



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 1st November 2022

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

Hon. Speaker: Hon. Members, there is quorum to transact business. I have two short communications to make. You can take your seats, Hon. Members.

COMMUNICATION FROM THE CHAIR

POSTPONEMENT OF ELECTION OF CHAIRPERSONS OF CERTAIN COMMITTEES

Hon. Members, as you are aware, last week, the House approved the membership of the Select Committees. Consequently, pursuant to Standing Order 179, the Office of the Clerk of the National Assembly issued a notification that elections of chairpersons and vice-chairpersons of the committees will be conducted on Tuesday 1st, Thursday 3rd and Friday 4th November 2022. Yesterday, Monday, 31st October 2022, I received a letter jointly signed by the Leader of the Majority Party, Hon. Kimani Ichung'wah CBS, MP and the Leader of the Minority Party, Hon. Opiyo Wandayi CBS, MP, relating to the said elections. In their letter, the leaders sought my indulgence to postpone the elections with respect to the following four committees: The Public Debt and Privatisation Committee, the Public Investments Committee on Governance and Education, the Public Investments Committee on Social Services, Administration and Agriculture and the Decentralisation Funds Accounts Committee. Hon. Members, the Leaders of the Majority and Minority parties wish that the elections be postponed from Thursday, 3rd November 2022 to Thursday, 9th November 2022.

According to them, the deferment is informed by the need to re-organise the membership of the said committees and other Select Committees in line with Standing Order 174, while taking into account the outcome of elections of chairpersons and vice-chairpersons of Departmental Committees and several vacancies that might be occasioned by those elections. Given that the request is bipartisan and was preceded by consultations between the leadership of the Majority and the Minority parties, I have acceded to it.

Hon. Members, the Committee on Selection has notified me that it will hold a meeting on Monday, 7th November 2022 to reorganise the membership of Select Committees and present the changes to the House on Tuesday, 8th November 2022. It is hoped that the House will approve the changes on Wednesday, 9th November 2022 for the affected committees to hold elections on Thursday, 10th November 2022. In this regard, the elections of the chairpersons and vice-chairpersons of the four affected committees stand deferred to Thursday, 10th November 2022.

I also wish to remind Members that all committees of this House are important and no committee is lesser or greater than the other. The vitality of a committee depends on the concerted

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efforts by the membership of that committee. They are the ones to invigorate the committees in their oversight and deliberative roles. I, therefore, urge Members to embrace the respective committees to which they have been appointed and embark on discharging their duties.

The House is accordingly guided.

(Several Hon. Members stood at the Bar)

Hon. Members you may take your seats before the next Communication. Order! The new Members, when the Speaker is on his feet, you freeze wherever you are. I see a Member walking all the way from the Bar and that is against the Standing Orders.

ALLOCATION OF OFFICES TO MEMBERS

Hon. Speaker: Hon. Members, the next Communication relates to the allocation of Members' offices in the new office tower; the Bunge Tower. Hon. Members, one of the core mandates of the Parliamentary Service Commission (PSC), which I Chair, is provision of facilities to ensure efficient and effective functioning of Parliament. The facilities so provided include suitable office accommodation for Members. It is in furtherance of this mandate that the Commission embarked on the construction and furnishing of the new office block. The work is nearing completion and, indeed, you may recall that during your induction programme, the administration had expressed optimism to settle Members in the new office block by the end of October 2022. However, this was not possible because contractors required more time to wind up installation of fittings and adequately furnish the spaces before handing over the building to the Commission. I am now reliably informed that the contractors have made commendable progress and the building will be ready for occupation soon.

Hon. Members, in the allocation of offices between the two Houses of Parliament, the National Assembly has been allocated the largest share, being 280 offices out of the total 331 offices. In order to ensure that Members occupy the offices immediately they are handed over, I have directed the Clerk to prepare a schedule of allocation of the 280 offices, being the equitable share of offices apportioned to the National Assembly in the new office tower. Regrettably, about 63 Members of this House will not be accommodated in the new office block. Allocation of the available offices will observe the following priority:

(a) First allocation will be made to the leadership of the House comprising the Deputy Party Whips, Members of the Chairperson's Panel, chairpersons and vice-chairpersons of committees.

(b) All Members serving for the second or further term in Parliament, and Members with disabilities will be accommodated at the new office tower.

(c) Members serving the first term in Parliament will be allocated the remaining offices.

The manner of arriving at which of the Members serving a first term will be allocated space at the new office tower will be based on the practice used to allocate office space at the Continental House at the beginning of the 11th and 12th Parliaments. That is by way of ballot.

Hon. Members, I know that part of the election of chairpersons and vice-chairpersons will be concluded by Friday, 4th November 2022. In this regard, therefore, I have directed the Clerk to carry out the allocation next week from Monday, 7th October 2022. With respect to the balloting for offices by first term Members, I have directed the Clerk to undertake the exercise on Wednesday, 9th November 2022 in the Members' Lounge from 10.00 a.m. to 6.00 p.m. I hasten to

assure the Members who will not be accommodated in the new block that they will be allocated appropriate offices in the other existing parliamentary buildings.

The House is accordingly guided.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Legal Notice No. 176 of 2022 relating to the Adjustment of Rates of Excise Duty for Inflation Regulations, 2022 and the Explanatory Memorandum from the Kenya Revenue Authority.

Legal Notice No. 177 of 2022 relating to the Adjustment of Rates of Export Levy for Inflation Regulations, 2022 and the Explanatory Memorandum from the Kenya Revenue Authority.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I beg to lay the following Paper on the Table:

The Report of the Parliamentary Service Commission on the Recruitment of the Clerk of the National Assembly.

NOTICES OF MOTIONS

ADOPTION OF SESSIONAL PAPER ON NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts Sessional Paper No. 3 of 2021 on the National Action Plan on Business and Human Rights, laid on the Table of the House on 21st September 2021.

Hon. Speaker: Next is Hon. Keynan.

APPOINTMENT OF THE CLERK OF THE NATIONAL ASSEMBLY

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the recommendations of the Parliamentary Service Commission and its Report on the Recruitment of the Clerk of the National Assembly, laid on the Table of the House today, Tuesday, 1st November 2022, and pursuant to the provisions of Article 128(1) of the Constitution, this House approves the appointment of Mr Samuel Njoroge as the Clerk of the National Assembly.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker. Next is the Member for Dagoretti South, Hon. Kiarie.

(Loud consultations)

POLICY ON TREE PLANTING AND BEAUTIFICATION
ALONG NATION'S ROAD NETWORK

Order, Hon. Members! The conversations are too loud.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I appreciate this opportunity. I rise to give a notice of Motion on the policy on tree planting and beautification along our nation's road network.

THAT, aware that Article 42 of the Constitution accords every person the right to a clean and healthy environment; that Article 69(1)(b) also mandates the State to encourage public participation in the management, protection and conservation of the environment; further aware that deforestation is one of the main contributors to climate change; noting that Kenya has not been spared by the effects of global warming and climate change as a result of deforestation among other aspects; also aware that the road network in the country currently stands at approximately 177,800 kilometres with the development rate of around 600 kilometres per annum; deeply concerned that there has been persistent destruction of trees and vegetation along road reserves and roadsides during road constructions leading to adverse effects on the ecosystem; cognisant that studies show the benefits accumulated from roadside tree planting include better soil formation due to shedding of dead leaves, increased water quality by reducing the sediment flow, reduced erosion, road beautification, flood control as the trees slow and absorb the water runoff, wind breaking, providing important pollinator habitats, improving people's health and protecting crops; now, therefore, this House resolves that the Government introduces a component of tree planting in all road network designs and also makes it compulsory for road contractors to replace any tree harvested during road construction upon the completion of the project.

Hon. Speaker, as I give notice of this Motion, I look forward to getting support from Members of this House when it comes up for debate. Thank you very much, Hon. Speaker. I want to plead with you, for the benefit of the next speaker, to kindly call this House to order because the consultations are at very high decibels. I could hardly hear myself when I was moving the notice of Motion.

Thank you very much, Hon. Speaker.

Hon. Speaker: Order, Hon. Members! Order! Can we have our conversations in lower tones than we are doing now?
Next Order.

PERSONAL STATEMENT

Hon. Speaker: The Member for Kasipul, Hon. Charles Were wants to make a personal statement. Can you give him the microphone?

IMPERSONATION BY AN ANONYMOUS TWITTER ACCOUNT

Hon. Charles Ong'ondo (Kasipul, ODM): Thank you, Hon. Speaker.

Pursuant to Standing Order 44(2)(e), I wish to make a Personal Statement regarding an anonymous Twitter account impersonating me. It has come to my attention that there is a Twitter account by the handle @Hon.Ong'ondo impersonating me and purporting to spread information in my name. This account has amassed thousands of followers and made over 100 tweets. It is of great concern that people, including Members of this House, face the same challenges of fake accounts in various social accounts. These activities on the social media range from peddling propaganda to disinformation thus staining one's character and name.

Hon. Speaker, Twitter has a stringent impersonation policy that provides that Twitter accounts that pose as another person, brands or organisations in a confusing or deceptive manner may be...

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Speaker.

Hon. Speaker: There is a point of order. What is out of order, Hon. Ruku?

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, I rise under Standing Order 106 to enquire whether what the Member is raising on the Floor is relevant. It is a completely irrelevant matter to be tabled in this House.

Hon. Speaker: Hon. Ruku, you are out of order. Order, Hon. Ruku. The Member sought to make a personal statement and when you say that it is irrelevant, irrelevant to what?

Hon. Charles Ong'ondo (Kasipul, ODM): Thank you, Hon. Speaker, for protecting me. You know that is an act of a monocot. Twitter has stringent impersonation policy that provides that Twitter accounts that pose as another person, brand or organisation in a confusing or deceptive manner may be permanently suspended under Twitter's impersonation policy. It provides that you may not impersonate individuals, groups or organisation to mislead, confuse or deceive others, nor use a fake identity in a manner that disrupts the experience of others in Twitter.

Hon. Speaker, despite reporting this grave matter to Twitter management as well as head of cybercrimes security section in the Directorate of Criminal Investigations, the account is yet to be pulled down from the social media platform. In spite of the measures put in place to cushion users, many people are being duped and others unknowingly retweet and spread fake news. This House is called the august House for a reason. As a reminder, State officers are expected to behave professionally and ethically. This fake Twitter account creates the wrong impression. The account's sole intention is to impersonate me and spread misinformation. I urge the members of the public to desist from any engagement with this account. Please, note that I distance myself from the contents of the said account.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Were. That being a personal statement, it is not subject to any debate or referral to any committee.

Next Order.

MOTION

RECOGNITION AND REMUNERATION OF VILLAGE ELDERS

THAT, aware that there have been village elders in every village in the Republic of Kenya; cognizant that the village is not formally recognized as an

administrative unit in accordance with Section 14 of the National Government Coordination Act No. 1 of 2013; noting that despite the said village elders offering services to the public and the Government, they are not remunerated contrary to Article 41 of the Constitution on fair labour practices; further noting that in accordance with Section 14 and 15 of the National Government Co-ordination Act No. 1 of 2013 the Cabinet Secretary in charge of Interior and Coordination of National Administration in consultation with the President and the Public Service Commission have the power to establish national government administrative units and appoint administrative officers to serve under those units; recalling that Article 10(2) (b) of the Constitution binds State organs and State officers to uphold human dignity which includes remuneration for work done; noting that village elders have existed for many years and interact with *wananchi* at the lowest level, hence their recognition is in public interest and their remuneration has been long overdue; this House, therefore, urges the national Government, through the Ministry of Interior and Coordination of National Administration, to –

- (i) establish all existing villages as administrative units in accordance with Section 14 of the National Government Co-ordination Act No. 1 of 2013; and,
- (ii) recruit and remunerate the existing village elders as administrative officers.

(Hon. Mwengi Mutuse on 26.10.2022 – Afternoon Sitting)

(Debate concluded on 27.10.2022 – Afternoon Sitting)

Hon. Speaker: Order, Hon. Members. This Motion was debated and concluded and what remained was putting of the Question, which I hereby do.

(Question put and agreed to)

SPECIAL MOTION

APPOINTMENT OF THE CLERK OF THE NATIONAL ASSEMBLY

Hon. Speaker: Hon. Keynan. Order, Hon. Members! I need to guide the House as follows:

The Special Motion at Order No. 9 will be debated for one hour. I believe the Member for Matungulu, Hon. Stephen Mule and the Member for Gichugu, Hon. Gichimu Githinji are in the House. In our Communication last week, I informed the Members that there is a proposed Bill to amend the Constitution and, as you know, a Bill to amend the Constitution cannot be amended once it has been tabled and is put to debate. What we are going to do this afternoon, and probably tomorrow, is akin to public participation, although the Bill will still go to the public when it is published.

Members will be given an opportunity to ventilate as much as possible on the proposed Bill before publication so that the proponents of the Bill can pick your views as they prepare for the official publication of the Bill. They may very well, after hearing the whole House, amend or change the structure of their Bill so that when it comes to the House, it can then sail through in

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accordance with the provisions of the Constitution. Remember the rulings of the High Court and the Supreme Court that Bills to amend the Constitution must be passed as they are, or be rejected as they are.

Hon. Members, we will now allow Hon. Keynan. I am told the documentation will be here in the next seven minutes. And since we have a full hour, you can start moving your Motion. After an hour, at exactly 4.00 p.m., we will then close the debate and put the Question. Then we will have Hon. Mule and Hon. Gichimu draft Bill.

Hon. Members, as Hon. Keynan puts his papers in order ...

(Loud consultations)

Order, Hon. Members, Order! I wish to introduce to you a delegation of Members of the County Assembly Forum who are seated in the Speaker's Gallery. It comprises of:

1. Hon. Chege Mwaura - Governing Council Member, Nairobi.
2. Hon. Harrison Mutie - Governing Council Member, Makueni.
3. Hon. Grace Sundukwa - Governing Council Member, Bungoma.
4. Hon. Susan Okwiry - Governing Council Member, Siaya.
5. Hon. Lucy Njeri - Governing Council Member, Kirinyaga.
6. Hon. Amina Leila - Governing Council Member, Laikipia.

The said honourable Members are accompanied by Mr. Austine Munene, Programme Officer and Secretary to the delegation.

Hon. Members, the delegation is in the National Assembly to attend the House proceedings on the deliberations on inclusion of National Government Constituencies Development Fund, the National Government Affirmative Action Fund, the Senate Oversight Fund and the Economic Stimulus and Empowerment Fund in the Constitution.

On my behalf and that of the National Assembly, I welcome you to Parliament.

Thank you. Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I beg to move the following Motion:

That, this House, taking into consideration the recommendations of the Parliamentary Service Commission in its Report on the Recruitment of the Clerk of the National Assembly, laid on the Table of the House today, Tuesday, 1st November 2022, and pursuant to the provisions of Article 128 (1) of the Constitution, this House approves the appointment of Mr. Samuel Njoroge as the Clerk of the National Assembly.

(Loud consultations)

Hon. Speaker: Order! Order! Hon. Members, this is a Motion that is squarely in your hands. You do not defeat or approve a Motion by speaking or shouting loudly. You do it through voting. Let the Motion be moved and then you can vote on it. I urge you, Hon. Members.... I have noticed the Members who are speaking on the top of their voices. Please, do not invite the Chair to take any unnecessary disciplinary measures.

(Loud consultations)

Order, Hon. Members. Order! However, emotive the matter may be, I encourage you to observe absolute decorum in the House. Let the Motion be moved and seconded. If any of you wants to support or oppose, he or she will be given an opportunity to do so. Eventually, you will vote on it to either approve or defeat. It is all within your hands. We will however, have none of those unnecessary loud protests, speeches, or noises. I encourage you to observe decorum in the House. This is your House and the rules are made by you and must be observed by you.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, let me clarify that I am here as a messenger of the Commission.

(Loud consultations)

The other person who would have moved the Motion is Hon. Speaker, the Chairman of the Commission. He, however, cannot come here to move it. I am, therefore, doing so on his behalf.

The mandate of the Parliamentary Service Commission pursuant to Article, 127 (1) of the Constitution, among others, is to provide service and facilities to the Members and staff for efficient and effective running of Parliament.

Article 127 of the Constitution seeks to provide the mandate of the Commission as follows:

- (a) Provide services and facilities to ensure the efficient and effective functioning of Parliament.
- (b) Constitute offices in the parliamentary service and appointing and supervising office holders.
- (c) Prepare annual estimates of expenditure of the parliamentary service and submitting them to the National Assembly for approval, and exercise budgetary control over the Service.
- (d) Undertake, singly or jointly with other relevant organisations, programmes to promote the ideas of parliamentary democracy; and....

(Loud consultations)

(Several Members rose up in their places)

Hon. Speaker: Order, Hon. Members. Order, Hon. Keynan. Can the Members on their feet take their seats? We shall listen to Hon. Keynan in silence.

(Loud consultations)

Hon. Adan Keynan (Eldas, JP): Hon. Members, I am a messenger on behalf of the Commission and the Chairman, who is the Speaker. Do not kill the messenger but, rather, go for the message. I will continue.

(e) performing other functions:

- (i) necessary for the well-being of the members and staff of Parliament; or,
- (ii) prescribed by national legislation.

Hon. Speaker, Article 127 (2) and (3) provide the composition of the Commission. The Chairman is Hon. Moses Wetang'ula, the Speaker of the National Assembly; Vice-Chairperson is Hon. Naomi Shaban; Hon. George Khaniri; Hon. Adan Keynan; Hon. Aaron Cheruiyot; Hon.

Benson Momanyi; Hon. Rachel Ameso; and, Mr. Jeremiah Nyegenye who is the Clerk of the Senate and Secretary to the Commission.

The position of the Clerk of the House is an office in the Parliamentary Service Commission established under Article 128 of the Constitution. The immediate former Clerk of the National Assembly, Mr. Michael Sialai, is currently the Ambassador at the High Commission of the Republic of Namibia. He was appointed on 27th March 2017 having served in various ranks in the service. The retirement age of a staff in the Parliamentary Service Commission is 60 years. Mr. Michael Sialai was due to retire on 26th May 2021 having attained the age of 60 years. However, on 4th May 2021, the National Assembly considered a Report by the Parliamentary Service Commission and resolved as follows:

“Pursuant to Article 127(6) (b) and Article 128(1) of the Constitution in furtherance of the resolution of the Parliamentary Service Commission of 7th April 2021, this House approves the appointment of Michael Sialai as the Clerk of the National Assembly on contractual terms with effect from 26th May 2021 to 31st July 2022 barely a few days to the election. The Commission to commence the process of recruiting a new Clerk of the National Assembly not later than April 2022 so as to ensure a smooth and seamless transition.”

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Order!

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, due to the impending end of contract of the incumbent Clerk, Mr. Michael Sialai on 31st July 2022 and given the resolution of the Assembly to commence the process.... I want to emphasise that it was a resolution of this House that recruitment of the new Clerk commences not later than February 2022.

In order to ensure a smooth and seamless transition, the Parliamentary Service Commission advertised the position of the Clerk of the National Assembly in two daily newspapers with national circulation, that is, the *Daily Nation* and the *Standard Newspaper*. The advert was also placed on the Parliamentary Service Commission website on 4th February 2022. A copy of the advertisement is attached. The closing date of the applications was 21st February 2022.

(Loud consultations)

Hon. Speaker: Order, Members! Order! Hon. Faith Gitau and your team. Order, Hon. Osoro. You are the Whip! Can you take your seat? Will all the Members on their feet take their seats? Hon. Mulyungi, you are out of order to be walking across the House while the Speaker is on his seat. Order, Members! I want to invite you to acquaint yourselves with Standing Order 107 (a).

(Loud consultations)

Hon. Member, the County Woman Representative for Mombasa, if I see that again, I will tell you to stay out until the end of the day. Being a first-term Member, it is not encouraging for you to do what you are doing. Hon. Members, I have told you very clearly.... Order, Hon. Members. The new Members need to learn from the older Members. It is very wrong when I sit here and see veterans like Hon. Mbadi keeping a stoic silence and struggling to listen while new

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Members, who ought to be learning the ropes of how to debate in this House, are doing what I saw the Member for Mombasa County doing. I want to encourage you that everybody has an opinion and that matters in this House are resolved through a vote and each one of you has the capacity and power to vote how they want. Once the matter is debated, you will vote. The Majority will have their way and the Minority will have their say. But we are not going to have a market situation being brought to this House.

As your Hon. Speaker, I would want to exercise Standing Order 107 (a) as a last resort. I have been in this House for many years and I have never been sent out even for a minute. I want to encourage you Members to watch the conduct of veterans like Hon. John Mbadi, whom I have been with in this House for many years. He usually holds very strong opinions but he restrains them because he knows that his power lies in his vote. I want all of us to emulate him.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Speaker. The terms of service and requirements of the position of the Clerk of the National Assembly as indicated in the advertisement were that the applications were invited from energetic and result-oriented individuals interested in serving in the position at PSC Scale 17 in the Parliamentary Service Commission for a term of five years with eligibility for re-appointment for another term of five years, which means the position is contractual. This means if an individual does well, he or she can be re-appointed for another five years.

Hon. Speaker, having been around for many years in this Parliament, we should count ourselves lucky because, once upon a time, this particular process we are about to undertake used to be the preserve of the Public Service Commission. I know you and I have been here for many years. We used to benefit from the services of the special officers who used to be seconded to this Parliament as clerks. Luckily, today the power of appointing the Clerk lies with you and, at the end of this process, you will exercise your right as a Member of Parliament to either support or reject. Please, exercise that when the time comes.

The duties and responsibilities and the administrative functions of the Clerk are the day to day management and functioning of the National Assembly to the execution of the Commission's decisions relating to the National Assembly. Hon. Speaker, since we have a bicameral House, that is, the Senate, the National Assembly and the Joint Services, the work of the Clerk will be to manage all issues relating to the National Assembly. He or she will also be in charge of the overall management of the staff of the National Assembly pursuant to Article 128 (2) of the Constitution.

Among the responsibilities, the Clerk is also tasked with the appointment, promotion and discipline of the National Assembly staff, assigning of duties, supervision and training of staff, deployment of staff to serve in different areas in Parliament, preparation and submission of programmes necessary for the achievement of the mandate of the Commission and performing any other duties that may be assigned.

The procedural functions include rendering expertise and non-partisan impartial advice to the Members of the National Assembly on all legislative processes, parliamentary procedures and practices, which is a core function. He or she is also tasked with carrying out other duties and exercising powers as may be conferred to them by law and as per the Standing Orders and practices of the National Assembly.

The requirements for being a Clerk are:

- (i) Has to be a citizen of the Republic of Kenya.
- (ii) Holds a degree from a recognized university in Kenya.

- (iii) Must have previous experience, demonstrate clear and good understanding of the parliamentary practices and meet the requirements of the Leadership and Integrity Act as prescribed under Chapter Six of the Constitution.

The advertisement further required that the application must include cover letters from institutions like Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigation (DCI), Kenya Revenue Authority (KRA), Credit Reference Bureau (CRB), and the Higher Education Loans Board (HELB). The applications were to be addressed to the Secretary of the Commission and delivered during office hours to the Head of the Commission Secretariat.

Hon. Speaker, as a result of this advertisement, over 48 Kenyans applied for this position and four individuals were shortlisted. That is Samuel Josephat Njoroge, Mohammed Ali Mohammed, Eunice Wanjiku Gichangi and Serah Kioko. The publication of the long list, the short list and the interview notice was given. Finally, the PSC carried out oral interviews and the candidates were given scores. I have already stated that the PSC went through applications and shortlisted individuals who came to the interview. The following methodology for assessment was used: Academic qualifications, technical proficiency, leadership and administrative experience, general knowledge of current affairs, presentation skills and demeanour.

The PSC is one of the commissions under Chapter 15 of the Constitution. This is one of the things the framers of the Constitution had in mind when they thought of separation of powers among key institutions in our governance structures. They thought the Legislature should have its own commission.

As a result, we have passed a number of pieces of legislation. I want my colleagues to listen to this. We have the Parliamentary Service Act, which is a product of this House. That particular Act is a result of a Bill that I moved. When I was moving the Bill, the whole House was up in arms. Today, it is one of the key Acts of Parliament that we use in our day-to-day operations. We also have the National Honours Act, which I also moved.

Individuals who appeared for the interview were graded as follows:

- | | | |
|--------------------|---|----------------|
| 1. Samuel Njoroge | - | 87.14 per cent |
| 2. Mohamed Ali | - | 76.79 per cent |
| 3. Eunice Gichangi | - | 76.43 per cent |
| 4. Serah Kioko | - | 76.18 per cent |

Based on the foregoing, the PSC resolved to recommend Samuel Josephat Njoroge to be appointed to the position of Clerk of the National Assembly for a contractual term of five years. The position is not permanent and pensionable. If he performs well, he will be eligible for another contract of five years.

Pursuant to Article 128 of the Constitution, Samuel Njoroge is being recommended to the National Assembly for approval as the Clerk of the National Assembly. The question is: What happens to the person who was holding this office?

Hon. (Dr.) Makali Mulu (Kitui Central, WDM): On a point of order.

Hon. Speaker: Order, Hon. Keynan. There is a point of order from Hon. Makali Mulu. Yes, Hon. Makali.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Speaker. We are discussing a very important Report, but we have not seen it. May I seek your indulgence so that we can get the Report for reference?

Hon. Speaker: Clerks-at-the-Table, can you circulate the Report? I am told the Report is available, Hon. Makali. Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): If you look at the structure of the bicameral Parliament, the Senate has its own Clerk, with two deputies. Equally, the Clerk of the National Assembly has two deputies. Therefore, the person who was acting in the position of Clerk reverts back to the original position of Deputy Clerk. Thus, she has not been sacked or suspended. The person continues to be part of the PSC.

Copies of the application letter and form and curriculum vitae of Samuel Njoroge is in circulation. Pursuant to the provisions of Article 128(1) of the Constitution, the PSC recommends that the National Assembly notes the Report of the Commission and approves the appointment of Samuel Njoroge as the Clerk of the National Assembly. This Report is signed by none other than the Rt. Hon. Moses Wetang'ula, Speaker of the National Assembly and Chairman of the PSC.

Before I conclude, I want to inform the Members that the four individuals who were interviewed are all competent and highly qualified. However, in the interview, Josephat Njoroge emerged the best. I appeal to you to support him.

Hon. Speaker, I beg to move the Motion and ask Hon. Chepkong'a to second.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Speaker. I beg to second the Motion. As you know, I have been a Member of the PSC as an independent Commissioner representing the people. This process of recruitment of the Clerk of the National Assembly begun during my tenure, before I resigned to go and compete to become the Member of Parliament for Ainabkoi Constituency. I will not repeat what Hon. Keynan has said.

(Hon. Julius Mawathe walked along the gangways)

Hon. Speaker: Order, Hon. Mawathe. You are extremely mobile in the House. Hon. Mawathe, Member for Embakasi South, you are disturbing the tranquillity of the House, I order you to take your seat.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, will it be in order if you invoke Standing Order 107A against Hon. Mawathe for interfering with this side of the House? He is supposed to be on the other side.

Hon. Speaker: Go on to second the Motion.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, he is not a pastoralist. This House donated to the PSC the process of recruitment of a Clerk.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): On a point of order.

Hon. Speaker: Order, Hon. Chepkonga. Yes, Senior Counsel Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I do not intend to interrupt Hon. Chepkonga who I know very well as a senior ranking Member. There is a matter that is disturbing my conscience. I have no doubt on your impartiality and that you can dispassionately remove yourself from the discussion of a report that you have signed recommending its approval. Is it in order for you, having signed the Report on behalf of the PSC, to preside over this debate? Would it perhaps be better to give space to your deputy or somebody else to listen to Members ventilating, so that we do not get to a situation where some Members, not knowing provisions of Standing Orders, might start attacking the person who made the recommendation, without knowing that here you are sitting as the Speaker, not as the Chair of the PSC?

Hon. Speaker: Hon. Otiende, the Chair is studiously impartial. He has no vote. At the end of the debate, you will cast your vote without any reference to the Chair. I see absolutely no problem whatsoever, howsoever. Carry on, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Speaker. You know as Ombudsman, Hon. Otiende Amollo, was dealing with issues of conflict of interest. There is no conflict of interest here, Hon. Speaker. You are the Chairman of the PSC and the Speaker of this House. You have a right to preside over this House, as long as the Constitution donates that power to you. Members cannot impeach you.

Article 27 of the Constitution provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Mr. Njoroge, who has been proposed for appointment, has the right to participate in this particular process. I wish to refer to Article 232(g) of the Constitution of Kenya which is not mentioned in this Report, but is extremely important. Article 232(g) of the Constitution states that subject to paragraphs (h) and (i), fair competition and merit is the basis of appointments and promotions in the public service - the only way you can have merit and competition exercised in this House is through what you have done. You have graded people and given marks. However much we may disagree with the manner in which you have conducted it, it is your exclusive preserve to have done it in the manner you needed to, which is in accordance with the law and the Constitution of Kenya.

As far as I am concerned and being a former Commissioner, this is something we used to do. We did it in the past, we brought this to the House, and the House has approved. It is because they have respected that Members of this House donated powers to the Parliamentary Service Commission to conduct that work. It is just as we are sitting in this House, on behalf of the 50 million Kenyans who are outside there. All of them deserve to be here. The reason we are here is that we are elected. The reason we sit in the Parliamentary Service Commission, including Hon. Keynan, is that we were elected in this House. There is nothing untoward which they have done so that we can impeach their Report. We can totally disagree with what they have done, but we must respect the product of the resolution of the Commission.

As far as we are concerned and speaking as a lawyer, unless somebody has anything that borders on fraud, conspiracy or collusion, we followed the law. The law has given you the power. The law has donated the power to you from these Members. You have conducted an interview and given us the product of the interview. We are here to approve that product. We may disagree with whether it should have been red, green, or yellow. That is preference and it has nothing to do with the law. We may not like the law, but we must follow the law because we believe in the rule of law. Everybody has a right to be heard. In fact, you made a very good ruling except that some people are still campaigning here. They are not listening and they will want to vote. It is important that they listen to what the law says.

I just want to say that the product of the Parliamentary Service Commission must be supported. I, therefore, second.

Thank you, Hon. Speaker.

Hon. Speaker: Order, Hon. Members.

(Question proposed)

Hon. Members: Put the Question.

Hon. Speaker: Is that what you want? Do I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

(Applause)

Hon. Speaker: Order, Hon. Members. It is difficult to discern. I will put the Question again.

(Question put and agreed to)

Hon. Members: Division! Division!

Hon. Speaker: Order, Hon. Members. You do not have to continue standing. You have the requisite number to have a Division. We will have a roll call vote. You may take your seats. We will have an electronic vote. You all have your cards. Log in and you will vote.

(The Speaker consulted the Clerks-at-the-Table)

Can we have the Division Bell ringing for the next five minutes.

(The Division Bell was rung)

Order, Hon. Members. Time is over. Order, Hon. Members. You may take your seats. Order. Hon. Wanjiku Muhia, take your seat. Order, Hon. Members. Take your seats. Order, Hon. Members.

I have received representation from the Leader of the Majority Party and the Leader of the Minority Party which I have acceded to, that we take a roll call vote under Standing Order 73. I now order that we take a roll call vote. Clerk, be ready to start. Hon. Members who are on their feet, can you take your seats. Order, Hon. Members. Leader of the Majority Party and Leader of the Minority Party, can we have your tellers. Hon. Wandayi and Hon. Ichung'wah, can I have your tellers.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Mbui.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. (Dr.) Pukose.

Hon. Speaker: Hon. Robert Mbui and Hon. Dr. Pukose are the tellers. Hon. Members, I need not remind you what Standing Order 76 says. During voting, you maintain decorum. I want to see every Member taking their seats.

(Hon. James K'oyoo stood in his place)

Hon. K'oyoo from Muhoroni, will you take your seat. I give you one minute to cross and take your seat. Hon. Members, take your seats. Hon. K'oyoo, take your seat, please.

Hon. Members, this is your opportunity to exercise your authority to vote for or against the Motion. I want you to do that with absolute decorum. Let us limit our conversations until the vote is over. There should be no movement across the aisle or within the sides of the House until voting is over. That is what is stated in the Standing Orders. We have the tellers: Hon. Robert Mbui for the Noes and Hon. Robert Pukose for the Ayes. Clerk, you may start.

If any Member continues to defy the directions, we might cite you as being grossly out of order and disorderly. We do not want to do that to any Member. Serjeant-At-Arms, you can draw the Bar.

(Serjeant-at-Arms drew the Bar)

Hon. Members, you are going to vote in the following manner: When your name is called out, you walk to the Clerk-at-the-Table. Then record your vote by signing against your name and go back to your seat. That is the advice I have been given by the Clerk. Hon. Mawathe, you are not a teller. Take your seat.

(Loud consultations)

Order! Order, Hon. Members. When your name is called, come to the tellers, tick against your name and go back to your seat, then wait for the results. Clerk, can we start? Order, Hon. Nyikal, take your seat, please. Voting is ongoing. You have given us tellers, Hon. Robert Mbui and Hon. Robert Pukose. The rest of the Members sit until you are called. There cannot be a point of order in the process of voting. Hon. Members, look at your Standing Orders.

(Voting in progress)

Just say, “Yes”, “No” or “Abstain”. Members wanted a roll call, so we have one.

(Voting in progress)

You can call up to five Members at ago. Those who have voted should take their seats.

(Voting in progress)

Order, Hon. Members. Will the Members who are holding what evidently looks like illegal meetings take their seats. You are slowing down the process, yet you know that after this, we still have Hon. Mule and Hon. Gichimu on the Constitutional (Amendment) Bill. Will the Members who are upstanding take their seats before the next names are called.

[The Speaker (Hon. Moses Wetang’ula) left the Chair]

[The Temporary Speaker (Hon. Martha Wangari) took the Chair]

(Voting in progress)

[The Temporary Speaker (Hon. Martha Wangari) left the Chair]

[The Speaker (Hon. Moses Wetang’ula) resumed the Chair]

(Voting in progress)

Hon. Speaker: Order, Hon. Members. According to the Clerks-at-the-Table, everybody has voted. However, if there is any Member who has not been called out to come and vote, you can come forward. The Tellers and the Clerks-at-the-Table will confirm. I do not think there is any Member who will try to vote twice. If you have not voted, come forward. They will crosscheck. If

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they confirm that you have not voted, you will be given an opportunity to vote. Can that process take less than five minutes.

(Vote counting in progress)

DIVISION

(Question put and the House divided)

Teller of the Ayes: Hon. (Dr) Robert Pukose.

Teller of the Noes: Hon. Robert Mbui.

Hon Speaker: Order, Hon. Members! The exercise is over. Now the tellers will present the results to the Chair. The two Roberts.

(Laughter)

Hon. (Dr.) Robert Pukose (Endebess, UDA): Hon. Speaker, the results of the voting on the Special Motion on the Appointment of the Clerk of the National Assembly are as follows:

Ayes – 162

Nays – 94

Hon Speaker: Order, Hon. Members! These are the results of the Division:

Ayes – 162

Noes – 94

Abstention – 0

The Ayes have it.

(Question carried by 162 votes to 94)

Open the Bars. Next Order.

STATEMENT

LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION UNDER STANDING ORDER 114(7A)

Pursuant to the provisions of Standing Order 114(7A), it is notified that, today, Tuesday 1st November 2022, the Speaker will accord an opportunity to the Member for Gichugu, Hon. Gichimu Githinji and the Member for Matungulu, Hon. Stephen Mule to make statements on the legislative proposal to amend the Constitution to entrench the National Government Constituencies Development Fund, the National Government Affirmative Action Fund, the Senate Oversight Fund, and the Economic Stimulus and Empowerment Fund in the Constitution.

Thereafter, the Speaker will allow Members to make general comments on the legislative proposal.

Hon. Speaker: Yes, Hon. TJ Kajwang’.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, we have successfully gone through a very exciting exercise which is very important to this House. I thank you for guiding us.

The Order we are going to step on is equally taxing. Some of us had researched and made ourselves ready so that we contribute positively in a way that would add value to the debate. Because you have discretion on this matter, could I ask you to rearrange the Order for the convenience of the House? We probably could take this matter at such an appropriate time, as you will in your discretion decide, probably tomorrow or at the earliest opportunity, so that we have freshness of thought and address ourselves better.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Order, Hon. Members. Hon. TJ Kajwang' has raised an issue concerning the next Order. As your Speaker, I do not find the request unreasonable. I consequently accede to the request.

(Order stepped down)

Having gone through the Motion on the Appointment of the Clerk of the House, I take this opportunity to thank Members for the decorum and reasonable conduct you have exhibited. The initial excitement that was exhibited in the House settled down and you have conducted yourself in a most commendable manner. I congratulate you, Members. This is how our business should be. It matters not how strongly we feel our actions should be through a vote for yes or no. I urge all of us that at no time should we conduct ourselves in any manner that lowers the bar on our status as honourable representatives of the people of Kenya. The people out there in their millions have surrendered their authority to you to come to this House. It will be a sad day for our country if your voters out there see us conducting ourselves in any manner other than what we have done today.

Consequently, upon the request by the Member for Ruaraka, who is my distinguished learned junior, I advise that the matter of Hon. Gichimu and Hon. Mule starts tomorrow at 2.45 p.m.

ADJOURNMENT

Hon. Speaker: The time being 6.04 p.m., the House stands adjourned until tomorrow, 2nd November 2022, at 9.30 a.m.

The House rose at 6.04 p.m.

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