: Thank you very much, Hon. Temporary Deputy Speaker. I wish I could speak as fluent Kiswahili as my brother. Unfortunately, I originate from where we are very far from the language. This language has never been Nilotic.

I support the Report of the Committee of the whole House. I, particularly, praise the constitutional principle of the bicameral process of handling Bills of this nature because what the Senate has done has enriched what we, as the National Assembly, did. I am happy that we have the title “Chief Conservator of Forests.” What we had before is “Director-General”. This is very important. I am happy that this House has rejected the amendments of Clause 77 and the amendments to the Third Schedule. This is because there are processes that we should use even in areas where people have been settled in what was formally forest land. The process of de-gazetting those forests must be clear. We cannot put backdoor processes like the one the Senate tried to introduce in Clause 77. De-gazetting over 13 forests just by one amendment would have portrayed this country very badly in the eyes of the international community and those who are geared towards the conservation of forests globally.

I urge the Members of the National Assembly who will be appointed to the Mediation Committee to ensure these two clauses die so that this Bill remains a progressive Bill to manage and conserve forests in Kenya.

The Temporary Deputy Speaker (Hon. Cheboi): The last one on this is Hon. (Eng.) Chege Kiragu.

Hon. J.K. Chege: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee on the Forest Conservation and Management Bill. This is a very important Bill. It gives us hope for the future generation and for us to manage our forests properly. It is a very important resource that we have, which has been mismanaged over time.

Hon. Temporary Deputy Speaker, if you go round the country, you will see the depleted forest cover which has given us a challenge in our water resource and the use of trees as an engineering material to build this country.

I support.

The Temporary Deputy Speaker (Hon. Cheboi): Very lastly, let us have Hon. Khatib Mwashetani.

Hon. Mwashetani: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this Report which has been passed by the Committee of the whole House. At the outset, I congratulate the Committee for doing a good job. I also congratulate the Senate for coming up with amendments which have really looked at the community and the interests of the county governments. I support the Report.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, I will not put the Question for reasons that we do not have the requisite quorum. Therefore, we will move to the next Order.

(Putting of the Question deferred)

MOTION

RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Chair of the Departmental Committee on Transport, Public Works and Housing

Hon. Kamanda: Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Bilateral Air Services Agreements between the Government of the Republic of Kenya and the Governments of the Socialist Republic of Vietnam and the Republic of Liberia respectively, laid on the Table of the House on Wednesday, 27th July, 2016, and pursuant to the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the Bilateral Air Services Agreements between the Government of the Republic of Kenya and the Governments of the Socialist Republic of Vietnam and the Republic of Liberia.

In moving this Motion, I would like to state that as a Committee, we had several meetings, during which representation from the Ministry of Transport, Infrastructure, Housing and Urban Development appeared before us. The Committee considered the agreements. In considering the bilateral agreement services, the Committee was guided by the provisions of the Treaty Making and Ratification Act No. 45 of 2015.

The Ministry of Transport, Infrastructure, Housing and Urban Development negotiates and reviews bilateral air services agreements between Kenya and other states to facilitate delegation of scheduled airlines to offer international air transport services between territories and beyond. The agreements are negotiated in line with the integrated national transport policy which indicates that Kenya is keen to liberalise new and existing agreements on the basis of the Yamoussoukro decision which gave Africa equal opportunity. The agreement enables airlines to expand their existing route network by directly operating to other markets. In addition, where the airlines are unable to offer services, the agreements allow them to enter into commercial arrangements, especially code share agreements which allow airlines to grow the demand in the other markets by putting their code in other carriers.

In order to operationalise the agreements, it is normal practice for two parties to sign a Memorandum of Understanding (MoU) that gives force to the agreements as it awaits the formal signing by the Cabinet Secretary (CS) or the Minister in charge of civil aviation. Agreements

were signed before they were brought to this House, but the Act changed that we have to approve them before they go to the CS.

The Kenya/Socialist Republic of Vietnam Bilateral Air Services is modelled on the International Civil Aviation Organisation (ICAO) template agreement and is based on the Yamoussoukro Decision. The agreement is liberal and enables airlines to operate between the two states without any restrictions.

The said agreement was negotiated and initialled on 7th August 2014 in Hanoi, Vietnam. Delegations representing the two states signed the MoU on the same day operationalising the provisions of the negotiated and initialled agreement. It is important to note that Kenya Airways commenced scheduled flights to Hanoi, Vietnam from 30th March 2015. We are late since other countries have already endorsed this document. It currently operates three flights weekly and it is keen in increasing the number of flights and entry points into Vietnam in the near future.

The airline plans to extend its flights with 5th Freedom Rights to points into China from Vietnam. Currently, there is no Vietnamese airline operating flights in Kenya. The signing of this agreement will give impetus to Kenya Airways (KQ) to increase frequencies and enable it to enjoy 5th Freedom Rights.

The agreement between the Republic of Kenya and Republic of Liberia is also modelled on the ICAO template agreement and is based on the Yamoussoukro Decision. The agreement is liberal and enables airlines to operate between the two states without any restrictions.

It was negotiated on 16th August 2005 in Monrovia, Liberia. Delegations representing the two states signed the MoU operationalising the provisions of the negotiated and initialled agreement. Kenya Airways currently operates scheduled daily flights to Monrovia, Liberia. Currently, there is no Liberian airline operating scheduled flights to Kenya. The agreement was formally signed in Nairobi on 11th December 2015. The Committee considered the Bilateral Air Services Agreements (BASAs) and observed the following:-

The ratification of the agreements will enable our airlines to expand their existing route networks by operating directly to other markets.

The agreements have been negotiated in line with the Integrated National Transport Policy which indicates that Kenya is keen to liberalise new and existing agreements on the basis of the Yamoussoukro Decision with the states within Africa and equal opportunities and reciprocity for other states.

Ratification and implementation of these agreements will help the country in achieving the following:-

BASAs are useful, in that they are used by states to enable scheduled air carriers operate between two or more states. In summary, some of the benefits of BASAs include:-

- (i) Allows scheduled air carriers to fly between territories between Kenya and other states hence leading to construction of required infrastructural facilities such as airports that creates employment.
- (ii) Facilitation of trade between states ease movement of persons and goods between Kenya and other states. More than 80 per cent of tourists use air transport.
- (iii) Creates a cooperation arrangement between states and competition authorities hence facilitating joint assessment of alliances between Kenya and other state carriers, for example, KQ/KLM.
- (iv) Create market access to flights between Kenya and other states thus creating a level playing ground between Kenya and other carriers.

In conclusion, it would, therefore, be in Kenya's interest to ratify the said BASAs owing to the benefits the country stands to gain.

I beg to move. I want to ask Hon. Kiaraho, Member of Parliament, for Ol Kalou, to second.

Hon. Kiaraho: I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): I see there is fairly little interest and so, we might be moving pretty first. Hon. M'uthari.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. These agreements are important to the Republic because they will give an opportunity to KQ to fly to those particular destinations. Vietnam has been one of the fastest growing economies in South-East Asia. Opening this opportunity will provide business opportunities between Kenya and Vietnam.

This will also facilitate movement of goods and services. It will promote tourism growth because those countries, especially Vietnam, have an expanding middle class that might be interested to visit. Ease of movement through air transport will be of great importance to Kenya.

These agreements will also give us an opportunity to market our products in those areas. I believe that there is a lot to be learnt from these two countries. Expanded trade and business will lead to employment opportunities for our people, which is critical for our growth in line with Vision 2030. These agreements have come at a good time. I hope KQ will pull up its socks in terms of management of resources so that it avoids sliding down every year. We are perturbed by the big losses and the managers intend to reduce their salaries. I think this is a wrong direction. This needs to be looked into. They should take into consideration some of their agreements like the one with KLM because some might not be in their favour. They might be absorbing a lot of cost. It is my hope that the leadership of "The Pride of Africa" will not take us to that bad direction again.

Kenya Airways is sliding low in profitability, losing business and selling assets and spaces. That is in bad taste for us. I hope the opportunity that has been provided to Kenya Airways will be of essence, and they will see sense because I am not happy with them. I cannot carry my *miraa* from Nairobi to Mombasa in their flights. We are not talking about the international flights. That is one area which I find very strange and punitive. If a crop is accepted in the Republic of Kenya, Kenya Airways should allow you to move it using their domestic flights. We are not talking about taking *miraa* out of the country, but carrying your small bundles in your bag from Nairobi to Mombasa or Kisumu or Eldoret for your own consumption. The Kenya Airways staff cannot allow you to transport *miraa* in their flights. It is a very important commodity in my community. I may be taking it to an in-law in Mombasa or Eldoret, and I want it to reach there when it is fresh. But you cannot be allowed. I am still waiting for a proper response from the Ministry of Transport and Infrastructure because I raised this matter with them. I hope the leadership of Kenya Airways and the Cabinet Secretary (CS) for Transport and Infrastructure have to be up to date with the issues affecting the national carrier. *Miraa* is a crop which has been approved by this august House.

The Temporary Deputy Speaker (Hon. Cheboi): I want you to concentrate more on the Motion because you are delving too much into the *miraa* business.

Hon. M'uthari: I support this agreement because it is important for trade in our country. *Miraa* is important to me.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): If we move with that speed, we will dispose of this Motion quickly. It is fairly straightforward. Let us hear Hon. Juma Bedzimba.

Hon. Bedzimba: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. I stand to support this Motion on the grounds that this is a negotiated agreement which will help the countries concerned. The agreement will be of great benefit to our national carrier Kenya Airways.

I stand here to support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have Hon. Emanikor.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I stand to support this Motion because the provision is within an existing law, which is the Treaty Making and Ratification Act, 2012. Secondly, our national carrier has been ailing for the last three years. It has experienced continuous losses in billions. I am also following very keenly what is going on in the sector. I am happy the CS, Mr. Macharia, is giving us hope with the new strategies of turning around the industry. Therefore, it is fair to support this effort of increasing the flights or giving additional flights to our carriers. That will boost the revenue which the airline badly needs. It will also allow our airline to benefit from its 5th freedom right which allows an airline to fly between two or more countries. I know one of the new steps that the Kenya Airways wants to take is to reorganise routes by cancelling some of the very long ones, and implementing some contentious measures like laying off staff. I am happy because with these agreements, we will get more staff on board through the construction of the facilities that will need people to work there. Therefore, we believe this will not turn out to be another exercise in futility, particularly given the fact that some of the managers are still the same ones who brought down Kenya Airways. We hope that the new top people will bring to realisation the changes that they are talking of. This step will market Kenya as a tourism destination and positively brand our airline so that we can reclaim our lost glory.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Chege.

Hon. J.K. Chege: Thank you, Hon. Temporary Deputy Speaker. I stand to support the ratification of this bilateral agreement on air transport. The two countries we are discussing here, Vietnam and Liberia, have had some very difficult history. Remember the case of Vietnam War and the civil war of Liberia. We are happy that these countries have since stabilized and moved on. Therefore, as a country, it is important for us to have this bilateral agreement particularly covering air transport.

As you know, Vietnam has started growing and is doing well. Even countries that used to have problems with that nation like the United States of America (USA), have already ratified several bilateral agreements with them.

As a county, it is important that we have this bilateral agreement because it will help us to expand our air business and open up more business in non-traditional routes, which will be good for Kenya. The challenges that KQ has been having is a concern to all of us. I believe it is giving KQ the opportunity to have more options of flying in a more scheduled way. It is going to help the airline in the long run.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Kiptui, lastly and the Mover should be preparing to respond, let us have Hon. Kiptui.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. I am happy about this bilateral negotiated instrument. At the back drop of it, of course, is the ailing airline known as “The Pride of Africa”. As we consider this bilateral agreement, all is not lost. We need to urge the management of KQ to pull up their socks so that we do not lose that pride.

I am sure you travel abroad using other airlines. The minute you are in Dubai or somewhere else and see the KQ team in their uniform, you know you will travel with KQ. It feels very good. Being the leader in the air business in East and Central Africa region, it is really sad that they are ailing. We hope they will turn around and reclaim their lost glory.

Looking at air transport, that is one area Kenya needs to invest in. Even if the national carrier is ailing, other private companies can step in to help us transport our goods to other markets.

For instance, in Baringo County, we have a lot of goat meat. It will be very exciting to transport meat from Kimalel Market all the way to Dubai or other available markets. If there were other bilateral agreements like this between Kenya and even Morocco, we would move our goods very fast to Europe. These kinds of agreements can help to grow businesses. In that regard, I support. I appreciate the fact that, at least, we have these agreements with Vietnam and Liberia. It will ease doing business. It is now for Kenyans to see what kinds of goods they need to move and take advantage of those routes.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ababu will be the last one.

Hon. Ababu: Thank you, Hon. Temporary Deputy Speaker. These kinds of bilateral air service agreements are really crucial in terms of expanding our reach as a country, opening opportunities for our business people, expanding our commercial interests and providing opportunities for our national carrier. Therefore, I want to support it. This is coming hot on the heels of the progress this country is making towards having direct flights to the American market. This is a fantastic opportunity. We are located in a region that has placed us in a very precarious position because of the challenges of international terrorism and limited safety in our air space. So, to see jurisdictions like Vietnam and Liberia reaching out and accepting to enter into partnerships of this kind is something to be applauded. I want to applaud the Government for pursuing this line of development, and the Committee for ensuring that this comes to the House for consideration.

For us to maximize benefit from this kind of opportunity, we really must make sure that our national carrier, Kenya Airways (KQ), is in a state, commercially and otherwise, that can enable us to take maximum advantage of this. I want to hope that the challenges that the national carrier has suffered in recent times can provide some kind of impetus for us to improve it and urge everybody: “Let us take pride in KQ”. Even if KQ is facing challenges, we know that in the last decade or so, the airline industry has suffered greatly. Our airline has not been left unscathed by those challenges. However, let us also make a commitment that the management of KQ will be improved. Those that have the responsibility to manage the affairs of this airline can make it better and competitive. It is amazing that the cost of flying KQ is quite exorbitant compared to regional rivals like Ethiopian Airlines. You do not really understand why flying KQ is much more expensive compared to its rivals within this region.

We support this kind of progress. I want to hope that the Government will also actualise the opportunity for direct flights between Kenya and the United States of America. We want to be able to fly directly to Dallas International Airport in Texas and Miami International Airport and just take full advantage of that opportunity. But we want to do this confident that our

national carrier is playing in the big league. In recent times, we have seen KQ offloading some of the aircrafts they had acquired in recent times. It is important to know what is going on because we thought the expansion programme was intended to anchor KQ as a competitive carrier internationally and dominant in the region competing favourably with Ethiopian and South African Airlines, so that we can take full advantage of our very unique and strategic location in this region. Therefore, as we go in this direction and as we commend the Government for making this possible, let us also make sure that we invest all time, effort, energy and resources to make sure that we return our national carrier to a competitive and dominant level in the region and internationally.

I support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover.

Hon. Kamanda: Do you want to say something, Leader of Majority Party? Hon. Temporary Deputy Speaker, let me donate one minute to Hon. A.B. Duale.

Hon. A.B. Duale: He has just done what Hon. William Ruto did in 2010. His is coming after six years. It is not that he is a slow learner, he is a very sharp man. He realised the house is leaking.

Hon. Temporary Deputy Speaker, first, I want to commend the Chair of the Departmental Committee on Transport, Public Works and Housing, Hon. Kamanda, and his Vice-Chair who is just walking in. He is one of the Chairs who give their serious commitment to the Committee. From the Roads Bill to all the treaty ratifications, they bring them to the Floor of the House on time and see them through until they are completed.

The most important thing is how you open the airspace to other competitors and airlines to create jobs and markets for our people and to increase the passenger-handling capacity of Jomo Kenyatta International Airport (JKIA), whose reconstruction the Government is investing heavily in.

I do not have much to say. I would like to thank the Committee and the House for making sure that we fulfill our obligation under the new Constitution where ratification of treaties is an obligation of the house.

I support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): The fact that they are doing a very good job, Leader of the Majority Party, is because they are very senior Members of this House. Hon. Kamanda, having been a Minister, has been here for quite a long time. His Vice-Chair has also been an ambassador and an Assistant Minister. That is why they are doing a good job.

Please, proceed and finalise.

Hon. Kamanda: Thank you, Hon. Temporary Deputy Speaker for making those comments. I thank the Members who have contributed to this Motion. I want to assure them that the Departmental Committee on Transport, Public Works and Housing has already taken up the matter with Kenya Airways. We are concerned with the losses that they are making year in, year out.

We have even told the Cabinet Secretary that this is a matter that needs the Ethics and Anti-Corruption Authority (EACC) to move in. We have more than four aircraft that are lying at the Airport. One aircraft costs more than Kshs3 to 4 billion. You can imagine the interest that the loan is accruing. While buying those airplanes, those people knew very well that they had no destination to take them. They just bought them because they wanted kickbacks, which they got.

My Committee has been very concerned about this matter. We feel that the people who were there before, namely, the former Chief Executive Officer (CEO) and the former general

manager in charge of finance should be investigated. The EACC needs to investigate the current staff members. We cannot bail out Kenya Airways year after year to a tune of more than Kshs20 billion per year. We have never had anything like that before. That is the concern.

You remember there was a report that was done by the Senate, although it was not brought to our Committee. We thought the Senate would give us a copy once they got that Report so that we would then look at it as the Departmental Committee on Transport, Public Works and Housing, and come up with the same recommendations. We did not want to go into the same matter. We thought we would be spending money of the National Assembly and yet, the Senate had already spent it. We thought we should be involved. I told the Chairman at the Senate to involve us, but they did not.

All said and done, we are putting pressure on the Cabinet Secretary (CS) because Kenyans do not want to hear that all the time the Government is bailing out Kenya Airways. They want to hear action.

I thank Members for their contribution. I urge this House to support this Motion and approve the ratification of this agreement.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Hon. Members, I will not put the Question on this one because of issues of quorum.

(Putting of the Question deferred)

We will move to the next Order.

BILL

Second Reading

THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Cheboi): Let us hear from the Leader of the Majority Party.

Hon. A. B. Duale: Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill (National Assembly Bill No. 64 of 2015) be now read a Second Time.

By way of introduction, Kenya had initially been referred to as a high risk area or jurisdiction due to the absence of anti-money laundering and anti-terrorism financing laws.

However, in 2009, the Proceeds of Crime and Anti-Money Laundering Act was enacted. It was supposed to address a number of deficiencies in law, which have weakened many nations in addressing and resolving matters to do with anti-money laundering. Kenya is included.

So, the enactment of that law was to curb money laundering by introducing measures of combating those offences. If you look at the Proceeds of Crime and Anti-Money Laundering Act, 2009, it shows methods in which money laundering is dealt with. It was either through tracing of proceeds within the financial sector, freezing of assets, seizure of assets and, ultimately, through investigative agencies created by the law like the Ethics and Anti-Corruption Commission (EACC), to recover any assets derived from the proceeds of crime. This can either be terrorism financing, drug trafficking and tax evasion. Any asset which is derived from any proceeds of

crime can be traced, frozen, seized, and recovered. So, that was a very ambitious task. These laws were passed in the last Parliament. It was achieved through the grant of confiscation and restraint orders which were sought from the Judiciary. Ultimately, the realisation, recovery and the preservation of such property was provided in the parent Act.

The Act further established institutional mechanisms like the Financial Reporting Centre (FRC). So, that Act of 2009 created specific institutions which were tasked with how to deal with proceeds of crime. One of them was the now vibrant institution called the FRC, the Anti-Money Laundering Advisory Board (AMLAB) and the Asset Recovery Agency (ARA) that are found at the State Law Office (SLO). What do these three key institutions do? These are important institutions that are born out of the principal Act.

Hon. Temporary Deputy Speaker, these agencies or institutions facilitate the compliance of this Act through collection of data. They collect data on a daily basis, 24 hours. They look at what is going on in the financial sector; deposits and savings, withdrawal and movements of huge cash within the sector. They collect data, analyse the data and advise on the best practices and activities that can identify the proceeds of unlawful activities and implement measures provided for in the Act. So, they not only deal with drugs and terrorism, they also address matters of corruption. That is why you see in the National Youth Service (NYS), scandal the Asset Recovery Agency and the Financial Reporting Centre were very important institutions. Within a short period they traced, seized and recovered assets which were bought with proceeds from the corruption that took place at the NYS. They will identify unlawful activities and implement measures provided for combating the offences which are committed under money laundering.

The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2015 which was read the First Time in the House on 16th December 2015 proposes, in a summary, to do the following:-

It is supposed to provide for the powers of the Financial Reporting Centre as a centre recognised under this Act to enforce compliance of the Proceeds of Crime and Anti-money Laundering Act by imposing civil and monetary penalties on persons or institutions breaching or disregarding the Centre's direction.

The law has created the Financial Reporting Centre. If the Financial Reporting Centre identifies an institution or an individual who violates this Act, this amendment provides monetary penalties to either the head of a banking unit to an individual who works in that bank who, in one way or the other, colludes with a client in making sure that they evade the enforcement and compliance of this law - the Proceeds of Crime and Anti-Money Laundering.

This amendment provides for the powers of the Centre to take administrative action against any person or institutions for non-compliance. These are conventional banks, SMEs, micro-finance institutions, FOREX bureaus or hawallas who violate, in one or the other, the code of conduct that is given to them by the Financial Reporting Centre on a daily, weekly and monthly basis. If they violate that, this amendment gives powers to the Centre to take administrative actions against any person or institutions.

These amendments to this law or Act recognise the high stature of the office of the Director of the centre by renaming it "Director-General". Currently, the head of the Financial Reporting Centre is a director but now the title is being changed.

These amendments enhance the responsibility of that Director-General. It gives him more power, which would include such performance as acts or functions that may be necessary for

general direction and management of the centre. So, the Director-General, under this amendment, is given more powers.

This amendment also tries to empower the centre to make a determination on its own staff establishment. It is being given powers to appoint as necessary and engage the services of a person or any State department. Currently, they are micro-managed by the National Treasury, but this amendment gives them powers to hire their own experts as staff.

This amendment creates more elaborate functions of the Anti-Money Laundering Advisory Board. So, the advisory board functions were limited but this amendment gives it more broad-based functions.

I now seek to highlight the proposed amendments contained in this Proceeds of Crime and Anti-Money Laundering (Amendment) Bill (National Assembly Bill No. 64 of 2015). If you look at the amendment contained in Clause 2, it basically seeks to enhance the Office of the Director of the Financial Reporting Centre. It gives the director a new title of “Director-General”. This is just to distinguish between the office of the director established in this Act as the Chief Executive Officer (CEO) and the person responsible for the development of an efficient and more effective performance driven administration. So, within the Financial Reporting Centre, there are a number of directors. The title of the person at the helm of this institution is the “Director”. To clear that ambiguity, Clause 2 creates a new title of the Director-General. This proposal is merely an operational amendment and it is contained in Clauses 2, 3, 6, 7, 9, 10, 12, 13, 14, 15, 16 and 17. They are mainly dealing with operational matters of the Financial Reporting Centre.

The amendment contained in Clause 4 proposes to enhance the Financial Reporting Centre powers to impose civil and monetary penalties or fines to natural persons or corporate bodies which breach or fail to follow or comply with any instructions, directions or rules issued by the centre. So, Clause 4 deals with the penalties that are charged to a person or an institution within the financial sector that defies any instruction, directions or rules which are set up by the centre.

Hon. Temporary Deputy Speaker, kindly note that this power is not arbitrary as the centre is bestowed with the responsibility to give not less than seven days’ notice. So, the centre does not have arbitrary powers. The law says the centre should give seven days’ notice in writing to an individual or institution requiring that person or institution to show cause why the prescribed fines or penalties should not be imposed.

Hon. Temporary Deputy Speaker, I do not know whether I should continue because I can see time is not on my side. I will continue next time, *inshallah*.

The Temporary Deputy Speaker (Hon. Cheboi): That is perfect. You will have a balance of 15 minutes.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Order, Hon. Members! The time being 6.30 p.m., this House stands adjourned until tomorrow, Wednesday 3rd August 2016 at 9.30 a.m.

The House rose at 6.30 p.m.