



REPUBLIC OF KENYA

COUNTY ASSEMBLY OF KILIFI

SECOND ASSEMBLY –THIRD SESSION

THE HANSARD

Tuesday, 13th August 2019

*The House met at the County Assembly Chamber,
Malindi Town, at 9.30 a.m.*

[The Deputy Speaker (Hon. Kenga) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

VISITING STUDENTS FROM MARIAKANI JUNIOR ACADEMY

The Deputy Speaker (Hon. Kenga): Thank you. Hon. Members, I would like to acknowledge the presence in the public gallery of pupils from Mariakani Junior Academy. The pupils are here for a study visit to appreciate the legislative procedures, practices, traditions and Parliamentary practice. I request the pupils to stand up when called upon so that you can be acknowledged. These are the pupils:-

1. Faith Mwadzombo
2. Wenwa Apondi
3. Betty Wangari
4. Simon Kyalo
5. Raphael Mwasaru
6. Ibrahim Mwatemo
7. Dennis Ndung'u
8. James Oloo
9. Andrew Konde
10. Ayman Abdi

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11. Tahillah Sabet
12. Nuru Mbuche
13. Emmanuel Sifael
14. Kelvin Luvelele
15. Russel Bombo
16. Muadh Alio
17. Efra Shukri
18. Mercy Njoki
19. Khalid Mohammed
20. Benjamin Mwaro
21. Kalama Paul
22. Angel Nzioka
23. Aisha Omar
24. Avigail Shange
25. Brian Sanga
26. Reuben Mrisa
27. Jones Mwaniki
28. Dennis Kithi
29. Omar Mwasaru
30. Masud Noor
31. Anzal Bare
32. Glen Kapukha
33. Shakor Farah
34. Abdi Osman
35. Victor Kiok
36. Abdimalik Hassan
37. Abidraham Mohammed
38. Wilson Mngolia
39. Isaac Antony
40. Grace Mwanzia
41. Collins Ndung'u

The students are also accompanied by their teachers:-

1. Esther Nderitu
2. Evans Kioko
3. Garashi Hussein
4. Joseph Ndetu Siray
5. Mwaura Gilbert
6. Jescah Nekoye

On behalf of the County Assembly of Kilifi and on my own behalf, I welcome them to the Assembly and wish them well. May I call upon the hon. Member for Garashi Ward, Magarini Sub-County to welcome the students. Thank you.

Hon. Ziro: Thank you very much Mr. Speaker. I feel honoured to be given this opportunity to welcome the students in the public gallery. Although they do not come from my place, at least I feel Garashi has been represented because of the one named Garashi.

Mr. Speaker, I want to promise the one named Garashi, whether he is a student or a teacher, I am giving him lunch for today. So after this, kindly please Mwalimu Garashi just see

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me. I will give you lunch. Ask for hon. Peter Ziro. I am the MCA for Garashi Ward. I want to inform the students that they are at the right place and this is where we make laws. I am happy that they have taken the step to come and learn a few procedures of the House. As they are here, let them be attentive and I believe they will come out with something that will help them in future so that they can become best legislators in Kilifi and other parts of the country. Welcome so much and feel free. Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Kenga): I also want to call upon hon. Mwayaa to welcome the students.

Hon. Mwayaa: Mheshimiwa Spika, ninashukuru kwa nafasi hii ya kukaribisha wanafunzi kutoka Mariakani. Nimeanza hii kazi nikiwa Mariakani na Mariakani Junior Academy imevuma sana hasa eneo Bunge la Mariakani na Kaloleni. Imekuwa ya kwanza mara nyingi na kutuzwa vikombe kadha wa kadha. Kwa hivyo, nachukua fursa hii mjisikie mmefika. Hili ndilo Bunge la Kilifi. Tuko hapa kutunga sheria na kuwafanyia mema mnayoyaona kule mashinani. Tuko na mfuko wa *bursary* na yoyote atakayefanya vizuri, tunajaribu kusaidiana kutoka kwa mfuko wa *scholarship* ambayo tunatoa kama Kaunti ya Kilifi. Yoyote atakayefanya vizuri tunaweza kumsaidia ili Kilifi yetu iwe na wasomi na baada ya sisi ambao tunazeeka nanyi mje hapa kutunga sheria ili Kilifi yetu isonge mbele. Asante.

The Deputy Speaker (Hon. Kenga): Hon. (Ms.) Saumu Sidi, kindly welcome the students as well.

Hon. (Ms.) Sidi: Thank you Mr. Speaker, Sir, for giving me this opportunity to also welcome the pupils from Mariakani. Feel welcomed, feel free, interact, and learn, be attentive; see how things are made in the Assembly and when you go back home, please implement them. Welcome.

(Hon. Ziro stood on a Point of Order)

Hon. Ziro: Thank you Mr. Speaker. I feel I would not be fair. I have promised lunch to Mr. Garashi and I think it is better I hand over this lunch offer to you right now so that everybody can see. I am a Christian and I am very open. If you allow me I just hand it over to you. Thank you.

The Deputy Speaker (Hon. Kenga): You can hand over the lunch to the Serjeant.

Hon. Ziro: Mr. Speaker, I trust you more than the Serjeant so I do not know...

(Laughter)

(Hon. Kiraga stood on a Point of Information)

The Deputy Speaker (Hon. Kenga): Hon. Ziro do you wish to be informed?

Hon. Ziro: Yes, information is power Mr. Speaker.

Hon. Kiraga: Thank you so much Mr. Speaker. I wish to inform the Member that Mr. Garashi from Mariakani is a reputable personality in the society and the lunch should also measure the status of a teacher. We do not expect lunch from Mikombe beach; it should measure the lunch provided at Coco Beach. Thank you so much.

Hon. Gogo: Napenda kumwelezea mheshimiwa wa Garashi itakuwa si vyema ikiwa mwalimu amekuja na wanafunzi halafu mheshimiwa wa Garashi anatoa *lunch* kwa mwalimu na

anawacha wanafunzi wote njaa. Kwa hivyo ningemuomba mshimiwa alivyosema ni mkristo agharamie wanafunzi wote na mwalimu Garashi. Asante.

The Deputy Speaker (Hon. Kenga): Hon. Ziro, please take into consideration the issues raised by the Member.

COMMITTEE OF WHOLE HOUSE

(Order for Committee read)

The Deputy Speaker (Hon. Kenga) left the chair

IN THE COMMITTEE

The Temporary Chairperson (Hon. Thaura) took the Chair

THE KILIFI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2019

The Temporary Chairperson (Hon. Thaura): You can sit. Hon. Members, I welcome you to the Committee of Whole House. The rules here are relaxed and we are considering the Kilifi County Forest Conservation and Management Bill, 2019. Welcome.

Clause 3

Hon. Mwayaa: Thank you Mr. Chairperson. I beg to move:-

THAT Clause 3(1) be amended by inserting the word “development” “immediately after the word “sustainable” to read as, “The purpose of this Act is to ensure the sustainable development and management of forest resources in Kilifi county.

THAT Clause 3(2) be deleted.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Hon. Kiraga: I have a question Chairperson please

The Temporary Chairperson (Hon. Thaura): Yes hon. Kiraga

Hon. Kiraga: Chairperson, are we amending the whole of Clause 3 or it is part of Clause 3?

The Temporary Chairperson (Hon. Thaura): I guess you have a copy of the Order Paper?

Hon. Kiraga: I have a copy but the amendments in this copy are Clause 3(1) and deletion of Clause 3(2).

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The Temporary Chairperson (Hon. Thaura): From your Order Paper hon. Member, there is the deletion of Clause 3(2) and Clause 3(1) to be amended by inserting the word 'development'. So we were making amendment of the two parts.

Hon. Kiraga: Now Chairperson in that case, why do we delete the whole of Clause 3 (2)?

The Temporary Chairperson (Hon. Thaura): It was the decree of the Committee hon. Member.

Hon. Kiraga: They have to explain to us as to why they are deleting the whole of Clause 3(2).

The Temporary Chairperson (Hon. Thaura): There was room for anybody who wanted to debate.

Hon. Kiraga: There is room for? This is a Committee of the Whole House and we are now debating these issues. With me, I do not see the need to delete Clause 3(2).

The Temporary Chairperson (Hon. Thaura): Hon. Kiraga, you did not request for debate and we are through with this Clause. You need to request if you want to make some submissions. Yes hon. Mwarandu.

Hon. Mwarandu: Thank you very much Mr. Speaker for giving me this opportunity. I concur with the Member for Gongoni hon. Kiraga. If we are deleting the whole Clause 3(2) then why should we amend Clause 3? We have to be within the box, thank you.

The Temporary Chairperson (Hon. Thaura): Hon. Members, according to the procedures of the House, you are supposed to make the submissions before I put the Question. We are past Clause 3. Next time you need to be careful when giving submissions after a Question has been put.

The Temporary Chairperson (Hon. Thaura): Let us move to the next Clause.

(An hon. Member spoke off record)

You need to request hon. Member. I do not see your request.

Hon. Mwarandu: Thank you Mr. Speaker. I think we are doing this for the people of this great County of Kilifi. I do not see the reason as to why we should rush and come up with something very ambiguous. I think we should systematically go within the box.

The Temporary Chairperson (Hon. Thaura): So are you making your submission or what?

Hon. Mwarandu: I am not making submissions; rather it is a concern from what you had said that we ... what has been said by hon. Kiraga somehow is out of order. What I am saying is we are doing this for the people of this County. On that note, I think every concern that is raised by any Member here is very important. If you say that other concerns are passed by events then that is not good for this exercise. I would then say that there is no meaning for Members to come to this Assembly and give their concerns.

The Temporary Chairperson (Hon. Thaura): So I guess that was not your submission to Clause 4.

Hon. Mwarandu: It is not a submission; it is an objection on what you had earlier advised. I think the concern that was brought up by hon. Kiraga is very important because this Bill is not for us.

The Temporary Chairperson (Hon. Thaura): Take your seat!

Hon. Mwarandu: Thank you.

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The Temporary Chairperson (Hon. Thaura): Anyone who wants to submit anything? Yes hon. the Member for Garashi.

Hon. Ziro: Thank you Mr. Chairperson. I find it very audacious for this House to continue adopting these particular amendments when from the word go we had identified a problem. I feel that the point that had been raised by hon. Kiraga, the Member for Gongoni and the proprietor of Kinyaule Island is very valid. We are here on behalf of the people of Kilifi and if there is anything, we are going to be accounted for failing by bringing in laws that are defective. I think we should rescind this Motion so that we have time to go through the amendments and proper information is brought to this House before we can go on with the passage of this...

The Temporary Chairperson (Hon. Thaura): If I may ask a question hon. Member for Garashi. Have you taken time to read the Bill?

Hon. Ziro: Yes I have. I have it here and I have crammed it in my head.

The Temporary Chairperson (Hon. Thaura): Okay thank you for your submissions. Hon. Members, after consultations, we will re-submit the Clause after the Speaker takes his seat but as a matter of fact and procedure make sure you give your contributions earlier before I put the Question.

Hon. Kiraga: Thank you for your directive but who is going to object when reporting to the House after the Committee of the Whole House in front of the Speaker? Is it the procedure?

The Temporary Chairperson (Hon. Thaura): I will raise that as a concern.

Hon. Kiraga: Thank you.

(Clause 4 agreed to)

Clause 5

Hon. Mwayaa: Hon. Chairperson, I beg to move:-

THAT, Clause 5 (3) (vi) be amended by inserting the word “and” between the words “recognized” and “respected” to read, “...forest resources shall be recognized and respected...”

(Question of the amendment proposed)

Hon. Kiraga: Mr. Speaker, in the Order Paper the amended Clause is not the whole of Clause 5. The amended is Clause 5 (3) (vi). So if you say we are amending Clause 5 without being specific then I think you are watering down the whole thing. It should be...

The Temporary Chairperson (Hon. Thaura): No! hon. Member, as it appears in the Order Paper and I think you have the Order Paper hon. Kiraga.

Hon. Kiraga: Mr. Speaker, I feel the words should be we are amending Clause 5 (3) (vi) as found in the Order Paper.

The Temporary Chairperson (Hon. Thaura): Do you have the Order Paper Hon. Kiraga?

Hon. Kiraga: Yes.

The Temporary Chairperson (Hon. Thaura): Thank you for your submissions.

Hon. Ziro: Mr. Speaker, this is a Point of Information to hon. Kiraga who is seated next to me.

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The Temporary Chairperson (Hon. Thaura): Do you wish to be informed hon. Kiraga?

Hon. Kiraga: The rules are relaxed.

Hon. Ziro: The rules are relaxed so you do not need to ask. He is not reading the Order Paper and he is not attentive; he is also not following what the Chairperson is submitting. He is misleading this House.

(Loud consultations)

The Temporary Chairperson (Hon. Thaura): Order! Order! Order!

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

(Clause 5 as amended agreed to)

Clause 7

Hon. Mwayaa: Thank you, Mr. Chairperson, I beg to move:-

THAT Clause 7 (3) (d) be amended by deleting the word “sub-county” and inserting the word “County” thereof.

THAT clause 7(4) be amended by inserting the word “a” between the words “and” and “body” to read, “.....and a body representing the businesses relating to forestry...”

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

(Hon. Ziro stood on a Point of Order)

Hon. Ziro: Thank you Mr. Speaker, Sir. I think there is something that needs your clarification. The Chairperson is saying ‘may Clause 5 be amended as it appears in the Order Paper’ but when you look at what they are amending here, is Clause 5 (3) (vi). So, I was of the opinion that maybe when he puts the amendment he says. As it appears in the Order Paper 5 (3) (vi)...

The Temporary Chairperson (Hon. Thaura): But it appears in the Order Paper hon. Member?

Hon. Ziro: When you say as it appears in the Order Paper that means you are generalizing the whole of Clause 5. It is simple English; we have to explain to the House so that we understand.

The Temporary Chairperson (Hon. Thaura): Because you are a new Member to this House, I forgive you.

Hon. Ziro: I am not a new Member hon. Chairperson, kindly withdraw that.

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(Laughter)

The Temporary Chairperson (Hon. Thaura): Okay, kindly sit.

Hon. Ziro: No! That is not fair. I am not a new Member. We were sworn in the same day as you.

The Temporary Chairperson (Hon. Thaura): But the laws are clear?

Hon. Ziro: Yes, but you have to clarify to the House that I am not a new Member.

The Temporary Chairperson (Hon. Thaura): Hon. Member, please take your seat. Hon. Pascal.

Hon. Pascal: Thank you Chairperson. I think with all due respect the hon. Member who has just sat, we usually say that a Clause amended should be done as per the Order Paper, and then you leave the other items and go straight to mention the amendments that should be done. I do not think...

(Loud consultations)

Excuse me Chairperson, I was on the Floor.

The Temporary Chairperson (Hon. Thaura): Yes hon. Member for Mwanamwinga.

Hon. Pascal: I think the hon. Member has understood because what we are telling him is exactly what we wanted to tell hon. Kiraga. I think the hon. Member hon. Ziro has understood what we want to say. Thank you so much for your understanding.

The Temporary Chairperson (Hon. Thaura): Hon. Members, as a matter of procedure in Committee of the Whole House, we amend Clauses not sub-clauses. So, as a Member you should go through the Order Paper. In fact you should have seen this before you came in. I am not very sure whether hon. Ziro has even had time to read the Bill.

(Clause 8 agreed to)

Clause 9

Hon. Mwayaa: Thank you, Hon. Chairperson. I beg to move:-

THAT Clause 9(iv) be amended by deleting the word “approve” and replacing thereof with the word “approved”.

Further amending by inserting the word “of” between the words “approval” and “licenses” to read as, “approval of licenses.”

And further amending by deleting sub-clause 9(ix).

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

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Clause 11

Hon. Mwayaa: Thank you, Hon. Chairperson. I beg to move:-

THAT, Clause 11 be amended by deleting the phrase “as recommended by” and insert the phrase “by the County Public Service Board upon the advice of Salaries and Remuneration Commission” to read, “ reimbursable expenditures for meetings by the County Public Service Board upon advise of Salaries and Remuneration Commission”

(Question of the amendment proposed)

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

(Clause 11 as amended agreed to)

Clause 13

Hon. Mwayaa: Thank you Chairperson, I beg to move:-

THAT, Clause 13(4) (iii) be deleted.

(Question of the amendment proposed)

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

(Clause 13 as amended agreed to)

(Clauses 14, 15,16,17,18 and 19 agreed to)

Clause 20

Hon. Mwayaa: Thank you Chairperson. I beg to move:-

THAT, amend by renumbering Clause 20(3) (ii) to be 20 (3) (iii) and further renumbering Clause 20 (3) (iii) to be 20(3)(iv).

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

Clause 22

Hon. Mwayaa: Thank you Chairperson. I beg to move:-

THAT Clause 22(vii) be amended by deleting “and” after the word tourism.
That Clause 22(viii) be amended by inserting the word “and” after the word purposes to read, “cultural and religious purposes and...”

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

(Clause 23 agreed to)

Clause 24

Hon. Mwayaa: Thank you Chairperson. I beg to move:-

THAT Clause 24 be amended by inserting the word “the committee and between” with” and “the” to read “upon consultation with the Committee and the Executive Committee Member responsible for land matters...”

(Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

The Temporary Chairperson (Hon. Thaura): Hon. Members, the concentration level is going down, come back to the House.

Hon. Kadenge: Yes, they should concentrate because I have some issues.

The Temporary Chairperson (Hon. Thaura): You have some issues?

Hon. Kadenge: Yes.

The Temporary Chairperson (Hon. Thaura): Then how do I know that you have issues?

Hon. Kadenge: I have pressed the button but ...

The Temporary Chairperson (Hon. Thaura): No, we do not see your request here, yes proceed.

Hon. Kadenge: Okay you have said we are deleting Clause 13(4) (iii) completely; do you have the Bill itself? I want you to show the House where is Clause 13(4) (iii) here because I cannot see it here. What are we deleting?

The Temporary Chairperson (Hon. Thaura): Do you have the copy of the Bill?

Hon. Kadenge: It is here.

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The Temporary Chairperson (Hon. Thaura): It should be page 15, somebody to show him please.

Hon. Kadenge: Can somebody show me? This is a Bill and we need to be very careful. What are we deleting? We need your clarification.

The Temporary Chairperson (Hon. Thaura): It is so unfortunate that I am not using the copy you have on the Table, I have this yellow one. I think it is a typing error and that is normal, the fine copy we have here is in order.

Hon. Kadenge: There is nothing like typing error...

The Temporary Chairperson (Hon. Thaura): On behalf of whoever printed the copies, I do apologize but this is the finest copy. Do you have the copy?

Hon. Kadenge: This is what I have and I think everybody has the same copy. So what is your direction?

The Temporary Chairperson (Hon. Thaura): Now that you have seen the defined copy, I can offer to give you mine...

Hon. Kadenge: Give the whole House not me alone...

The Temporary Chairperson (Hon. Thaura): It is a typing error.

Hon. Kadenge: This is one point I have noted and you are saying the mood of the House is not good; we are hon. Members and we do not want to be horrible Members.

The Temporary Chairperson (Hon. Thaura): Okay thank you. Hon. Kiraga.

Hon. Kiraga: It is evident that in our copies we do not have that specific Clause especially 13 (4) (3). Can we now be told what kind of items we are deleting from that copy so that we can also discuss? This is because we cannot delete something we do not have. Probably it is an item of concern.

The Temporary Chairperson (Hon. Thaura): I request the hon. Member for Kayafungo to read the part that should be amended so Members can be able to make a follow up. Just a word of advice hon. Members, please before you come to this House make sure you have taken time to read the business of the House so that you can be privy of the business to be transacted on the Floor. Hon. Mwayaa, please proceed.

(Loud consultations)

Hon. Mwayaa: Okay, Mr. Chairperson, I believe that every Member was given a copy of...

(Loud consultations)

The Temporary Chairperson (Hon. Thaura): Let us have Order Members! Order!

Hon. Mwayaa: Thank you Mr. Chairperson, I believe these copies of the Bill were given to every Member. The problem is arising because maybe they did not go through the amendments. I believe the copy of the Bill was put in the pigeon holes.

(Loud consultations)

Chairperson, before these white copies which they have, I believe the yellow copies were given to every Member and it was commissioned in this House before the Committee of Water and Forest Management went to sit as a Committee to amend the Bill. So today, ...

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The Temporary Chairperson (Hon. Thaura): For the benefit of the Members, kindly read what should be amended.

Hon. Mwayaa: Okay, thank you. The numbers are very tiny; anyway I will try to read. “With six months after enactment of this Act...”

The Temporary Chairperson (Hon. Thaura): What is it hon. Mwarandu?

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.50

ADJOURNMENT OF DEBATE

Hon. Mwarandu: Thank you very much Mr. Speaker, I may not concur with the hon. Member for Kayafungo that we were given this copy of the Bill. I am standing on a Point of Order number 50 (b) to adjourn the debate because of the mood of the House. I think there is something that we should understand and...

The Temporary Chairperson (Hon. Thaura): Are you forcing a negative mood?

Hon. Mwarandu: Mr. Speaker, I am not forcing anything. I am rising on a Point of Order which is contained in our Standing Orders. It is not something that I am creating now; it is in our Standing Orders.

The Temporary Chairperson (Hon. Thaura): In your statement you said that the mood of the House is not conducive for debate.

Hon. Mwarandu: I am standing on a Point of Order 50 (b) and I am in order and I urge hon. Ziro to second.

The Temporary Chairperson (Hon. Thaura): Just continue you are on the Floor.

Hon. Mwarandu: I am done Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): Hon. Peter Ziro, I see you are very happy. Proceed to make your contributions.

Hon. Ziro: Thank you very much hon. Chairperson...

(Hon. Maneno stood on a Point of Order)

The Temporary Chairperson (Hon. Thaura): Yes, what is your point of Order hon. Member?

Hon. (Ms.) Maneno: Thank you Mr. Chairperson for giving me this opportunity. I want to correct the hon. Member, Humphrey Mwarandu, that as at now we are addressing the Chairperson and not the Speaker. So let him wait until the Speaker comes and then he will rise on his Point of Order of adjourning this debate. Thank you.

Hon. Ziro: Thank you very much hon. Chairperson for giving me this opportunity to contribute. First of all, I want to say thank you very much because you have seen the light on my face. You saw I was smiling; that is my nature. I stand to support the adjournment of this debate so that we can have enough time to go through the two documents. As of now, the House is confused and many people are confused here. We do not know which one is the correct document; we have two documents right now.

Mr. Chairperson, I want you to understand that we are here on behalf of the people of Kilifi and not on our own behalf. Whatever we are doing here will count in the future generations. I will kindly request this House to adjourn so that we have enough time to go

through the two Reports and establish which one is genuine before we come back to this House. Thank you.

(Question proposed)

The Temporary Chairperson (Hon. Thaura): Yes hon. Matsaki.

Hon. Matsaki: Mheshimiwa Mwenyekiti, nimesimama na mambo mawili. Nataka utujulishe kisheria, wakati tuko katika Kamati ya Bunge nzima, je ni wakati mzuri wa kusimamisha Hoja iliyo mbele ya Bunge au la? Pili, mimi nataka nipinge hasa Hoja ya kusimamisha huu Mswada kwa sababu tayari tunamaliza...

(Applause)

Na nimeona kutoka mwanzo kuna watu ambao walikuwa wakitaka kutatiza shughuli za kusomwa kwa mara ya pili huu Mswada. Kwa hivyo, Mwenyekiti, mimi ninakuomba utupatie mwongozo kwa sababu vile tunavyoenda naona tunaweka mchezo zaidi kuliko kile kibarua kilicho mbele yetu. Ni haki kama Mheshimiwa hakuelewa kitu aulize. Asante sana.

The Temporary Chairperson (Hon. Thaura): Thank you hon. Matsaki. You make a request but you do not raise your hand. Hon. George Baya.

Hon. Baya: Thank you Mr. Chairperson. I stand to oppose the Motion. The House is in order. What we understand is that the Members are from a long holiday and that is why they bring this confusion. I propose that the Motion continues. Thank you.

The Temporary Chairperson (Hon. Thaura): Hon. Dickson Shaban.

Hon. Shaban: Thank you, Mr. Speaker, Sir. I also stand to oppose this Motion from hon. Humphrey Mwarandu. We have come a long way and this is the time we need to conclude our business. If he wanted it to be adjourned, he should have raised this issue even before we begun discussing the amendments. I strongly oppose and let the House continue with this Motion. The House is in good mood. I rest my case. Thank you Mr. Speaker, Sir.

The Temporary Chairperson (Hon. Thaura): Hon. Pascal Thuva.

Hon. Pascal: Thank you, Chairperson, for giving me this opportunity to oppose the Motion that is before this House. We cannot purport to protect the interests of the people of Kilifi yet we come and oppose matters that will help our people. The issues to do with forests have hampered this county for a long time. Our forests have completely been depleted and we have always yearned for a law that will protect our forests. So, let me take this opportunity to oppose this Motion and kindly appeal to hon. Members to get back to business and wind up with this law. Thank you very much Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): Thank you hon. Mwayaa.

Hon. Mwayaa: Mheshimiwa Mwenyekiti, mimi pia napinga Mswada ambao umeletwa na mheshimiwa Mwarandu wa kusitisha kikao hiki. Tuko hapa kufanyia kazi watu wa Kilifi na hii nakala ambayo niko nayo hapa iliwekwa kwa *pigeon holes* zetu. Tukipata nakala hizi, inafaa twende tukazisome. Sisi kama wanakamati wa Maji, Mazingira na Misitu tulienda tukakaa na tukaweza kuona ni wapi kunahitaji marekebisho. Tulikuwa na mawakili wetu wa Kaunti na tuliangalia kwa undani zaidi nakala hii.

Pia, tulikuwa na maafisaa husika wa misitu katika mkutano huo ili misitu ya Kilifi ikalindwe na ikawe na sheria ili wale waharibifu wa misitu waweze kukabiliwa vilivyo. Kama

kuna baadhi yetu wanaleta shida, pengine hawajaelewa vizuri wagawanyiwe hii nakala. Mimi niko tayari kutoa hii yangu, maanake nimeona si wengi. Asante mheshimiwa Mwenyekiti.

The Temporary Chairperson (Hon. Thaura): Thank you, hon. (Ms.) Sidi.

Hon. (Ms.) Sidi: Thank you Chairperson. I do not know if I support the Motion or not because we do not have a Motion. Ideally he could have risen when the Speaker was around. I do not know why we are even giving time to this thing by hon. Mwarandu. Members were supplied with the yellow print out and they have them. So, Mr. Chairperson, let us just proceed with the Whole House. Thank you.

The Temporary Chairperson (Hon. Thaura): Hon. Mwarandu, you are now submitting as the mover of the Motion?

Hon. Mwarandu: Yes.

The Temporary Chairperson (Hon. Thaura): Go ahead.

(Question, that the Mover be now called upon to reply, put and agreed to)

Hon. Mwarandu: Thank you very much Mr. Chairperson. We are very much in order. We should debate a Motion because at the end of the day, a Question will be put on the amendments so I am quite in order.

(Loud consultations)

The Temporary Chairperson (Hon. Thaura): You are on the Floor.

Hon. Mwarandu: Thank you Chairperson. You will realize that those people who have been standing on a Point of Order or a Point of Information are the people who are attentive. We are not here to make laws for ourselves; the sovereign power belongs to the people of Kenya as stipulated in Article one of the Constitution.

(Applause)

And those powers are delegated through their democratically elected people or leaders. So if a leader stands here to make a submission or to raise a concern, it is not for him but for the people of this county. What I am saying here is, those people who are opposing this Motion are sitting here, texting and chatting; they are just here to pass this Bill but not to approve something tangible for our people. So, Mr. Chairperson, I urge Members that we can...

(Hon. Mwayaa stood on a Point of Order)

The Temporary Chairperson (Hon. Thaura): Kindly wind up hon. Mwarandu.

Hon. Mwarandu: I am done thank you.

The Temporary Chairperson (Hon. Thaura): Hon. Members, a Motion has been moved by hon. Mwarandu to adjourn the Committee of the Whole House.

(Question put and negative)

THE KILIFI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2019

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*(Resumption of Consideration
interrupted in Committee today)*

(Clause 25 agreed to)

Clause 26

Hon. Mwayaa: Thank you Mr. Chairperson...

QUORUM

The Temporary Chairperson (Hon. Thaura): Yes hon. Kiraga, what is your Point of Order?

Hon. Kiraga: Although I was denied an opportunity to speak but currently I do not know whether we have quorum in this House.

The Temporary Chairperson (Hon. Thaura): Mr. Clerk, kindly confirm if we have quorum. Thank you, hon. Kiraga, for that concern.

The Clerk-at-the-Table: We do not have quorum Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): Kindly ring the Bell.

(The Division Bell was rung)

The Temporary Chairperson (Hon. Thaura): Clerk, do we have quorum?

Clerk-at-The-Table: Yes we have quorum Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): Go ahead hon. Mwayaa.

Clause 26

Hon. Mwayaa: Thank you Mr. Chairperson. I beg to move:-

THAT Clause 26 be amended by inserting the phrase “or request for more information” after the word “application” to read “the Committee may approve or disapprove the application or request for more information”

Re-naming the last sub-clause (5) of clause as 26 as sub-clause 6.

(Question of the amendment proposed)

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

(Clause 26 as amended agreed to)

Clause 27

Hon. Mwayaa: Thank you Mr. Chairperson. I beg to move:-

THAT Clause 27 (2) (c) be amended by inserting the phrase “domestic use”

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

(Clauses 28,29,30,31,32,33,34,35,36,37,38,39,40,41,42 and 43 agreed to)

Clause 44

Hon. Mwayaa: Thank you Mr. Chairperson. I beg to move:-

THAT, Clause 44 be amend by inserting the phrase “in county forests and..’ between the words” uses” and “forests”

Delete the word “of” between “and” and “forests” to read “the licensing authority may issue permits for the following non-consumption uses in county forest sand forests on community respectively.

(Question of the amendment proposed)

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

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

(Clause 44 as amended agreed to)

(Clauses 45,4,47,48,49,50,51,52,53,54,55,56,57,58,59, 60, 61,62,63,64,65,66,67,68,69,70,71,72,73 and 74 agreed to)

Clause 75

Hon. Mwayaa: Thank you Mr. Chairperson. I beg to move:-

THAT Clause 75 be amended by deleting the word “than” between “exceeding” and “fifty” to read “not exceeding fifty thousand Kenya shillings”

(Question of the amendment proposed)

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

(Clause 75 as amended agreed to)

(Clauses 76, 77, 78,79,80,81,81,82,83 and 84 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

Clause 2

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Hon. Mwayaa: Hon. Chairperson, I beg to move:-

THAT, Clause 2 be amended by deleting the interpretation of the phrase “Executive Committee Member” appearing after the interpretation of “Committee” and insert it after the interpretation of “Directorate of Forestry”

Delete the interpretation of the “Directorate of Forest” appearing after the interpretation of “County Forest” and insert it after the interpretation of “Customary Rights”

Inserting the interpretation of the phrase “forest products” to provide as follows; “Forest products are any materials derived from forestry for direct consumption or commercial use.”

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Long Title agreed to)

(Clause 1 agreed to)

The Temporary Chairperson (Hon. Thaura): Hon. Members, we had some contentious issues with Clause 3 but I wish to give some guidelines. Standing Orders 125 (2) says “No amendment shall be moved to any part of the Bill by any Member, other than the Member in charge of the Bill.” which in this case is hon. Mwayaa. “Unless written notification of the amendment shall have been given to the Clerk twenty-four hours before the commencement of the sitting at which that part of the Bill is considered in Committee”

Hon. Mwayaa: Hon. Chairperson, I beg to move that, the Committee do report to the House its consideration of the Kilifi County Forest Conservation and Management Bill, 2019 and its approval thereof with amendments. Thank you.

Hon. Kiraga: Mr. Chairperson, you are doing harm to me and I am so hurt.

The Temporary Chairperson (Hon. Thaura): To you?

Hon. Kiraga: Yes to me. My rights are not being taken care of. I did not ask for amendments and that should go straight to the HANSARD. I wanted to know why we should delete Clause 13 (4) (iii) and you said we are going to venture into that item later and the direction you are now taking is denying my rights. Again apart from that, since you have said...

(Hon. Ziro’s phone rung)

Hon. Kiraga: Hon. Chairperson, what is happening here?

The Temporary Chairperson (Hon. Thaura): Hon. Member, for Garashi, kindly switch off your *kabambe* (phone).

Hon. Kiraga: You have agreed in this House that the copies that we have have some items are different from this yellow copy. Clause 13 (4) (iii) says: “any other forested land that

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may be declared private under the provisions of this Act;” that is another definition of private forested land. So, if we say we are deleting this not unless the same has been projected in the preliminaries, but I have gone through the preliminaries and there is no explanation as far as that part is concerned. Therefore, can the Chairperson of the Committee explain to us why he is deleting Clause 13 part (4) (iii) and again, why is he deleting Clause 3 part 2. If that one is explained then Mr. Chairperson you will have taken care of my rights and the rights of my people I represent in Gongoni Ward.

Again, I am not asking for amendments. I know the Standing Orders very well at this point. We are not allowed to seek for amendments, but we are allowed to seek for clarifications on some issues concerning the Bill. Thank you.

The Temporary Chairperson (Hon. Thaura): I was clear on that. We cannot make amendments but I will report the same to the Speaker so that he can give direction on it.

Hon. Kiraga: I believe in the Committee of the Whole House is where we can have an explanation as to why various amendments are being made. That is why the Chairperson of the Committee is here.

The Temporary Chairperson (Hon. Thaura): As a matter of concern hon. Mwayaa you can stand and give an explanation or choose one of your Members to verify some of the issues.

Hon. Mwayaa: Mr. Chairperson, let the hon. Member come again and then I will be in a position to answer him well.

The Temporary Chairperson (Hon. Thaura): Kindly hon. Kiraga expound the question.

Hon. Kiraga: Thank you, Mr. Chairperson. Why do we delete Clause 13 (4) (iii) completely? That is one. Secondly, is Clause 3 (1) (ii) is also in the amendments that it has to be deleted. Can we also get an explanation of the same?

The Temporary Chairperson (Hon. Thaura): Do we have Members of the said Committee in this House?

Hon. Mwayaa: Mr. Chairperson, we decided to delete Clause 13 (4) (iii) because these are private forests and as you know private forests cannot be treated as government forest. This deals with private forests.

The Temporary Chairperson (Hon. Thaura): You can pick one of your Members to assist you.

Hon. Mwayaa: Hon. Shaban is here.

Hon. Shaban: Thank you Mr. Chairperson. What the Chairperson has said is correct because when we have private forest sometimes you cannot give instructions on how it is supposed to be managed. That is why we had to delete that Clause. Thank you Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): Thank you. Yes, hon. Member for Gongoni.

Hon. Kiraga: I think we should be honest. You see this is a continuation and look at part 4. It talks of private forests; we cannot say we deleted this because it deals with private forests. Forests are classified into either government forests, private forests or community forests. As a Chairperson, you cannot stand here and tell us that you deleted that because it is a private issue. Look at Clause 4 part (1); it is trying to explain issues to do with the private forests, in part (1), part (2), and part (3). These are the classifications of private forests. Why are we deleting part (3) and it is a very important component as far as private forests are concerned and this item is an item which will now give powers to his Excellency the Governor...

(The Chairperson consulted with the Clerk- at- the -Table)

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I hope you are listening Mr. Chairperson.

The Temporary Chairperson (Hon. Thaura): I am listening.

Hon. Kiraga: It is the same part which can also give his Excellency the Governor powers to either declare a certain forest to be private. We should look at them carefully and not saying that we delete it; those reasons are not enough.

The Temporary Chairperson (Hon. Thaura): Thank you very much Member for Gongoni. I have heard that you are the owner of Coco beach which is encouraging Members to venture into businesses. You did not take your time to go through this Bill before you came in. To me, you are failing as an hon. Member representing the people of Gongoni. You should have gone through this Bill before you came to this hon. House and you should have been making follow-ups when we were making our submissions.

(Hon. Kiraga stood on a Point of Order)

I am not giving you time to speak. I am just explaining so that next time, with due respect, I know you are a senior Member; be attentive and make sure you go through the Bills and Motions before they come to this House and before you make your submissions.

Hon. Kiraga: Thank you...

The Temporary Chairperson (Hon. Thaura): I have not given you time to speak.

Hon. Kiraga: I want to rest my case.

The Temporary Chairperson (Hon. Thaura): I have not given you time to speak hon. Member.

Hon. Kiraga: No, but Chairperson, it is like I am violating the Standing Orders and I am not violating the Standing Orders.

The Temporary Chairperson (Hon. Thaura): But I did not give you time to speak hon. Member.

The Temporary Chairperson (Hon. Thaura): Yes hon. Mwayaa.

Hon. Mwayaa: Thank you. Mr. Chairperson as I have already explained. We are giving room for somebody maybe the CEC Member or His Excellency, the Governor, to declare a private forest; maybe it might be a government forest. By leaving that Clause there, it will be giving him powers to declare it private. He can wake up one morning and declare a county forest to be a private forest, which is wrong. So, we have deleted this because it gives a leeway for somebody to wake up one morning and say this is now a private forest which is wrong.

The Temporary Chairperson (Hon. Thaura): Okay thank you. Your point is home and dry.

Hon. Mwayaa: Mr. Chairperson, I beg to move that the Committee do Report to the House its consideration of the Kilifi County Forest Conservation and Management Bill, 2019 and its approval thereof with amendments.

(Question Proposed)

(Question put and agreed to)

(The House resumed)

(The Speaker (Hon. Kenga) in the Chair)

THE KILIFI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2019

Hon. Thaura: Thank you Mr. Speaker. I beg to Report that the Committee of Whole House has considered the Kilifi County Forestry Conservation and Management Bill, 2019 and approved the same with amendments. Thank you.

Hon. Mwayaa: Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I call upon hon. Shaban to second.

(Question proposed)

Hon. Mwayaa: Thank you Mr. Speaker. Kilifi County has witnessed a lot of deforestation. This Bill will protect and preserve the forests we have in Kilifi. Mr. Speaker, we have come up with this Bill so that we can protect and conserve forests like Kayafungo forests and other places within Kilifi County. This Bill will put a stop to the deforestation we have witnessed some years back.

The Deputy Speaker (Hon. Kenga): Thank you very much for your contribution. Hon. Shaban.

Hon. Shaban: Thank you Mr. Speaker Sir. I rise to support this Bill. For the first time, we will have sanity in the management of forests because most of the time these forests are being misused. With this Bill, we are going to have procedures which are going to be used so that forests will be protected and help the people of Kilifi. I support. Thank you.

(Question put and agreed to)

Hon. Mwayaa: Thank you Mr. Speaker Sir. I beg to move that the Kilifi County Forest Conservation and Management Bill, 2019 be now read for the Third Time. I call upon hon. Shaban to second me.

(Question proposed)

Hon. Shaban: Thank you Mr. Speaker Sir. I support that this Bill be read the Third Time so that it can be effective and thus assist the people of Kilifi. Thank you.

The Deputy Speaker (Hon. Kenga): Thank you. Hon Pascal, kindly introduce yourself, I am told you are a neighbor of the visitors in the gallery.

Hon. Pascal: Yes. Thank you, Mr. Speaker Sir. Just before I make my contributions, let me introduce myself. I am hon. Pascal Makanga representing the Ward of Mwanamwinga and again a neighbour to Mariakani Ward where the visitors are coming from. So the children plus the teachers, feel welcomed. We are here trying to see how our laws will change. This is the best place for you to be. If it were not for here, these children today could have travelled all the way to Nairobi to witness what is happening here. We are seeing this because of devolution.

Devolution is something we all need to embrace because it has brought a lot of goodies to the people of Kenya. What I want to say is concentrate in your studies and know why you are in school. There are those who go astray and burn classrooms, distorting other students in school.

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Ensure you run away from those events and concentrate on what took you to school and God willing you will rise up and become like some of us or in better positions. Thank you.

Back to the Business of the day, I want to support and agree that this Bill be read for the Third Time which will culminate into the passage of this Bill. For a long time as Kilifians, we have lacked a law that will direct into the management of forest resources. We have lost a lot of trees and forests. I am sure after the Governor appends his signature on this law, we are going to have sanity in the management of these forests. Thank you very much Mr. Speaker, Sir.

The Deputy Speaker (Hon. Kenga): Thank you. Yes Hon. Thaura.

Hon. Thaura: Thank you Mr. Speaker Sir for giving me this opportunity to make my submissions. I am a Member representing Sokoke Ward. It is clear to all Members that we border Arabuko Sokoke forest. The benefits of forests are huge. We have seen Members of public invading our forests.

In fact, for those people who know Sokoke Ward, there is a famous Mwangea hill. It has been a home of so many trees but as we speak, the hills are now bare and we all understand the effects of deforestation. We have been lacking rain and our agricultural systems going down. Having a Bill like this in place brings a lot of hope to many areas. Forests are a home to different birds and animals which again is a tourist attraction. We have been waiting for this Bill to come in place so I am happy that it has finally come and I am in support of this. Thank you.

(Question put and agreed to)

(The Bill was accordingly read a Third Time and passed)

The Deputy Speaker (Hon. Kenga): Thank you very much hon. Members. What is left is for the same to be forwarded to the Office of the Governor for Governor's assent and I want to believe it is going to be done.

COMMUNICATION FROM THE CHAIR

HOUSE BUSINESS COMMITTEE MEETING

The Deputy Speaker (Hon. Kenga): There is one Communication I would want to pass to Members of the House Business Committee. We are having a meeting immediately after this plenary sitting at the Deputy Speaker's Office. Kindly avail yourselves.

ADJOURNMENT

There being no any other business to transact, this sitting stands adjourned until today afternoon at 2:30 p.m. Thank you.

The House rose at 4:30 p.m.

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