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REPUBLIC OF KENYA  
ELEVENTH PARLIAMENT- (FOURTH SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATIONS FROM THE CHAIR

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ON THE STATE OF THE MILITARY VETERANS BILL (NATIONAL  
ASSEMBLY BILL NO. 34 OF 2013)

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**Hon. Members,**

You will recall that the Military Veterans Bill (National Assembly Bill No. 34 of 2013), sponsored by the Member for *Aldas* Constituency, the Hon. Adan Keynan was introduced in the House on 14<sup>th</sup> November, 2013. The Bill seeks to provide for the welfare and benefits of military veterans and their dependents and also to establish the Department of Military Veterans and an Advisory Council in the Executive. You may also recall that the House did consider and pass the Bill at the *Second Reading* on 4<sup>th</sup> December 2014. The Bill is now therefore due for consideration in the Committee of the Whole House.

**Hon. Members,**

The foregoing notwithstanding, my attention has been drawn to letters from the Cabinet Secretary for Defence and the Chairperson of the Departmental Committee on Defence and Foreign Relations of 20<sup>th</sup> January, 2016 and 11<sup>th</sup> March 2014 respectively, questioning the constitutionality of the said Bill. Their contention is that the said Bill is a Money Bill in terms of Article 114 of the Constitution, in so far as it proposes to establish a Government department headed by a Director General, an Advisory Council and a Military Veterans Appeals Board. They further contend that the establishment, administration and operations of these bodies will inevitably

occasion the imposition of charges on a public fund and may offend the provisions of Article 132(4) (a) of the Constitution regarding establishment of Departments in the Executive.

**Hon. Members,**

It is my considered view that the issues raised in this respect are indeed very fundamental and will determine how this House will proceed with the said Bill. Standing Order 114(3), (a) states and I quote –

***“where the Speaker is of the opinion that a legislative proposal is a draft money Bill in terms of Article 114 of the Constitution, direct that the legislative proposal be referred to the Budget and Appropriation Committee and shall be proceeded with only in accordance with the recommendations of the Budget and Appropriation Committee after taking into account the views of the Cabinet Secretary responsible for finance and examining the manner in which the legislative proposal affects the current and future budgets.”***

In this regard, I approved the publication of the said Bill on 28<sup>th</sup> October 2013, having been guided by the recommendations of the Departmental Committee on Defence and Foreign Relations vide a letter dated 29<sup>th</sup> August 2013, which indicated that the committee had no objection for its publication and on the strength that the Budget and Appropriation Committee’s recommendation that the Bill be renamed the Veterans Society Bill would not accord with the substance of the Bill.

**Hon. Members,**

Upon publication of the Bill, constitutional objections have been made as aforementioned, not only by the relevant Committee, but also by the Office which is being obliged to implement the Bill upon passage into law. It is now apparent that the

recommendations of the Budget and Appropriations Committee may not have been fully incorporated prior to publishing of the said Bill. The Budget and Appropriation Committee had stated in their report that and; I quote:-

***“The Committee noted that the Bill has expenditures that shall be borne by the exchequer and the spiral effect it might have on the economy and the retirement benefits of other retired public servants. The Committee recommended the following-***

- (i) The draft Bill should be renamed as Veteran Society Bill;***
- (ii) The Sponsor of the Bill should study existing policies regarding pensions and see how the Bill can be improved to be in tandem with such policies;***
- (iii) The proposal, incorporating the above amendments can proceed as drafted.”***

The Bill having been published in the format that had been presented to the two Committees and taking into consideration the comments of the Budget and Appropriation Committee vide a letter of 22<sup>nd</sup> October 2013, it follows that the provisions of Article 114 of the Constitution must apply.

**Hon. Members,**

It is worth noting that the question of constitutionality of a Bill can be entertained at any stage before its passage. In this regard I hereby defer any further proceedings on the Bill in the House until the Budget and Appropriation Committee addresses itself on the “money bill status” of the Bill and make its recommendation(s) known to the House in accordance with the provisions of Article 114 of the Constitution. In addition, the Departmental Committee on Defence and Foreign Relations is at liberty in carrying out its business to consider the other issues of constitutionality in the Bill

taking into account the matters raised in the letter from the Cabinet Secretary for Defence.

In the consideration of the Bill, the Budget and Appropriation Committee should invite the Cabinet Secretary for the National Treasury in accordance with Article 114 of the Constitution while the Departmental Committee on Defence and Foreign Relations should invite the Cabinet Secretary for Defence and the Office of the Attorney General to shed light on other issues of constitutionality surrounding the Bill.

Thereafter, I will guide the House on how to proceed with consideration of the said Bill in its next stage, taking into account the recommendations of the two Committees.

**I THANK YOU!**

**THE HON. JUSTIN B. N. MUTURI, E.G.H, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**February 17, 2016**