

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Tuesday, 1st February 2022

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

(Loud consultations)

Hon. Speaker: Order, Members! Please take your seats. Those of you who are consulting, like the Member for Samburu, please take your seat.

WITHDRAWAL OF THE MEDIATION BILL

Hon. Members, as you may recall, the Mediation Bill (National Assembly Bills No. 17 of 2020) was published vide *Kenya Gazette Supplement* No.92 of 15th June, 2020. The Bill seeks to, among other things, provide for the settlement of all civil disputes by mediation, set out the principles applicable to mediation, provide for the establishment of the mediation committee, and provide for the accreditation or registration of mediators and recognition and enforcement of settlement agreements.

Hon. Members, the Bill was read a First Time on 30th June, 2020, and committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is yet to table its report on the Bill to facilitate a Second Reading of the Bill.

I wish to inform Hon. Members and the House that I have received a letter from the sponsor of the Bill, who is the Leader of the Majority Party, Hon. (Dr.) Amos Kimunya, EGH, MP, requesting to withdraw the Bill so as to enable further consultations and also to incorporate additional input by the National Dispute Resolution Steering Committee. The Committee was constituted in January, 2020, to look into the current status of the alternative dispute resolution (ADR) system in Kenya, with a view to proposing appropriate changes in law and the attendant procedures. The Leader of the Majority Party further conveys that the Executive, through the said Committee, has since prepared a comprehensive policy; namely, the National Alternative Dispute Resolution Policy 2021, which is likely to substantially alter the content of the Bill as well as other related legislation.

Hon. Members, Standing Order 140(1) provides as follows –

“(1) Either before the commencement of business or on the Order of the Day for any stage of the Bill being read, the Member in charge of a Bill may, without notice, claim to withdraw a Bill.”

In this regard, and pursuant to the provisions of Standing Order 140(2), I direct that the Bill be withdrawn, although still with the Committee. Nevertheless, the sponsor is at liberty to re-introduce the Bill in accordance with the provisions of Standing Order 114.

I thank you.

MESSAGE

(Several Members walked into the Chamber)

Hon. Speaker: Just make your way in quickly so that we can transact business. Hon. Shakeel Shabir, please take your seat. You can sit next to that guy; he is not harmful. Take a seat near there. Hon. Rashid, you can take a seat near you.

We do not want to see Members frozen.

PASSAGE OF THE POLITICAL PARTIES (AMENDMENT) BILL BY THE SENATE

Hon. Members, this Message is *post facto*. As you are aware, Standing Order 41(4) of the National Assembly Standing Orders requires the Speaker to report to the House any Message received from the Senate as soon as the House next sits. In this regard, I wish to report that on the evening of 26th January 2022, I received a Message from the Senate regarding its passage of the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021).

(Applause)

You may recall that the Bill was considered and passed by the National Assembly on 5th January 2022.

Hon. Members, in summary, the Message conveys that the Senate passed the Bill in the form passed by the National Assembly. This action concluded the bicameral processing of the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021).

(Applause)

Subsequently, in accordance with the provisions of Article 110(5) of the Constitution, I presented the Bill to H.E the President for assent on 27th January, 2022. His Excellency the President assented to the Bill on the same day. The House is thus accordingly informed.

I thank you.

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today, Tuesday, 1st February, 2022:

Supplementary Estimates I for the Financial Year 2021/2022 from the National Treasury and the following accompanying documents:

- a) Financial Year 2021/2022 Supplementary Estimates No.(1 Programme Based Budget);
- b) Financial Year 2021/2022 Supplementary Estimates No.1 (Recurrent Estimates Vol.I and II);
- c) Financial Year 2021/2022 Supplementary Estimates No.1 (Development Estimates Vol.I, II and III); and,
- d) Memorandum on Financial Year 2021/2022 Supplementary Estimates I.

The Judiciary's Expenditure Estimates for the Financial Year 2021/2022 and the Medium Term and the following accompanying documents:

- a) Programme Performance Report (PPR) for Financial Year 2018/2019 to 2020/2021;
- b) Medium Term Expenditure Framework Budget Report for Financial Year 2022/2023 and 2024/2025;
- c) Programme Based Budget for Financial Year 2022/2023 to 2024/2025; and,
- d) Expenditure Estimates for Financial Year 2022/2023 to 2024/2025.

The Judicial Service Commission Vote 2051 Budget Estimates for the Financial Year 2022/2023.

Report to Parliament on all New Loans contracted by Government from 1st September, 2021 to 31st December, 2021 from the National Treasury.

The Annual Report and the Financial Statements for the Annual Research Fund for the year ended 30th June, 2019.

The National Government Constituencies Development Fund Board Report for the second quarter for the Financial Year 2021/2022.

The Third Quarter Report covering the period from 1st July, 2021 to 30th September, 2021 from the Ethics and Anti-Corruption Commission.

Reports of the Auditor-General and Financial Statements in respect to the Turkana University College for the years ended 30th June, 2017, and 30th June, 2018, and the certificates therein.

Reports of the Auditor-General and Financial Statements in respect of Kitale National Polytechnic for the years ended 30th June, 2018, and 30th June, 2019, and the certificates therein.

Report of the Auditor-General and Financial Statements in respect of Mwala Constituency for the year ended 30th June, 2018, and the certificate therein.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2021, and the certificates therein.

- a) The Parliamentary Catering Scheme Fund;
- b) The Parliamentary Mortgage Scheme Fund;
- c) The Parliamentary Car Loan Scheme Fund;
- d) State Department for Interior and Citizen Services;
- e) The National Police Service Commission;
- f) Ministry of Health;
- g) East Africa Schemes for Transformation and Regional Integration Project;
- h) State Department for Infrastructure;
- i) Mombasa Port Area Road Development Project; and,
- j) State Department for Transport.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2020, and the certificates therein:

- a) Multimedia University of Kenya;
- b) The Technical and Vocational Education and Training Authority;
- c) JKUAT Industrial Park Limited;
- d) Kenya National Qualifications Authority; and,
- e) The Registration of Certified Public Secretaries Board.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the Year ended 30th June, 2019, and the certificates therein:

- a) The Nuu Technical and Vocational College;
- b) Wote Technical Training Institute;
- c) Katine Technical Training Institute;
- d) Kenya Trade Network Agency;
- e) Machakos Technical Institute for the Blind;
- f) Masinga Technical and Vocational College; and,
- g) David Mbiti Wambuli Technical and Vocational College.

Thank you.

Hon. Speaker: Very well. Next Order!

PROCEDURAL MOTION

RESCISSION OF DECISION ON APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE

Hon. Speaker: The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 49(2)(a), this House resolves to rescind its decision of Tuesday, 25th January, 2022 (Afternoon Sitting), regarding appointment of Members to the House Business Committee under paragraph (f) of Standing Order 171(1).

Let me start by thanking you, Hon. Speaker, for having guided the House on the implications of the decision that was unfortunately taken on that fateful afternoon. When I wrote to you seeking to have this Motion brought before this House, you were magnanimous enough to accept that it be brought before the House and, therefore, saving the country the uncertainty it would have had to go through without a House in operation for six months.

I am aware that Members may have voted – for whatever reasons – without having considered the implication of the decision on this House and on the ordinary Kenyan, who would have had to suffer the problem of not having a Parliament in operation for six months. At the end of the six months, it would have been July, the time for us to go for elections.

Therefore, all these papers that I have tabled, including the Supplementary Estimates, budgets and legislations that we need to pass between now and the time that we will go home for elections, will be lost.

As we embark on this decision, I want to thank the Members who have turned up in numbers. This is our House and we will not let partisan politics come in the way of what we are committed to do in this House. We swore to uphold the welfare of the society and a just

government of the people. That cannot be done when one faction wants to get even with another faction because of petty politics out there, which should not have a place in this House. This House has always been together when we have a national issue. We have passed legislation together because we did not have the kind of political interference that we are now seeing being brought into this House. Some Members of this House are persuaded to come and cause chaos in the very House that they were sworn in.

We also took an oath to protect the Constitution, and part of that Constitution gives Members the right to represent their people and legislate on their behalf. That right was being taken away from us by a decision being made in this House.

Hon. Speaker, I appeal to the Members of this House that today we demonstrate to Kenyans that we are up to the calling that we were given so that we can vote to rescind that decision.

I beg to move and ask the Leader of the Minority Party, Hon. John Mbadi, to second.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker.

In seconding this Motion...

(Loud consultations)

Hon Speaker: Order! Order, Members! Allow me to hear what Hon. John Mbadi is about to say. I am sure you also want to hear what he has then we can progress.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, as I second this Motion, I want to say two things: One, I regret we had to waste a whole week of transacting business because of the grandstanding that happened in this House last week. I was not in the House and I may not be clear as to why Members were objecting to the proposed membership of the House Business Committee. I believe it was purely politics and grandstanding. I am confident that this Motion is going to go through so that we can embark on serious legislative agenda of the House.

The Leader of Majority Party has just read out a couple of Papers he has already tabled, including the Supplementary Budget and the Budget Policy Statement, among other things which require energy, input and the intellectual capacity present in this House to deal with.

I second.

(Loud consultations)

(Hon. Silvanus Onyiego stood up in his place)

Hon. Speaker: Members, just take your seats. Hon. Osoro, take your seat. There is a lot of excitement somewhere there, and I suspect it has to do with today's unusual attire by Hon. Sankok. He is obviously exceptionally smart, or rather unusually smart.

(Loud consultations)

(Hon. Abdullswamad Nassir and Hon. Peter Kaluma stood up in their places)

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Is it the desire of the House that I put the Question?

Hon. Members: Yes!

Hon. Speaker: Very well.

(Question put and agreed to)

(Hon. Benard Shinali stood in the gangway)

Hon. Members, take your seats. If I could allow the Member for Ikolomani to take his seat.

(Hon. Elisha Odhiambo stood in the gangways)

Member for Gem, walk in and take a seat, please.

Order! Order, Members, Members!

(Hon. Julius Mawathe stood in the gangway)

Member for Embakasi South, take your seat.

(Hon. Marselino Arbelle stood in the gangway)

Member for Laisamis...Members, appreciate when I claim to know each of you by name and the constituency you represent.

(Hon. Sankok spoke off-record)

That includes the constituency represented by Hon. David Sankok.

Hon. Members, as you are aware, and as it was implied to last week on Tuesday, if the House rescinds a decision it had taken previously, it means that any Motion which was barred by the same Standing Order No.49 from being reintroduced within a period of six months may then proceed to be introduced again. Therefore, the decision that you have overwhelmingly taken to rescind your decision of Tuesday, 25th January 2022 during the Afternoon Sitting paves way for the Leader of Majority party to proceed to the Motion listed as Order No.9 in the Order Paper.

Leader of Majority Party, read it out.

MOTION

APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order No.171 (1) (f), this House approves the appointment of the following Members to the House Business Committee in addition to those specified under paragraphs (a), (b), (c), (d) and (e):

- (i) The Hon. Joyce Akai Emanikor, MP;
- (ii) The Hon. Shadrack John Mose, MP;
- (iii) The Hon. Kawira Mwangaza, MP;

- (iv) The Hon. Mohamed Abdikhaim Osman, MP;
- (v) The Hon. (Dr.) Makali Mulu, MP;
- (vi) The Hon. Mishi Juma Khamisi Mboko, MP; and,
- (vii) The Hon. Godfrey Osotsi, MP.

Hon. Speaker, I want to thank Members for having cleared the way for the re-introduction of these names. Just for the record, the first category of the membership of the House Business Committee as provided for under paragraphs (a), (b), (c) and (d) of Standing Order No.171 (1) include the Speaker as the Chair, the Leader of Majority Party, the Leader of Minority Party, the Majority Party Whip and the Minority Party Whip. These are the automatic Members of the Committee. In addition, there are seven Members who are just about to be appointed by this House.

Hon. Joyce Emanikor is from Turkana County, representing the Rift Valley Region. Hon. Shadrack Mose is from Nyamira County, representing Nyanza Region. Hon. Kawira Mwangaza is representing the Independent Members. She comes from Meru County, which is part of the Eastern Region. These regions are actually the former provinces as we knew them. Hon. Mohamed Abdikhaim represents KANU and he comes from the North Eastern Region. Hon. Makali Mulu is representing the Wiper Democratic Movement and he comes from the Eastern Region. Hon. Mishi Khamisi Mboko is representing the Orange Democratic Movement (ODM) and she comes from the Coast Region. Hon. Godfrey Osotsi, who was nominated by ANC and the NASA Coalition then, represents the Western Region.

This is the most representative House Business Committee its membership having been drawn from all regions of the country. It represents the face of Kenya as well as the country's political diversity and opinion. It is a team that has consistently delivered services since the beginning of the 12th Parliament. I am sure that this team will continue to do so until this House goes on recess *sine die*.

I do not want to talk about these individuals as they have proved their bit. I would want to ask that we endorse them so that we can embark on the business of the House, and the House to do what it needs to.

With those remarks, I beg to move and request Hon. John Mbadi to second.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): I second.

(Applause)

(Hon. Ali Wario walked along the gangways)

Hon. Speaker: Can I allow Hon. Ali Wario, the Member for Bura, to find some seat? Please find some seat.

Member for Ugenya, do not fear the Member for Funyula. He is harmless.

(Question proposed)

Hon. Members: Put the Question! Put the Question!

Hon. Speaker: Okay, I hear you. As we come to the tailend of the 12th Parliament, I hope all of you will remember the wise words of Speaker James Lenthall of 4th January 1642 – that, the Hon. Speaker is a servant of the House. As such, we will do what the House desires.

So, I do not know whether there is need for me to establish what the House desires or I go straight to put the Question?

(Loud consultations)

Hon. Members, it appears to the Hon. Speaker, having read the mood in the House, that the Hon. Speaker has to put the Question on this Motion.

(Applause)

So, I proceed to do as the House directs because I am its servant.

(Question put and agreed to)

Hon. Sankok, the Ayes have it. Hon. Sankok is on his feet. I am informed that he desires to have a division. Unfortunately, he is alone and therefore he does not meet the threshold for a division.

Hon. Members, now that the House has adopted the Motion approving the appointment of Members to the House Business Committee, I wish to invite the Committee Members to a meeting immediately following this Sitting in Committee Room No.9.

ADJOURNMENT

Hon. Speaker: Hon. Members, the House stands adjourned until Wednesday, 2nd February 2022 at 9.30 a.m.

The House rose at 3.03 p.m.