



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 09, 2016

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 RECONSTITUTION OF PUBLIC ACCOUNTS COMMITTEE**

The Speaker conveyed the following Communication –

"Honourable Members,

Today's sitting marks the beginning of the Fourth Session of the Eleventh Parliament. I therefore take this opportunity to welcome you all back to the National Assembly.

On December 17, 2015, I issued a Communication wherein, *inter alia*, I encouraged the Budget and Appropriations Committee, the Public Accounts Committee and the Public Investments Committee to conclude any pending matters as their terms would come to an end upon commencement of the Fourth Session in accordance with our Standing Orders. In reaction to this, the Chairperson of the Public Accounts Committee (PAC), in a letter dated December 17, 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 205(6). This is on the rationale that the current PAC is newly reconstituted following the disbandment of the Committee earlier established in 2013 under Standing Order 205.

Honourable Members, Standing Order 205(6) states and I quote;

"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 Eleventh Parliament was constituted on May 16, 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 May 16, 2013 and that the Committee on Selection proposes another list of membership for the PAC. Consequently, following the adoption of the said 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 (5) Members from nomination to the PAC (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 176.

Hon. Members, the Motion for the reconstitution of the Committee was passed on April 22, 2015. Effectively therefore, the inaugural Public Accounts Committee served between the period May 16, 2013 to April 2015 while the successive Committee began its period of service on April 22, 2015. Standing Order 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 power to act, so far as expressly directed by the House which brings it into being. While not negating the provisions of Standing Order 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 Public Accounts Committee as appointed by the House on April 22, 2015 is asking to serve the remainder of the parliamentary term as envisaged in the Standing Orders.

Consequently;

- (i) It is my considered view that the Committee that was appointed by the House on April 22, 2015 meets all the requirements for appointment of Members to the Committee and therefore satisfies the provisions of Standing Order 205(6) and need not be reconstituted;
- (ii) 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 dispense off some of which have a direct implication on the budgetary process and operation of the devolved governments; and
- (iii) The Committee on Selection is hereby directed to expedite the nomination of Members to the Budget and Appropriations Committee, the Public Investments Committee, the Committee of Privileges and the Committee on Appointment for approval by the House.

I thank you".

5. **MESSAGE FROM H.E. THE PRESIDENT ON REFERRAL OF THE NATIONAL EMPLOYMENT AUTHORITY, 2015 BILL, 2015 AND THE SMALL COURTS BILL, 2015**

The Speaker conveyed the following Message –

"Honourable Members,

I wish to welcome you back to the House for the Fourth Session of this Eleventh Parliament after the long recess. It is my hope that Members are rested and rejuvenated for what promises to be another busy Session. As an overview, we have a number of Bills with a constitutional deadline that require to be passed by August 2016, some of which

need to also be considered by the Senate. We are also at the beginning of the Budget Cycle and have various other important matters before us.

Honourable Members,

Having said that, I wish to convey two messages from H.E. the President. The Messages relate to: -

- (i) The National Employment Authority Bill, 2015; and
- (ii) The Small Claims Court Bill, 2015.

You may recall that on 8th October, 2015, the National Assembly passed the National Employment Authority Bill, 2015 which was sponsored by the Hon. Johnson Sakaja, MP. Subsequently, the Bill was presented for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, H.E. the President, by way of 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, he observes that the National Employment Authority Bill as passed failed to incorporate transitional provisions to facilitate the 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 this regard, while referring the Bill back to the House for reconsideration, H.E. the President has indicated that it may have been an oversight by the House, to fail to provide for the transition.

Honourable Members,

H.E. the President has also referred the Small Claims Court Bill, 2015 back to the National Assembly for reconsideration. The said Bill, being among those with a constitutional deadline, was passed by the House on 18th November, 2015, and subsequently presented for assent. However, H.E. the President has referred the Bill back to the House for further consideration. His reservations on the Bill relate to Clause 37 which provides for the enforcement of orders made by the Small Claims Court. You may note that the House deleted sub-clauses (3) to (6) which rendered the entire clause unimplementable. Indeed, I noticed the error during the preparation of the Vellum for presentation to the President but could not effect any corrections as it was beyond the power of the Speaker under the Standing Orders. I was obliged to notify the President of this, and it was determined that the only avenue available to correct the error was referral of the Bill back to the National Assembly for review.

Honourable Members,

In conclusion, Standing Order 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 committed to the Departmental Committee on Justice and Legal Affairs for further consideration. The Committees should table their reports by February 22, 2016. In considering the Memoranda, regard will be given to the guidance given by the Speaker in a Communication delivered on July 28, 2015 concerning consideration of Presidential Memorandum and amendments thereto, particularly my guidance, that amendments by a Committee or an individual Member that have the effect of fully accommodating the Presidential reservations will not attract two thirds requirement for passage.

Honourable Members,

I wish to remind the House and the Committees that only clauses of the Bills that have reservations will be considered.

Thank you!"

6. **CONVEYANCE OF A PETITION ON ESTABLISHMENT OF MONEY MOTIVATED CRIME ELIMINATION COMMISSION**

The Speaker conveyed the following Petition –

"Honourable Members,

Standing Order 225 (2) (b) requires that the Speaker reports to the House any Petition 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.

Honourable Members,

Pursuant to Article 119 of the Constitution, the Petitioner is requesting the National Assembly to enactment legislation to provide for the establishment of a Money-Motivated Crime 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 amongst 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.

Pursuant to the provisions of Standing Order 227, the Petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration.

Thank you".

7. **MOTION – APPROVAL OF APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE**

Order for Motion read;

Motion made and Question proposed -

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): -

1. The Hon. Katoo Ole Metito, EGH, MGH, M.P.
2. The Hon. Jakoyo Midiwo, MGH, M.P.
3. The Hon. (Dr.) Naomi Shaban, EGH, M.P.
4. The Hon. Thomas Mwadeghu, M.P.
5. The Hon. Jamleck Kamau, EGH, M.P.
6. The Hon. William Cheptumo, M.P.
7. The Hon. (Eng.) Maalim M. Mahamud, CBS, M.P.
8. The Hon. David Were, M.P.

9. The Hon. Z. K. Cheruiyot, MGH, M.P.
10. The Hon. Mithika Linturi, M.P.
11. The Hon. Jessica Mbalu, M.P.
12. The Hon. (Dr.) Victor Munyaka, M.P.
13. The Hon. John Serut, M.P.
14. The Hon. Wafula Wamunyinyi, M.P.
15. The Hon. Cecilia Ngetich, M.P.
16. The Hon. Priscilla Nyokabi, M.P.
17. The Hon. (Dr.) Rachael Nyamai, M.P.
18. The Hon. Peter Shehe, M.P.
19. The Hon. Joyce Emanikor Akai, M.P.
20. The Hon. Sakaja Johnson, M.P.
21. The Hon. (Dr.) Makali Mulu, M.P.
22. The Hon. Dennitah Ghati, M.P.
23. The Hon. Gladys Wanga, M.P.
24. The Hon. Florence Kajuju, M.P.
25. The Hon. (Dr.) Susan Musyoka, M.P.
26. The Hon. KK Stephen Kinyanjui Mburu, M.P.
27. The Hon. Mishi Juma, MP
28. The Hon. Francis Chachu Ganya, M.P.
29. The Hon. Chris Wamalwa, MP

(Majority Party Whip)

Debate arising:

Mover replied;

Question put and agreed to.

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

8. **HOUSE ROSE** - at twenty minutes to Four O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, February 10, 2016 at 9.30 a.m.

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