



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – THIRD SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, MAY 27, 2015

1. The House assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **Presiding** – the Speaker
4. **COMMUNICATION FROM THE CHAIR ON CONSIDERATION OF THE REPORT OF THE BUDGET AND APPROPRIATION COMMITTEE BY THE HOUSE**

The Speaker conveyed the following Communications -

"Honourable Members,

This morning, the Member for Gem, Hon. Jakoyo Midiwo, rose on a Point of Order and raised several issues regarding the place of recommendations of Departmental Committees in the Report of the Budget and Appropriations Committee (BAC). He was supported by contributions from several Members including Honourables Adan Duale, Eseli Simiyu, Benjamin Langat, Peter Kaluma, Ndung'u Gethenji and Richard Onyonka, among others. Hon. Mutava Musyimi the Chairperson of BAC argued that the Committee, in his understanding, is not obligated to take in its entirety the recommendations of the Departmental Committees when submitting its report to the House.

Honourable Members,

From the points raised by the Members, I have deduced the following as the issues for determination:-

- (i) Whether the Budget and Appropriations Committee is at liberty not to take into consideration the recommendations of Departmental Committees on estimates of line Ministries and departments under their purview when discussing and reviewing Estimates;
- (ii) Whether the report of the Budget and Appropriations Committee on Estimates can be amended by the House;
- (iii) The power of Committees to summon persons including Cabinet Secretaries.

Hon. Members,

On the First question on whether the Budget and Appropriations Committee do not have to take into account the recommendations of departmental Committees, I am guided by the provisions of Standing Order 235 and particularly paragraphs 4 and 5 which states as follows:-

(4) Each Departmental Committee shall consider, discuss and review the Estimates according to its mandate and submit its report and recommendations to the Budget and Appropriations Committee within twenty-one days, after being laid before the House.

(5) The Budget and Appropriations Committee shall discuss and review the Estimates and make recommendations to the National Assembly, taking into account the recommendations of the Departmental Committees, the views of the Cabinet Secretary and the public.

My understanding of "taking into account" means that the BAC is expected to consult and acknowledge the views and recommendations of Departmental Committees when submitting its final report to the House.

Honourable Members, given the critical role which Departmental Committees play, the House has assigned them key functions to enable them oversight Ministries and Departments that fall under their mandate. Indeed Standing Orders 216 (5) outlines the functions of the Departmental Committees and to quote some:

- a. Investigate, inquire into, report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- d. Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

Consequently, the Departmental Committees have capacity to objectively assess the successes of ministries and departments in their implementation of the budgets in which programs, objectives and expected results would have been stated.

It is therefore, my view that the contributions of Departmental Committees contained in their reports to the Budget and Appropriations Committee ought to be treated with seriousness it deserve and not just swept under the carpet. This is because those committees are deemed to be experts in the relevant line ministries.

I am aware that the Budget and Appropriations Committee has the onerous task of balancing the requests to fit within the budget envelope. However, the Committee must take into account recommendations of the Departmental Committees when making its final report to the House. Where the BAC wants to deviate from such recommendations, civility demands that they consult the relevant Committee and explain justification of its decision.

As regards the second issue on whether the report of the Budget and Appropriations Committee on the Estimates of the National Government, the Judiciary and Parliament can be amended by the House, I am guided by the provisions of Section 39 (3) of the Public Finance Management Act, which provides *inter alia* that the National Assembly may amend the budget estimates submitted so long as: -

- (a) *an increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation; or*
- (b) *a proposed reduction in expenditure is used to reduce the deficit.*

In addition, Article 221 of the Constitution of Kenya and in particular paragraphs 3 and 6 in part states that "*the National Assembly consider*" the Estimates and Estimates "*having been approved by the National Assembly*".

The use of the words "*consider*" and "*approve*" in the said Article of the Constitution connotes that, the House when considering the Estimates, has power to amend the Estimates. From the foregoing, it is my considered view that the report of the BAC is amendable provided that the proposed amendment is informed by a decision of the relevant Departmental Committee.

Hon Members,

On the issue of failure by the Cabinet Secretary for Foreign Affairs and International Trade to appear before the Departmental Committee on Defense and Foreign Relations, the Constitution is explicit on this matter. Article 125 read together with Article 153(3) empower Committees to summon Cabinet Secretaries before them to answer questions concerning any matter for which the Cabinet Secretary is responsible. Indeed, Committees have unfettered powers to ask and receive information and demand appearance of the Cabinet Secretary as contemplated in Article 125 of the Constitution.

The Cabinet Secretaries should note that failure to appear before a Committee of the House when required, contravenes the provisions of the Constitution stated above, and more so failing to appear before the relevant Committee to present the budget estimates of the Ministry is so grave that the consequences arising thereof are far-reaching. I take this opportunity to advise Cabinet Secretaries to accord the Business of the House seriousness it deserves and inform them that the House will not hesitate to take the necessary sanctions.

As elucidated above, I rule that amendments may be submitted by Departmental Committees for the Speaker to consider their admissibility.

And finally, Honourable Members, the critical role played by the National Assembly in the Budget Making Process has presented a new experience to all of us; new matters arise each time we are considering Estimates and related legislations. It therefore follows that we might have to continuously update our manuals and procedures to respond to the changing environment in financial procedures and the challenges that come with it. Indeed, you will notice that for the first time in three years the Report of the BAC and the Order Paper contains a schedule showing the money proposed to be granted to various votes.

Honourable Members,

Be that as it may, I want to direct that having heard the request put forward, and which I think everybody seems to agree with, the Budget and Appropriations Committee meets with all Chairs and Vice-Chairs of the various Departmental Committees tomorrow at 2pm in this plenary chamber to consider the various reports of the Committees as reflected in the report of the Budget and Appropriations Committee. Thereafter, if the need arises, the

Committee may agree with the Chairs of the Committees when next to meet. It is also directed that the Cabinet Secretary for the National Treasury and all his technical team make themselves available to the consultations that will be taking place tomorrow at 2pm in this plenary hall.

Thank you".

5. **MESSAGE FROM THE H.E. PRESIDENT ON NOMINATION OF PERSONS TO STATE OFFICES**

The Speaker conveyed the following Message –

"Honourable Members,

Standing Order 42 (1) relating to Messages from the President provides that *"the Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House"*. In this regard therefore, I wish to inform the House that I have received two (2) Messages from the His Excellency the President.

In the first message received by my office on May 27, 2015, H.E. the President, in exercise of powers conferred upon him by Article 152 (2) of the Constitution has nominated Mr. Eugene Wamalwa to the position of Cabinet Secretary. The President therefore seeks the approval of the National Assembly of the said nomination.

Hon. Members, Article 152 (2) of the Constitution provides that, and I quote, *'the President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries'*. Further, Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011 requires that an appointing authority shall, upon nominating a person for an appointment to which this Act applies, notify the relevant House of Parliament accordingly. Consequently, a proper notification in line with the above provisions has been received.

Hon. Members, I have also received a Message from the President regarding the nomination of Amb. (Dr.) Monica Kathina Juma to the position of Secretary to the Cabinet. This nomination is made in accordance to Article 154(2)(a) of the Constitution which states, *'the Secretary to the Cabinet shall be nominated and, with the approval of the National Assembly, appointed by the President'*.

Hon. Members, the two nominations are subject to the provisions of Public Appointments (Parliamentary Approval) Act, 2011. In this regard, I would wish to guide the House as follows:-

- (i) THAT the relevant Committee of Parliament referred to in the Act is the Committee on Appointments in the case of the Cabinet Secretary and the Departmental Committee on Administration and National Security on the case of the Secretary to the Cabinet; and,
- (ii) THAT the relevant Committees are to consider the nominations and table their reports within fourteen (14) days from today.

Hon. Members, Pursuant to the provisions of Standing Order 42(3)(c), I now refer the Messages from H.E. the President containing the names of the nominees together with their curricula vitae to the relevant Committees to conduct the approval hearings in accordance with the relevant laws and the Standing Orders of the House.

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The 2014/2015 Supplementary Estimates II – Programme Based Budget of the National Government of Kenya for the year ending 30th June, 2015.
- (ii) The Annual Report and Financial Statements of Laikipia University for the year ended 30th June, 2013.
- (iii) The Report of the Auditor-General on the Financial Statements of Export Promotion Council for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.
- (iv) The Report of the Auditor-General on the Financial Statements of the Ministry of Interior and Coordination of National Government for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.
- (v) The Report of the Auditor-General on the Financial Statements of Jaramogi Oginga Odinga University of Science and Technology for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.
- (vi) The Report of the Auditor-General on the Statement of Revenue for the Ministry of Interior and Coordination of National Government for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.
- (vii) The Report of the Auditor-General on Coffee Development Fund Financial Statements for the thirteen months ended 31st July, 2014 and the certificate of the Auditor-General therein.
- (viii) The Report of the Auditor-General on Coffee Board of Kenya Financial Statements for the thirteen months period ended 31st July, 2014 and the certificate of the Auditor-General therein.

(Leader of the Majority Party)

- (ix) The Report of the Mediation Committee on the Public Audit Bill, 2014.

(Chairperson, Mediation Committee on the Public Audit Bill, 2014)

- (x) The Report of the Mediation Committee on the Division of Revenue Bill, 2015.

(Chairperson, Mediation Committee on the Division of Revenue Bill, 2015)

7. **NOTICE OF MOTION** – (Chairperson, Mediation Committee on the Public Audit Bill, 2014)

THAT, this House adopts the Report of the Mediation Committee on the Public Audit Bill, 2014, laid on the Table of the House today, Wednesday, May 27, 2015

8. **NOTICE OF MOTION** – (Chairperson, Mediation Committee on the Division of Revenue Bill, 2015)

THAT, this House adopts the Report of the Mediation Committee on the Division of Revenue Bill, 2015, laid on the Table of the House today, Wednesday, May 27, 2015

9. **MOTION - THE REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE ESTIMATES OF REVENUE AND EXPENDITURE FOR THE FINANCIAL YEAR 2015/2016**

Motion made and Question proposed –

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Estimates of Revenue and Expenditure of the National Government, Parliamentary Service Commission and Judiciary for the Financial Year 2015/2016, laid on the Table of the House on Tuesday, May 26, 2015 and pursuant to the provisions of section 39 of the Public Finance Management Act, 2012, and Standing Orders 235 and 239, approves the issuance of a sum of Ksh.1,508,517,181,340 from the Consolidated Fund to meet the expenditure during the year ending 30th June, 2016 in respect of the Votes as indicated in the Schedule.

(Chairperson, Budget and Appropriations Committee – 27.05.2015 (AM))

Debate interrupted on Wednesday, May 27, 2015 (Morning Sitting) resumed;

Rising in his place on a Point of Order, the Member for Gem (Hon. Jakoyo Midiwo) claimed to move that "the debate be now adjourned pursuant to Standing Order 96";

And the Speaker acceding to the claim;

Question put and agreed to;

Debate on the Motion adjourned until Wednesday, June 3, 2015 at 9.30 a.m.

10. **MOTION – CONSIDERATION OF THE MEDIATED VERSION OF THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO.38 OF 2014)**

Motion made and Question proposed –

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House approves the Report of the Mediation Committee on the Public Audit Bill (National Assembly Bill No.38 of 2014)

(Chairperson, Mediation Committee on the Public Audit Bill, 2014)

Debate arising;

Rising in his place on a Point of Order, the Member for Saku (Hon. Rasso) claimed to move that "the Mover be now called upon to reply pursuant to Standing Order 95";

And the Speaker acceding to the claim;

Question put and agreed to;

Mover replied;

Question put and agreed to.

RESOLVED ACCORDINGLY:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House approves the Report of the Mediation Committee on the Public Audit Bill (National Assembly Bill No.38 of 2014)

And the time being twenty-seven minutes to Five O'clock, the Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

11. HOUSE ROSE - at twenty-seven minutes to Five O'clock.
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MEMORANDUM

The Speaker will take the Chair on
Wednesday, June 3, 2015 at 9.30 a.m.

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