

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 9th February 2016

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, it has been a long recess. Welcome back!

COMMUNICATION FROM THE CHAIR

Hon. Speaker: That communication will come at the tail-end.

(An hon. Member ran to his seat)

Hon. Speaker: Even if you run marathon, it is not the way to do it here.

Hon. Members, I wish to welcome you back to the House for the Fourth Session of the 11th Parliament after the well-deserved long recess. It is my hope that all Members have rested and are now rejuvenated for what promises to be another busy Session.

As an overview, we have a number of Bills with constitutional deadlines that require to be passed by 27th August 2016, some of which also need to be considered by the Senate. We are also at the beginning of the Budget cycle and we have various other important matters before us, including the various Bills proposing to amend the Constitution for reasons well known to you Members.

MESSAGES

RESERVATIONS BY HIS EXCELLENCY THE PRESIDENT

Hon. Members, having said that, I wish to convey two Messages from His Excellency the President, which were received in my Office during the recess period. In the Memoranda, the President is requesting the National Assembly to consider his reservations on the National Employment Authority Bill 2015 and the Small Claims Court Bill, 2015.

CONSIDERATION OF PRESIDENTIAL MEMORANDUM ON THE NATIONAL EMPLOYMENT AUTHORITY BILL 2015

Hon. Members, you will recall that on 8th October 2015, the National Assembly passed the National Employment Authority Bill, which was sponsored by Hon. Johnson Sakaja, MP. Subsequently, the Bill was presented to His Excellency the President for assent, in accordance

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with the provisions of the Constitution and our Standing Orders. However, His Excellency the President, by way of a Memorandum, has referred this Bill back to the National Assembly for reconsideration pursuant to the provisions of Article 115(1) (b) of the Constitution.

In his reservations to the National Assembly, the President observes that the National Employment Authority Bill as passed did not incorporate transitional provisions which would facilitate the perpetual and legal transformation of the existing National Employment Bureau, which is a department in the Ministry of Labour and East African Affairs, into the new body being created in the Bill.

CONSIDERATION OF PRESIDENTIAL MEMORANDUM
ON THE SMALL CLAIMS COURT BILL 2015

Hon. Members, in the second Message, His Excellency the President has also referred the Small Claims Court Bill, 2015 back to the National Assembly for reconsideration. The said Bill, being among the statutes with a constitutional deadline, was passed by this House on 18th November 2015, and subsequently presented to His Excellency the President for assent. His reservation of the Bill relates to Clause 37, which provides for the enforcement of orders made by the Small Claims Court. In passing that particular Clause, the House deleted a crucial text of Sub-clause 2, which consequently rendered the entire Clause un-enforceable.

I want to admit that, indeed, my Office noticed the omission during the preparation of the vellums prior to presentation of the Bill to the President for assent. Having consulted with the Office of the Attorney-General on the most suitable corrective measure, it was felt that since correcting the deletion was beyond the powers of the Speaker as contemplated under Standing Order No. 152(3), the only option was for the President to return the Bill to the House for reconsideration of the specific sub-clause. It is on this basis that this particular Bill has been referred back to the House by the President for reconsideration in the aforesaid manner.

Hon. Members, in conclusion, Standing Order No.154 requires the National Assembly to consider the President's reservations within 21 days. In this regard, the National Employment Authority Bill 2015 stands committed to the Departmental Committee on Labour and Social Welfare while the Small Claims Court Bill 2015 is referred to the Departmental Committee on Justice and Legal Affairs for further consideration. The Committees should table their reports by 22nd February 2016.

In considering the memoranda, regard will be given to the guidance given by the Speaker in a communication delivered on 28th July 2015 concerning consideration of presidential memoranda and amendments thereto, particularly my guidance on amendments by a committee or an individual Member that have the effect of fully accommodating the presidential reservations. Such amendments will not attract the two-thirds requirements for passage.

Hon. Members, I wish to remind the House and the committees that only clauses of the Bill for which the President has made reservations would be reconsidered by the House.

I thank you.

PETITION

ESTABLISHMENT OF MONEY MOTIVATED
CRIME ELIMINATION COMMISSION

Hon. Speaker: Hon. Members making your way in, as much as I know that you have not met each other formally in the Chamber, please take your seats so that we can transact business.

(Hon. Abass stood on the gangway)

Hon. Speaker: Hon. Abass, if you could take your seat, please.

(Hon. Abass took his seat)

Hon. Speaker: Hon. Members, this is Petition No.1 of 2016.

Standing Order No. 225(2) (b) requires that the Speaker reports to the House any petitions other than those presented through a Member. I, therefore, wish to convey to the House that my Office is in receipt of a Petition from a Mr. Gibson Machanga Mareko.

Hon. Members, pursuant to Article 119 of the Constitution, the Petitioner is requesting the National Assembly to enact legislation to provide for the establishment of Money Motivated Crimes Elimination Commission, whose mandate shall be to address all money motivated crimes. The Petitioner refers to the following crimes as money motivated crimes: Drug trafficking, corruption, tax evasion, cattle rustling, kidnapping, robbery and money laundering, among others.

The Petitioner also prays that the National Assembly proposes amendments to other relevant laws as contemplated in Article 252 of the Constitution so as to assign functions and powers to the proposed Commission.

Hon. Members, pursuant to the provisions of Standing Order No.227, the Petition stands committed to the Departmental Committee on Justice and Legal Affairs for its consideration within the relevant period which is stipulated in our Standing Orders.

I thank you. Does somebody want to make a comment? Hon. Gatobu, you still have not realized that you have to log in?

Hon. Kinoti: The machines are not working, Hon. Speaker.

Hon. Speaker: Machines are not working? Hon. Members, this is important. It is also to show that Kenyans are taking advantage of the constitutional provisions requiring them to petition Parliament about any matter that they feel that the House should address.

Hon. Gatobu, please, proceed!

Hon. Kinoti: Thank you very much, Hon. Speaker, for giving me this opportunity to speak in this House for the first time in 2016. I thank you for the Petition.

I am rising on the issue of petitions that were presented last year. The Constitution and the Standing Orders have given a timeline within which petitions should be handled. My constituents brought a Petition on resettlement of squatters in Buuri. It stood committed to the Departmental Committee on Lands and it has not been addressed for almost six months now.

I beg for your intervention on this issue.

Thank you.

Hon. Speaker: Hon. Gitobu, as you would expect, from the Chair, I am unlikely to know the position of a petition that was referred to a committee of this House. I am sure that the best way would have been if you had sought information from the Office of the Clerk. That would have been an easier way. Be it as it may, the Clerk is instructed to find out the position. You will be informed accordingly tomorrow. From here, we cannot possibly know where the petition is. I do not see the Chair of the Committee, Hon. Alex Mwiru, in the Chamber. Is he in? You have changed your usual position, Hon. Mwiru. Are you in a position to comment on the whereabouts of that petition? I am sure you can speak from anywhere.

Hon. Mwiru: Hon. Speaker, we were supposed to handle that matter when we were in recess, but we were unable to do so because the Members of the Committee could not avail themselves. I am assuring the hon. Member that my Committee will be in his constituency on Friday this week to pursue the same matter. Therefore, we are handling the matter.

Hon. Speaker: Are you sitting on Friday?

Hon. Mwiru: Yes. We shall be in his constituency on Friday to check the facts on the ground so that we can compile a report.

Hon. Speaker: Very well. That is even better. Then the Clerk does not have to do much.

Hon. Gatobu, avail yourself and the villagers before the Committee so that they can go and make the presentations.

Hon. Gatobu: Thank you very much, Hon. Speaker. God bless you.

Hon. Speaker: Hon. Members, may I get an indication? There was a Petition that I presented. You are at liberty to make comments for a few minutes. Do I see Hon. Daniel Maanzo? As usual, you will have the first shot.

Hon. Maanzo: Thank you, Hon. Speaker, for giving me this opportunity. I would like to comment on the petition on the money motivated crimes. It is a very good thing from a member of the public to petition Parliament to consider such a Petition and make amendments to the relevant laws, including the Penal Code, among others; so that we can sort out such crimes. Such crimes, especially corruption, affect the nation in a big way. Corruption creates inequality in a nation while education creates equality. While the Committee considers the Petition, it is good that we encourage sensible members of public, like the one who has presented the Petition at hand, to bring petitions that help us make better laws.

Thank you.

Hon. Speaker: Very well.

Hon. Francis Waititu!

Hon. Waititu Francis: Thank you, Hon Speaker. I take this opportunity to wish all Hon. Members of the 11th Parliament a Happy New Year.

I support the Petition because there is a big problem in this country. We know there is the Ethics and Anti-Corruption Commission (EACC) in this country. However, we have undergone a lot of problems in our country especially on the youth and drugs.

I was going round Juja Constituency where there are two public universities; the Jomo Kenyatta University of Agriculture and Technology (JKUAT) and Kenyatta University (KU), Ruiru Campus and Nairobi Institute of Business Studies (NIBS) College which is also in my constituency.

Drug dealers are targeting institutions of higher learning. In as much as the police are trying, the Petition clearly explains what is on the ground. It is true that those people are there on the ground with the drugs and alcohol. When the President called upon us to address the issue of

alcohol, especially leaders from Central Province, we went out fully as Members of Parliament. As we are speaking here today, alcohol is back. I am happy that as an MP, I stopped drinking nine months ago and I am feeling a big change.

An hon. Member: It is not all alcohol, but illicit---

Hon. Waititu Francis: Yes, I mean illicit brew. It has been a trend in this country where people steal money and go to hide it in different countries. That is what we call money laundering. It has been happening and it is true. Despite having the EACC, corruption levels are very high. You know what happened a few months ago when we changed the system. But corruption levels are still high. How can a corrupt person who has been working in the Government be elected as a governor today?

Look at what has been happening in Mombasa, where the Government has been destroying illegal sugar and other corrupt deals that have been going on there. If this country had a different system other than the EACC to deal with this problem, this thing would have come to an end.

We have lost many Kenyans because of cattle rustling. You find brothers killing each other. That is happening especially in the Rift Valley region, where cattle rustling is a very big problem. I support the Petition because that has to stop. That is because tribes have been rising against each other because of cattle rustling. Some of them are senior people in this Government and they are the warlords there.

Thank you for the chance. I support that Petition.

Hon. Speaker: Hon. Members, there is what we call “relevance”. I know we have been on long recess and we might have forgotten that aspect. If you heard the Petition, it is good to stick to it. This is not a debate. Just make comments. I do not think you should speak for five minutes.

Let us have Hon. Isaac Mwaura.

Hon. Mwaura: Thank you, Hon. Speaker. I rise to support the observations of the Petitioner because of some of the crimes that he has enumerated. Usually, people who are suspected do not get charged in any way. The conceptualization of the fact is that, if you have done tax evasion, money laundering or if you have been involved in drugs, you should be taken before a special commission. This is a very well thought-out idea.

However, we need to ask ourselves what is not happening with regard to the already established institutions that are there to ensure that such crimes are dealt with.

Petitions are a good avenue for members of the public and, indeed, us MPs, to present issues that are of concern to Kenyans. I am very glad because I brought a Petition here for Education, Assessment and Resource Centers (EARC) on their funding and issues to do with special schools. As we speak, funding to those institutions has been increased for the first time by the Government of Kenya. Therefore, Kenyans will take this opportunity to ensure that they use this chance to highlight their issues.

Today as we speak, special needs education teachers and the EARC officers can comfortably assess learners with disabilities and place them in various schools for them to get education, which is a great equaliser.

I rise to support.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. The issues the Petitioner has brought are fundamental and it is within his rights. But I do not support the issue of forming commissions.

Hon. Speaker: Order, Hon. Members. The Hon. Member for Ainabkoi and the Hon. Member for Thika Town, who is about to displace the Member for Tigania East---

Please allow Hon. (Dr.) Pukose to be heard.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker for giving me the opportunity to make this contribution. At the outset, the Petition is good.

However, I do not support the idea of forming commissions. This is because we have various arms of Government that can deal with all the issues that the petitioner has raised. It is important to strengthen those institutions so that they can deal with various crimes in a more responsive way. But the issue of forming commissions, increasing taxpayers' expenditure is a wrong move and should not be supported.

Thank you.

Hon. Speaker: The last one on this is Hon. Michael Onyura.

Hon. Onyura: Thank you, Hon. Speaker. I rise to support and commend the Petitioner for bringing this Petition. The areas that he has enumerated there are just examples. They are areas that are of concern to all of us.

However, I know we can pass and amend all the laws, but the problem is not lack of laws to deal with the areas that have been pointed out. The problem is the commitment and the implementation of those laws. Therefore, we should be looking at implementation and commitment more than anything else. We should find out what is lacking from our enforcement organs and find a way of strengthening or enforcing the laws that exist.

If you look at what he has said, nearly every crime has a money motive on it, including some cases of murder. So, we need to reinforce our law enforcement arms and bodies to enforce the current laws. However, let us give him a chance. Let him come and present. Maybe, there are certain perspectives and dimensions that might come out of that Petition.

I support and commend the Petitioner.

Hon. Speaker: Lastly, let us have Hon. Kathuri Murungi.

Hon. Murungi: Thank you, Hon. Speaker for giving me this opportunity to give my comments on this Petition. I thank the Petitioner because of one issue which has been affecting us in Meru region, especially the Igembe region. We have a big problem of cattle rustling in my area and also in Tigania. I consider cattle rustling as robbery with violence.

Therefore, this Petition will help us, if the Departmental Committee on Justice and Legal Affairs will look into it keenly. Those people violently come to get livestock from our side and go with it to the other side, As Hon. Maanzo has said, the Penal Code should be streamlined so that they can be charged the same as those who have committed robbery with violence.

As a region, we are suffering. Those laws can deter the cattle rustlers in the region.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Next Order.

MOTION

APPROVAL OF HOUSE BUSINESS COMMITTEE

Hon. Speaker: Hon. Katoo ole Metito, the Majority Whip.

Hon. Katoo: Thank you, Hon. Speaker. Before I move this very important Motion, allow me to extend my belated happy New Year greetings to all the hon. Members. I am also wishing them a successful Session ahead, as you have correctly put in your Communication. I would also like to request your permission that I move this Motion in an amended form.

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

THAT, pursuant to the provisions of Standing Order No.171(1)(d), this House approves the appointment of the following Members to the House Business Committee, in addition to the Members specified under paragraph (a), (b) & (c) of Standing Order No.171

Hon. Speaker, the members specified under Paragraph (a), (b) and (c) are:-

1. Hon. Justin B.N. Muturi, MP; Speaker and the Chairperson.
2. Hon. Aden Duale, MP; the Leader of the Majority Party.
3. Hon. Francis Nyenze, MP; the Leader of Minority Party.

The Members specified under paragraph (d) for approval of the House are as follows:-

1. Hon. Katoo ole Metito, MP.
2. Hon. Jakoyo Midiwo, MP.
3. Hon. (Dr.) Naomi Shaban, MP.
4. Hon. Thomas Mwadeghu, MP.
5. Hon. Jamleck Kamau, MP.
6. Hon. William Cheptumo, MP.
7. Hon. (Eng.) M.M. Mahamud, MP.
8. Hon. David Were, MP.
9. Hon. Z.K. Cheruiyot, MP.
10. Hon. Mithika Linturi, MP.
11. Hon. (Ms.) Jessica Mbalu, MP.
12. Hon. (Dr.) Victor Munyaka, MP.
13. Hon. John Serut, MP.
14. Hon. WafulaWamunyinyi, MP.
15. Hon. (Ms.) Cecilia Ngetich, MP.
16. Hon. (Ms.) Priscilla Nyokabi, MP.
17. Hon. (Dr.) Rachael Nyamai, MP.
18. Hon. Peter Shehe, MP.
19. Hon. (Ms.) Joyce Emanikor Akai, MP.
20. Hon. Sakaja Johnson, MP.
21. Hon. (Dr.) Makali Mulu, MP.
22. Hon. (Ms.) Dennitah Ghati, MP.
23. Hon. (Ms.) Gladys Wanga, MP.
24. Hon. (Ms.) Florence Kajuju, MP.
25. Hon. (Dr.) Susan Musyoka, MP.

Hon. Speaker, this is why I was pleading to move the Motion in an amended form.

26. The Hon. Chachu Ganya, MP.
27. The Hon. Chris Wamalwa M.P.
28. The Hon. KK Stephen Kinyanjui Mburu, MP.
29. The Hon. (Ms.) Mishi Juma, MP.

(Loud consultations)

Hon. Speaker, perhaps, Members were not very keen when I said I was moving the Motion in an amended form. Hon. Ben Momanyi has been replaced with Hon. Chachu Ganya and Hon. George Olum has been replaced by Hon. Chris Wamalwa, MP.

Let me finish moving the Motion, then Members can bring in their views on it. The House Business Committee (HBC) is one of the very important Committees that set the business and the agenda of the House. Standing Order No.171(5) states that the HBC, among other things, shall:-

1. Prepare and, if necessary, from time to time, adjust the Parliamentary Calendar with the approval of the House.
2. Monitors and oversees the implementation of the House business and its programme.
3. Implements the Standing Orders and oversees the scheduling or programming business of the House and the functioning of the committees of the House.
4. Determines the order in which reports of committees shall be debated in the House.

Since Members have been going through this and being the third time in the 11th Parliament, I do not want to belabour much.

I beg to move and request Hon. Thomas Mwadeghu to second.

Hon. Speaker: Hon. Mwadeghu, the Minority Whip.

Hon. Mwadeghu: Ahsante Mhe. Spika. Naomba niunge mwenzangu mkono. Jambo la kwanza, ningependa kuwatakia Wabunge wote wakati mwema kwa kikao hiki na kuwatakia mema wakati huu wote tutakapokuwa tukizungumza ama kujadiliana Bungeni.

Mhe. Spika, naomba niunge Hoja hii mkono kwani Kamati hii ya Bunge, ni kamati muhimu inayotoa mipangilio yote ya Bunge na kuhakikisha kuwa shughuli za Bunge zinaendelezwa vilivyo. Ukiangalia orodha hii, tumeangalia kwa utaratibu tuone kama kuna wengine ambao hawashughuliki sana na shughuli za Bunge na wengine wakaamua kuwa hawangependelea kuendelea katika hivi vikao kwa sababu kila siku ya Jumanne wakati shughuli za Bunge zimemalizika, lazima Kamati hii iende ikutane na ijadiliane. Unakuta wakati mwingine, wanakamati wengine ambao wako katika orodha hii ama walikua katika orodha ya awali, hawakuwa wakishughulika na mambo ya Kamati.

Hapo ndipo ilipobainika wazi kuwa itakua ni jambo la busara kwa haya majina yabadilishwe. Hii ndio maana mwenzangu katika Hoja yake katika utangulizi wake, ameomba kuwa mabadiliko yawepo na tunaomba na kuwasihi Wabunge wenzangu wakubali hayo mabadiliko na orodha hii ambayo tumepeana iwe ndio tutakayokubalia iwe orodha ambayo itakuwa katika Kamati hii ambayo inashughulika sana na mambo ya Bunge.

Mhe. Spika, nikimalizia, la muhimu ni kuwa Wabunge waelewe kuwa bado kuna kamati zingine ambazo lazima zifanyiwe marekebisho kama itahitajika. Ni muhimu kuwa wakati huu, tuangazie umuhimu wa kamati za Bunge. Kuna Wabunge ambao sitawataja majina hapa, ambao wamepewa nafasi za kuhudumu katika kamati na hawajahudhuria mkutano hata mmoja.

Hon. Members: Wataje!

Hon. Mwadeghu: Nikipewa muda nitakuja na orodha niwaseme. Hata wale wanaosema na waseme - inajulikana wazi kuwa sheria zetu zinasema kama mwanakamati hajaudhuria vikao vitatu, aondolewe katika kamati hiyo. Wakati umefika Waheshimiwa, tuchukue majukumu yetu sawasawa na sahihi. Kila mtu ashughulike na shughuli za Bunge. Kama umeingia kwa kamati, ni muhimu na ni lazima ushughulike.

Kwa hayo mengi, Mhe.Spika, naunga mkono.

(Several hon. Members stood up in their places)

Hon. Speaker: Hon. Members, those who are standing, if you could take your seats so that I can propose the Question. Hon. Linturi, you could sit or freeze.

(Hon. Linturi froze)

You appear to enjoy freezing.

(Question of the Motion as amended proposed)

Hon. A. B. Duale: Thank you, Hon. Speaker. First, I want to say Happy New Year to all my colleagues as we come back to start the second last Session of the 11th Parliament that begins today. All of us are back. God is great because we have not lost anybody. I have not heard that any of us is in hospital and our families are well. I am sure there are a number of our colleagues who lost their close relatives and parents. We send our condolences to them and wish them well as they recover from that loss.

As I support the amended Motion, this Committee is very important. It is the engine of the House. That is why today, this is the only agenda on the Order Paper. If the House agrees with this list, then the House Business Committee (HBC) will reconvene immediately to set the agenda for this week and, of course, the following weeks in its usual Tuesday meeting.

Hon. Speaker, as we start the Fourth Session, it is good to start on a slate of efficiency and honesty. I want to go on the HANSARD saying that the Members of the Jubilee Coalition in the HBC were very active. They have been attending all the meetings and we have not replaced them. The Minority Whip has gone on record in the HANSARD. It is not good to smear the names of all the Members of Parliament or all the Members of the HBC.

It is also very good to say that “I have replaced Hon. So and So because he was not attending the meetings”. Some colleagues from that side, like Hon. Makali Muli, have never missed even one meeting. They have not replaced him. When we remove people because they have not been attending meetings, it is very good to be very honest and say that Hon. Duale was removed because he was not attending the meetings. I will be very happy if, next time, the Minority Whip can say that he has replaced some Members, like Hon. Mwashetani, Hon. Ben Momanyi and Hon. Olum because of this and that. This is fair. We are dealing with Members of Parliament and not “other people”.

We are going to reconstitute the Budget and Appropriations Committee, the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) and we must, at all times, give very good reasons to the Members of this House who serve at the behest of the voters and the constituencies that they represent. This is a very important Motion. However, I want to tell Hon. Mwadeghu, a man I respect a lot, that if Hon. Olum, Hon. Mwashetani and Hon. Ben Momanyi were removed because they were not attending the Committee’s sittings, the register of the HBC must be in tandem with that.

The Secretary General of Ford (K) can have his take. He does not need to be agitated. I have the Floor and it is a new beginning. I want him to lower his “temperature”. I want us to start

on a give and take slate. I also want us to start on reconciliation. I want us to pause. Please, relax. Parties also have the discretion, under the Standing Orders, to remove anybody, but it is good to give reasons. That is what I am saying. Parties can even say that they have decided to remove Hon. Duale, but it is good to be fair to our Members in their respective parties.

I beg to support.

Hon. Speaker: I am looking for those Members who are not necessarily in the Committee.

Yes, Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Speaker. I take this opportunity to wish you and my colleagues, the Hon. Members, a very happy and prosperous New Year.

We canvassed some of the issues that Hon. Duale has spoken about in our Parliamentary Group (PG). I am not purporting to speak for our Acting Leader of the Minority Party, but some of these Members actually asked to be discharged from these Committees due to personal commitments. I am sure Hon. Mwadeghu will explain.

As we constitute the HBC, which sets the agenda for Parliament, I congratulate the Members who have been appointed to the Committee. However, I have a request. Many Committees, including mine, have been tabling special Reports of Committees, which in my view address urgent matters that affect the people of Kenya. For example, we have before this House a Special Report on the Judiciary. There are many more that are going to come. Last year, there was also a Special Report by the Departmental Committee on Agriculture, Livestock and Co-operatives on the sugar sector, which affects a lot of us who come from the sugar belt. I would like to request the HBC, as it convenes, to give priority to the special reports because these things have a direct impact on the people we represent. It does not make sense for public money to be used on special reports only for them to be brought here, are delayed and the House does not make a decision on them.

Hon. Speaker, I would like to make a request particularly with regard to the Report on the Judicial Service Commission (JSC) and the Report on the sugar sector. Could we kindly give them the first priority as the Committee gets down to business, so that we can debate and the House makes a decision on them? Otherwise, I thank you.

Hon. Washiali: On a point of order, Hon. Speaker. This is with regard to the procedure used to move the Motion. We already have a printed Order Paper and this business appears as Order No.8. We have not heard any amendment being moved to this Motion which has been approved by you. My brother, who is actually my boss, Hon. Katoo ole Metito, moved this Motion in its amended form. Could we be told whether you have approved this Motion or not? As it is, it cannot just be amended on the Floor. This is an official parliamentary document.

Hon. Speaker: Let Hon. Katoo respond to that.

Hon. ole Metito: Hon. Speaker, it is the first day of the Fourth Session of the 11th Parliament and we would really encourage a lot of consensus when moving these Motions. However, I would like to inform the House that under Standing Order No.48, a Motion can be moved in an amended form with the permission of the Speaker. I have consulted the Speaker together with the Leadership of the other side and the Speaker allowed that we use Standing Order No.48 to move the Motion in an amended form rather than moving it in the original form, it is seconded and then somebody moves an amendment. It is easier for the Motion to be moved in an amended form by the Mover.

Hon. Speaker: Yes, Hon. Onyonka.

Hon. Onyonka: Thank you, Hon. Speaker. I wanted to support what Hon. Duale said from the perspective that even when political parties may make decisions about whether they are going to allow certain Members to be members of committees or not, democracy allows that the reason why they were removed from the committee be given.

In the Third Session I remember I was unceremoniously removed from the Budget and Appropriations Committee without any reason or recourse and I frequently raised that issue. In fact, my removal was never even tabled on the Floor of this House. The Chairperson of the Committee just informed me that my name had been deleted from the list for reasons which I did not want to ask, but as dignified Members of this House, we need to treat each other fairly and reasonably when it comes to such matters.

Finally, I would like to make a suggestion that even though this is an internal matter, it is something that the Clerk would have to look at because sometimes we crisscross from one committee to the other. Most of our business, when it comes to committees, is merged in such a way that we can have two committees meeting at the same venue but at different times instead of us having one committee, for example, in Nairobi and another one in Mombasa. Sometimes it creates unnecessary inconvenience to Members of the House. Otherwise I support and thank you, Hon. Speaker.

Hon. Speaker: Let us now have Hon. Kamama.

Hon. Abongotum: Thank you very much, Hon. Speaker. I wish to start by wishing all Members of the House the very best in this New Year and also inform them that real politics will start next year, especially for Members of Parliament. This year is meant for national politics so that you do not get burnt out by the time we get to the real assignment.

I wish to support the amended Motion by our Chief Whip that was seconded by my good friend, Hon. Mwaideghu. This Committee is very important as a fulcrum around which most of our issues rotate. The Members of Parliament on the list have what it takes, are very serious professionals and so I support. However, I wanted to say that, as parties, there is a tendency to use committees to punish certain Members of Parliament because of the way those Members conduct themselves. So, I want to urge our leaders from various parties not to use committees to settle our political differences. This is really unfair. If you have issues settle them in your PGs because that is the best place to do that.

Lastly, real issues that affect Kenyans or transformative issues should be given priority like the issue of the Judiciary; transformation in the area of security; transformation in the area of tourism and in our entire economy. These are the issues we should give priority other than the normal issues that we grapple with.

I belong to a caucus called “Boresha Katiba Initiative” and we should look at what we can change in this House and what we can take to a referendum. We believe that a referendum should be taken as question No.7 in our next elections and not this year because we will confuse ourselves and start fighting politically for no apparent reason.

Hon. Speaker, with those few remarks, I support this amended Motion for us to move on.

Hon. Speaker: Let us have Hon. Abdikadir Omar.

Hon. Aden: Thank you, Hon. Speaker. Let me also take this opportunity to wish you and my colleagues a prosperous and very fruitful year as we begin this Session. I join my colleagues in saying that, indeed, we need to start this Session in good faith and supportive spirit of each other's initiatives.

I support the Motion in its amended version. I just want to plead with my colleagues on the other side that there are no ill motives as far as I know that these changes have been made. As a matter of fact, two of the colleagues who have been replaced from what I know said they would like to opt out. They think the schedule is too busy for them. Indeed, that is what I am aware of. So, I agree with *Mhe. Kamama* that this should be a time and moment when we should reconstitute our Committees in their best form so that we are able to focus on very strategic issues in the country in a bipartisan manner as much as possible so that we can take Kenya to the next level.

I support this Motion, Hon. Speaker.

Hon. Speaker: Hon. Onesmus Njuki.

Hon. Njuki: Thank you, Hon. Speaker, for the opportunity to contribute to the amended Motion which I support. I also take this opportunity to wish my colleagues a prosperous new year.

It appears like it is a coincidence that some Members who have been removed from this list are Members we know and see appear like rebellious members of a certain coalition. The issue of using the carrot and stick in matters that pertain to the National Assembly is very unfortunate. When you serve in this Assembly, you serve the nation and not a coalition or party. Some of the affected Members are very hard working.

I have listened to my friend from Kitutu Chache South, Hon. Onyonka, and I really feel sorry for him. He is one of the most active Members in this Assembly. For him to be removed from a Committee just because he has taken a certain political stand is a bit unfortunate. Maybe going forward we should think of amending our Standing Orders such that the red button does not remain with the party that sponsored you to this National Assembly so that when you come here you serve the national interest. It should no longer be made a prerogative of the parties. Once they give the list then it becomes the business of the House to gauge their performance rather than give it to the parties to replace them at will.

With those few remarks, Hon. Speaker, I would like to support the amended Motion.

Hon. Speaker: Let us now have the Member for Shinyalu. Hon. Members, as is the tradition, I would like to know those who are vehemently opposed so that we can give them a chance to express themselves.

Hon. Anami, proceed.

Hon. Anami: Hon. Speaker, I would like to support this amended Motion, of course, after wishing every one of us, and particularly you happy New Year. I support the Motion but I would like to emphasise the need for us to prioritise the Bills with constitutional deadlines. We have some business that we need to carry out in the House. This is business which has a bearing on the Constitution. Members of the public are looking upon us to move the constitutional implementation agenda forward. There are also other issues which are very pertinent. The situation of corruption in the country is getting out of hand. We have instruments that are brought to this House, which need to propel us through such situations. This House needs to rise to the occasion and prioritise such concerns.

While talking about prioritization of Bills that are supposed to be brought to this House, I would like to underline the cultural policy that is in place. As the Constitution requires, we need to have Acts of Parliament that will help us coordinate our diversity and relationships with one another. This will take us to another level of relationships as a diversified Kenyan society. So, I

would like to urge the Committee, which I congratulate for its appointment, to prioritise these matters so that Kenyans can realise the benefits from their Constitution.

Thank you, Hon. Speaker.

Hon. Speaker: Do I get the feeling that the Mover should now be called upon to reply!

Hon. Members: Yes!

Hon. Speaker: Hon. Members, of course, I hear you saying that you want business to be prioritised. The only Committee that can prioritise business is this one. Indication was given when the Mover was moving that if the amended Motion is carried, the next thing would be for the Committee to meet immediately to prioritise business for tomorrow and the days thereafter. Well, of course, it is your House. You are at liberty to discuss it up to 6.30 p.m. should it become necessary.

(Loud consultations)

Hon. Speaker: Hon. Members, it is up to you to make the decision because there are varied views.

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

Hon. Speaker: Yes, Hon. Katoo.

Hon. Katoo: Hon. Speaker, I beg to reply.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

That this House approves that pursuant to the provisions of Standing Order No.171(1)(d), this House approves the appointment of the following Members to the House Business Committee, in addition to the Members specified under paragraphs (a), (b) & (c):-

1. Hon. Katoo ole Metito, MP.
2. Hon. Jakoyo Midiwo, MP.
3. Hon. (Dr.) Naomi Shaban, MP.
4. Hon. Thomas Mwadeghu, MP.
5. Hon. Jamleck Kamau, MP.
6. Hon. William Cheptumo, MP.
7. Hon. (Eng.) M.M. Mahamud, MP.
8. Hon. David Were, MP.
9. Hon. Z.K. Cheruiyot, MP.
10. Hon. Mithika Linturi, MP.
11. Hon. (Ms.) Jessica Mbalu, MP.
12. Hon. (Dr.) Victor Munyaka, MP.
13. Hon. John Serut, MP.
14. Hon. Wafula Wamunyinyi, MP.

15. Hon. (Ms.) Cecilia Ngetich, MP.
16. Hon. (Ms.) Priscilla Nyokabi, MP.
17. Hon. (Dr.) Rachael Nyamai, MP.
18. Hon. Peter Shehe, MP.
19. Hon. (Ms.) Joyce Emanikor Akai, MP.
20. Hon. Sakaja Johnson, MP.
21. Hon. (Dr.) Makali Mulu, MP.
22. Hon. (Ms.) Dennitah Ghati, MP.
23. Hon. (Ms.) Gladys Wanga, MP.
24. Hon. (Ms.) Florence Kajuju, MP.
25. Hon. (Dr.) Susan Musyoka, MP.
26. The Hon. Chachu Ganya, MP.
27. The Hon. Chris Wamalwa M.P.
28. The Hon. KK Stephen Kinyanjui Mburu, MP.
29. The Hon. (Ms.) Mishi Juma, MP.

(Several Members stood on the gangway)

Hon. Speaker: Hon. Members, resume your seats. The Hon. Member who is limping into the Chamber, do not salute.

(Laughter)

Just take your seat. Hon. Major Waluke, welcome to the Chamber.

COMMUNICAITON FROM THE CHAIR

RECONSTITUTION OF PAC

Hon. Speaker: Hon. Members, I earlier indicated that I have a communication to make, being the first communication of 2016. This is with regard to reconstitution of the Public Accounts Committee.

Hon. Members, today's sitting marks the beginning of the Fourth Session of the 11th Parliament. I, therefore, take this opportunity to welcome you all back to the National Assembly.

On 17th December, 2015, I issued a communication wherein, *inter alia*, I encouraged the Budget and Appropriation Committee, the PAC and the PIC to conclude any pending matters as their terms would come to an end upon commencement of the Fourth Session, in accordance with the Standing Orders.

In reaction to this, the Chairperson of PAC, in a letter dated 17th December, 2015 addressed to the Speaker of the National Assembly, expressed the view that the current PAC ought to serve for the remainder of the parliamentary term as it meets the provisions of Standing Order No.205(6). This is on the rationale that the current PAC was reconstituted following the disbandment of the Committee earlier established in 2013 under Standing Order No.205.

Hon. Members, Standing Order No.205(6) states as follows:-

“The Public Accounts Committee constituted immediately following the general election shall serve for a period of three calendar years and that constituted thereafter shall serve for the remainder of the parliamentary term”.

The first PAC in the 11th Parliament was constituted on 16th May, 2013. However, following allegations of breach of privilege and/or code of conduct by its membership, the Committee of Privileges, in its Second Report, recommended that the House resolves to rescind its resolution of 16th May, 2013, and that the Committee on Selection proposes another list of membership for the PAC. Consequently, following the adoption of the Second Report of the Committee of Privileges in April, 2015, the PAC was reconstituted.

Key among the recommendations of the Report was the exclusion of five Members of the former committee from nomination to the PAC, being in R321 but only for the period of the Third Session (R322). This was perhaps meant to cater for instances where a reconstitution may be occasioned by other conditions including resignation of Members from a committee or upon discharge of a Member(s) from a committee under Standing Order No.176.

Hon. Members, the Motion for the reconstitution of the Committee was passed on 22nd April, 2015. Effectively, therefore, the inaugural PAC served between 16th May, 2013 and April, 2015, while the succeeding Committee began its period of service on 22nd April, 2015.

Standing Order No.205 contemplates a term of Parliament to be served broadly by two successive committees, each not going beyond a period of three years. The current Committee has, to date, only served a period of less than one year.

Indeed, a Committee of the House only exists and has powers to act as far as expressly directed by the House which brings it into being. While not negating the provisions of Standing Order No.205 and the power of the House to appoint Members to committees, a unique situation may arise where for the convenience of the House and smooth operations, a request from a committee should be considered as is the case here, where the PAC, as appointed by the House on 22nd April, 2015 is asking to serve the remainder of the parliamentary term as envisaged in the Standing Orders.

(1) Consequently, I have considered this matter and view that the Committee that was appointed by the House on 22nd April, 2015 meets all the requirements for appointment of Members to the Committee and, therefore, satisfies the provisions of Standing Order No.205(6) and need not be reconstituted.

(2) It is observed that any disruption of the operations of the Committee as currently constituted may adversely affect its work noting that it is less than one year since the Committee was reconstituted and the Committee has enormous workload to dispose of some of which have a direct implication on the budgetary process and operations of the devolved governments, and;

(3) The Committee on Selection is hereby directed to expedite the nomination of Members to the Budget and Appropriations Committee and PIC, the Committee of Privileges and the Committee on Appointment for approval by the House.

I thank you.

ADJORNMENT

Hon. Speaker: Order Members! We have come to the end of today's Sitting. Therefore, the House stands adjourned until tomorrow, Wednesday, 10th February, 2016, at 9.30 a.m. The

House Business Committee is hereby directed to immediately meet in the usual meeting place for consideration of business for tomorrow.

The House rose at 3.43 p.m.