

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 8th June 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Ring the Quorum Bell.

(The Quorum Bell was rung)

We can now commence business.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Annual Report and Financial Statements of the Kenya Law Reform Commission for the Financial Year ended 30th June 2016.

Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015 and the certificates therein:

- (i) Constituencies Development Fund Board; and,
- (ii) Constituencies Development Fund Central Bank of Kenya Account.

Hon. Speaker: Chairperson of Public Investments Committee.

Hon. Keynan: Hon. Speaker, I beg to lay the following Paper on the Table of the House: Report of the Public Investments Committee on the Petition by residents of Turkana County regarding alleged financial impropriety by Eng. Daniel K. Barasa, former General Manager of National Irrigation Board.

Hon. Speaker: Next Order.

NOTICE OF MOTION

ADOPTION OF REPORT OF KENYA DELEGATION
TO IPU ASSEMBLIES AND RELATED MEETINGS

Hon. Njomo: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Kenya Delegation to the Assemblies of the Inter-Parliamentary Union (IPU) and related meetings as follows:

(i) The 131st, 130th and 129th Assemblies of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 12th to 16th October 2014, 16th and 20th March 2014, and 7th to 9th October 2013 respectively, laid on the Table of the House on Thursday, 4th December 2014;

(ii) The 133rd and 134th Assemblies held in Geneva, Switzerland, from 15th to 21st October 2016, and in Lusaka, Zambia, from 17th to 23rd March 2016 respectively, laid on the Table of the House on Thursday, 16th June 2016; and,

(iii) The 136th and 135th Assemblies held in Dhaka, Bangladesh, from 1st to 5th April 2017 and Geneva, Switzerland, from 21st to 27st October 2016 respectively, laid on the Table of the House on Wednesday, 7th June 2017.

Thank you, Hon. Speaker.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 13TH TO 15TH JUNE 2017

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No.44 (2) (a), on behalf of the House Business Committee (HBC), I rise to give a Statement regarding the business appearing before the House for the week beginning Tuesday, 13th June 2017.

On Tuesday, the House will continue with the Second Reading of the Constitution of Kenya (Amendment) (No.6) Bill of 2015), the National Cohesion and Integration (Amendment) Bill, 2017, should they not be concluded today. Prioritised in the same week for the Committee of the whole House include:

- (i) the Nairobi International Financial Centre Bill, 2016;
- (ii) the President's Award Bill, 2017;
- (iii) the Legal Metrology Bill, 2017; and,
- (iv) the Kenya Trade Remedies Bill, 2017.

The following committee reports and Sessional Papers are also listed for debate next week, if they are not concluded today:

- (i) Sessional Paper No.3 of 2017 on the Government of Kenya guarantee in support of restructuring of Kenya Airways;
- (ii) Sessional Paper No.3 of 2016 on the National Housing Policy;
- (iii) Sessional Paper No.5 of 2016 on the National Climate Change Framework Policy;
- (iv) the Report of the Departmental Committee on Finance, Planning and Trade on the approval of the nominee for appointment as Director-General of the Financial Reporting Centre;
- (v) the Twenty First Report of the PIC on the audited accounts of State corporations; and,
- (vi) the Report of the IPU Conference and related Meetings.

I would like to notify Members that the House will adjourn *sine die* next week on Thursday, 15th June 2017 as per the Calendar, which is about 54 days to the general elections.

I hereby lay this Statement on the Table of the House.

(Hon. A.B. Duale laid the document on the Table)

Thank you, Hon. Speaker.

Hon. Speaker: Before we move to the next Order, allow me to recognise the presence of students and pupils in the Speaker's Gallery and the Public Gallery. We have students from Moi Educational Centre from Langata Constituency, Nairobi County, seated in the Speaker's Gallery. Seated in the Public Gallery are students from Buruburu Girls High School from Makadara Constituency, Nairobi County; Mutuini Educational Centre from Dagoretti South Constituency, Nairobi County; Nyaga Secondary School from Githunguri Constituency, Kiambu County; and, Tenwek Boarding Primary School from Bomet Central Constituency, Bomet County.

They are all welcome to observe the proceedings of the National Assembly this afternoon.

Next Order.

MOTION

ADOPTION OF REPORT ON THE SECOND SUPPLEMENTARY BUDGET FOR FINANCIAL YEAR 2016/2017

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the Financial Year 2016/2017, laid on the Table of the House on Tuesday, 6th June 2017 and pursuant to the provisions of Article 223 of the Constitution and Standing Order No.243 approves—

(i) an increment of the total recurrent expenditure for Financial Year 2016/2017 by Kshs6,493,177,978 in respect of the Votes as contained in the Schedule;

(ii) an increment of the total capital expenditure for Financial Year 2016/2017 by Kshs42,132,984,988 in respect of the Votes as contained in the First Schedule;

(iii) an overall increment in the total budget for Financial Year 2016/2017 by Kshs48,626,162,966 in respect of the Votes as contained in the First Schedule; and,

(iv) Further resolves that the First Schedule forms the basis of the enactment of the Second Supplementary Appropriations Act, 2017

“Subject to:

(i) Reallocation of Kshs507 million within the State Department for Irrigation under the ‘Irrigation and Land Reclamation’ programme from Thiba Dam to the National Irrigation Board to clear pending bills in the following projects: Kshs307 million for Bura Scheme Gravity Project; Kshs100 million for Daa River Flood Water Control Project, and Kshs100 million for Expanded National Irrigation Projects;

(ii) Increment of Kshs550 million to the State Department for Livestock under the ‘Livestock Resource Management and Development’ programme for drought mitigation interventions in ASAL counties; and,

(iii) Effecting the consequential amendments to the First Schedule and the total sum approved accordingly.

(Hon. Musyimi on 7.6.2017)

(Resumption of Debate interrupted on 7.6.2017- Afternoon Sitting)

Before I put the Question, the Chair of the Budget and Appropriations Committee has approached me and indicated that he has some proposed amendments to make to the Motion. If he eventually moves it and it is carried, we will proceed to the next business, which is to put the Question on the Motion as amended.

Hon. Mutava Musyimi.

Hon. Musyimi: Thank you, Hon. Speaker. I beg to move that the Motion be amended as follows:

By inserting the following words immediately after the words “Second Supplementary Appropriations Act, 2017”

“Subject to:

(i) increment of Kshs300 million to the National Intelligence Service (NIS) under the National Security Intelligence Programme for security related interventions;

(ii) increment of Kshs2.5 billion to the Independent Electoral and Boundaries Commission (IEBC) under the Management of Electoral Processes Programme for initial payment of printing of ballot papers;

(iii) reallocation of Kshs90 million within the State Department of Arts and Culture from General Administration, Planning and Support Services as follows: Kshs50 million to the Kenya Film Commission, and Kshs40 million to the Kenya Film Classification Board under the Arts Programme for payment for contracts for ongoing international and local marketing campaigns and procurement of censorship suite, respectively.

Hon. Speaker, the matters that I have raised today, on behalf of the Committee and myself, are in addition to the issues to the other aspects of this Motion that we discussed and debated yesterday, as you have rightly observed. However, there are three additions that I have brought forward this morning, on behalf of my Committee. The first issue relates to the Kshs300 million for NIS. We have no objection as a Committee on this matter. However, we have told the National Treasury and other organs of Government that it will be very important on matters, especially to do with NIS expenditure. We have Members of Parliament who were vetted who can sit in confidentiality with regard to security related matters, so that before we bring proposals to this House, we are satisfied that the representatives of the people have been involved in these issues. However, until that happens, we are where we are. Other than just the procedure that the matter has come up late, we have no objections.

Let me also say that we are also equally aware that, globally, issues of insecurity are critical. In the last three months, we have had serious happenings in the United Kingdom (UK) and other parts of the world. One way of dealing with terrorism is to have a very strong intelligence service. I do not want to be understood to be against this particular intervention. I support it. The only thing we are saying, as Members of Parliament, is that in future we want to see Members of Parliament who have been vetted being part of the security discussions when matters of this nature come up.

On the increment of Kshs2.5 billion to the Independent Electoral and Boundaries Commission, I talked with Hon. Rotich this morning and he assured me that this money was budgeted for in the Financial Year 2017/2018. We are aware because we are the ones who passed that vote but the money is required before the end of this month. So, we are being asked

to make these funds available and have the same amount reduced in the next financial year for this vote. So, this is a straightforward issue of additions and subtractions for the financial years 2016/2017 and 2017/2018. It is also straightforward for purposes of discussions.

On reallocation of Kshs90 million within the State Department of Arts and Culture from General Administration and Planning, I want to leave that to the good lady that I will be asking to second this Motion. She is the Vice-Chairlady of the Committee in charge of sports. She is very conversant with the details.

With those few remarks, I beg to move and request the Hon. Member for Isiolo to Second.

Hon. Speaker: Let us have Hon. Tiya Galgalo.

Hon. (Ms.) T.G. Ali: Thank you, Hon. Speaker. I stand to second.

There was reallocation of Kshs90 million, that is, Kshs50 million for the Kenya Film Commission and Kshs40 million for the Kenya Film Classification Board. The reallocation was done because the African Union (AU) meeting that was supposed to have been hosted by the Ministry could not happen because of a crowded calendar. Remember we have athletics championships of youth who are under 18 years of age coming up soon. Another reason is the forthcoming general election. So, the AU meeting that was scheduled for July would not take place. The Film Classification Board, whose activities stalled because of lack of funds, has already made some commitments. For example, they have a project called Film *Mashinani* which is ongoing. The Kenya Film Commission has a crisis because its members of staff have not even received their salaries for the last three months.

I second.

*(Question, that the words to be added
be added, proposed)*

Hon. Speaker: Let us have Hon. Midiwo.

Hon. Midiwo: Thank you, Hon. Speaker. I rise on a point of order. Hon. Speaker, you realise that the debate on the Second Supplementary Budget ended yesterday. I know that you as the Hon. Speaker, under Standing Order No.1, can re-open the debate. However, with regard to the amendment being proposed, the right procedure is that it has to go to the relevant Committee for us to determine its viability or otherwise. Since this is not the time for debate, I urge that for the purpose of neatness, you allow this amendment to be brought back as a substantial part of the original Motion and then send it back to the committees. I sit in the Departmental Committee of Defence and Foreign Relations and the amendment which Hon. Mutava Musyimi has just raised has not come before us. We had a long meeting this morning. So, without creating so much controversy, the IEBC can go to the Departmental Committee on Justice and Legal Affairs, and the other one to the Departmental Committee on Defence and Foreign Relations. After that you could guillotine everything on Tuesday afternoon. That would be the neatest way for the sake of procedure in this House so that it does not look like somebody was doing something wrong.

Thank you.

Hon. Speaker: Hon. Wamalwa, you want to also say something on the same?

Hon. Wakhungu: Hon. Speaker, thank you for giving me this opportunity. You have guided us very well and always told us that this is a House of procedure and rules. Such things have happened before and you have ruled on them, particularly when it comes to issues of money. So, I do not know whether the Chairman of the Budget and Appropriations Committee

had an opportunity to look at this matter. It is fraudulent! I do not think this should be allowed or entertained. In any case, if there is an amendment to the Motion, it should go back to the Committee of the whole House.

The Committee of the whole House had deliberated and finalised this matter. We were actually adopting it. I lack the proper words for my respected reverend because to be fraudulent and come up with this amendment at such a time and sneak it in through the back door... We appreciate that when it comes to the National Intelligent Service (NIS) we need money for purposes of security but the process that has been used is fraudulent hence making the output fraudulent. We totally reject this. The process must be followed to the letter.

Hon. Speaker: Hon. Members, the issue raised by Hon. Midiwo is one of procedure. So, let us stick to that. Let us have Hon. Gichigi.

Hon. Gichigi: Thank you, Hon. Speaker. I have heard the points raised by my two colleagues. They have not cited any Standing Orders. If I am right, the only legal requirement we have for committees to deal with this sort of issue is under Article 114. That is the only requirement. It would have been much better and in order for further funds to be debated by the various committees but the law and Standing Order No.1 recognise that sometimes issues arise urgently. Remember these are not ordinary times because of the general election as well as the fact that Parliament is coming to an end next week and some of these things must be completed. There is neither illegality nor fraud. The one on sports was presented to the Committee that oversees labour and welfare issues. It was debated and presented to the Budget and Appropriations Committee. The Budget and Appropriations Committee has dealt with all these issues and has made findings on it. There is no illegality; it is simply Standing Order No.1 that is allowing this to happen.

Hon. Speaker: Hon. Gichigi, you have in your own words made one concession: that with regard to the one on the Ministry of Arts, Culture and Sports, it was debated by that Committee. Hon. Midiwo raised queried about the other two. Were they taken to the respective committees? So, to the extent that you concede that one has been considered by the appropriate Committee, what we need to hear is whether the amendments concerning the National Intelligence Service and the Independent and Electoral Boundaries Commission were looked at by the relevant Departmental Committees.

The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I totally agree with you. The amount concerning IEBC, as the Chairman has said, was allocated in the 2017/2018 Financial Year, for the purchase of the ballot papers. I think the House does not have any issues concerning that. We are seeking to have that money released earlier and make a commitment to whoever will be awarded the tender. The only issue remaining concerns the Departmental Committee on Defence and Foreign Relations.

This is an urgent matter which I am sure the Cabinet Secretary in charge of the National Treasury explained to the Committee, that in order to commit an agreement with whoever will be awarded the tender, they have to show that they have money in this financial year and that is not a problem. Another issue concerns the Kshs300 million for NIS. I think the Chairman or the Vice-Chair of the Committee on Defence and Foreign Relations can comment on this matter. We should ask the Committee on Defence and Foreign Relations to discuss the allocation of Kshs300 million and after they agree we can allocate them that money in the Appropriations Bill. We accept the amendments which have no issues.

Hon. Speaker: Hon. Rasso.

Hon. Dido: Thank you, Hon. Speaker. The matter of NIS came before our Committee and they had asked for Kshs900 million and the same was transmitted to the Budget and Appropriations Committee. They are now asking for Kshs300 million from the National Treasury. This issue appeared before our Committee and if Hon. Members did not agree in the Committee meeting on Monday, then this should not be brought on the Floor of the House.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. I think you need to guide the House. As the Chair was presenting these amendments he indicated that he had discussions with the CS, National Treasury. Procedurally, the way we process budgets in this House is that Departmental Committees must first of all look at them and approve then forward them to the Budget and Appropriations Committee.

I agree that the budget for the Ministry of Sports, Culture and Arts had been discussed by the relevant Departmental Committee, but the other two were not. Hon. Rasso, the Kshs300 million we are talking about is an additional amount. It is not the Kshs.900 million which was discussed in the Committee. If you look at the Second Supplementary Budget under the Schedule, the Kshs900 million for confidential expenditure is already approved but they are seeking for an additional amount of Kshs.300 million which we have not looked into.

Another thing which I ask you to guide the House concerns a situation where we have an Appropriation Act for the 2017/2018 Financial Year authorising IEBC to spend money but we are saying they use that money today while the next financial year starts on 1st July. I think procedurally something needs to be done so that we do not get it wrong. Otherwise, that expenditure can easily be questioned by the Auditor-General because that appropriation is for another financial year. I think it is important for things to be done procedurally because this being an election year, many things can pass through the cracks. I think it is important as a House we protect Kenyans in terms of proper financial management.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Olago Aluoch.

Hon. Aluoch: Thank you, Hon. Speaker. The issue here is very fundamental. Hon. Midiwo has set the record straight. It is not just a question of the amendments but of whether we are complying with our Standing Orders or not. From experience, we know that towards the end of any term of Parliament sometimes the Executive files amendments which are very notorious. I do not want to impute any motives on my very good and trusted friend, Hon. Musyimi. I believe what he is doing is in good faith. Unfortunately, he is doing it the wrong way.

Our Standing Orders are based not just on procedure but also the Constitution and we must comply. This matter should go to the relevant Committees even if we are restrained by time. We must do this properly and quickly. We do not want to be accused that this Parliament is the one which made shortcuts. I do not want to anticipate debate but Order No.18 should have gone to the Departmental Committee on Justice and Legal Affairs where I sit and I have not seen it. I think we want to make shortcuts which are not good for this country. I suggest that Hon. Musyimi should take these amendments back to the relevant Committees to deal with them before we can deliberate but of course time is of essence.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, this matter is not complex. We must begin from the relevant departmental Committee. As we come to the tail end of the 11th Parliament by now some of these processes and procedures must be very clear to all of us. Hon. Mutava Musyimi, I

would want you to explain the issue concerning IEBC. The sum of Kshs.2.5 billion was allocated in the 2017/2018 Financial Year and the Appropriations Bill passed through this House and therefore it is now an Act of Parliament. If that is true, how can we at this stage take out money which has already been allocated in law and was assented to? Unless there is an amendment to that law, because the Appropriations Act 2017/2018 was long assented to, and is an Act of Parliament.

To do anything which is contained therein would require an appropriate amendment to that Act. I sympathise with the issues you have raised. Apart from that under the Public Procurement and Asset Disposal Act passed by this House, a procuring entity may not commence a procurement process unless it has budgets for it. To that extent I sympathise with what you have just explained relating to IEBC and the procurement of ballot papers. That is the furthest I can go. I can only express sympathy. Hon. Mutava Musyimi, perhaps you wish to respond because the issues raised have been canvassed by way of points of order and perhaps you wish to comment on them.

Hon. Musyimi: Thank you, Hon. Speaker. The sympathy of the Speaker is very powerful, it has the weight of law. On a more serious note, the truth of the matter is that the House is going to be adjourned next week *sine die*. There are only four sittings remaining, that is, on Tuesday afternoon, Wednesday morning and afternoon and then Thursday afternoon. The challenge which is before my Committee and all of us is that the law is in place as you have rightly said but the fact is we have the General Election on 8th August this year. You and I know that I can never bring an amendment of this import without your authorisation.

The reason we seek your authorisation to invoke your powers is because we are where we are, a week before the 11th Parliament is dissolved, so to speak, in practical terms. It does not get dissolved until the day of the elections. Perhaps, you could guide me. I am sorry to have to play the ball back to your side. I know no other way of dealing with this problem where ballot papers need to be printed before 30th June 2017. The law is as you have put it. The reality is as we all know. It is back to your discretion, Hon. Speaker.

With respect to the Kshs300 million, it is the position of my Committee that any time the National Intelligence Service have come to us for money, we have never said no even when we had questions. This is because we never want to be seen to be the ones who may have allowed or facilitated something sinister to happen because we said no to a request from the NIS. That is why we say that we need a number of Members of Parliament vetted in the next Parliament. The law is in place so that they can be part of those confidential conversations by the national Executive. The representatives of the people must be around the table where confidential matters of this nature are discussed. That is the spirit of the new Constitution.

Thank you for approving this proposal. I am very sympathetic to the sentiments of the honourable Members. There is nothing fraudulent about this. Those that are using those words are being a little less than kind. There is nothing fraudulent. We have been approached. With four days to go, if my colleagues were seated where I am seated today, I do not know what they would have done in the national interest. I bring this in the national interest. There is nothing personal here in any way.

Hon. Speaker: I am just wondering, with regard to this issue of ballot papers, it is widely known in the country that a process had commenced. Did they commence without budget provisions? If they did so, they were acting illegally. If they commenced the process of procuring ballot papers without a budget line, that is moving against the law. This raises the issue as to whether you can amend the Appropriations Act 2017/2018, through this process, without a clear

amendment proposal to the Act. The net effect of taking away such a colossal sum of Kshs2.5 billion from the 2017/2018 Appropriations Act is not a matter that we can say that we will apply the sympathies of the Speaker or the powers under Standing Order No.1. This is because we would have created some other procedure and method of amending laws which is also unknown to the laws.

Hon. Mutava Musyimi, do you want to say something?

Hon. Musyimi: Thank you, Hon. Speaker. I am sure you have done a careful reading of this proposed amendment. If you allow me, I would read it again. It states: "An increment of Kshs2.5 billion to the Independent Electoral and Boundaries Commission, under the management of the Electoral Processes Programme for initial payment of printing of ballot papers." I would have thought that all we are trying to do is give the Exchequer the powers to deal with this matter administratively. It is just the powers and the resolution of the House to deal with the matter administratively. Come the next financial year, in the process of tidying up the books, they would debit that particular account. By that time, the matter would have come to the particular departmental committee. The issue of amending the law does not arise in this particular provision. This is just to get the resolution of the House to credit that account by this amount. The issue of amending the law does not arise. That is my reading of this amendment.

Hon. Speaker: Just clarify this, Hon. Mutava Musyimi. Is there provision under a sub-head or vote-head within the IEBC, an item called Management of Electoral Processes, in their budget for 2017/2018 and if so, was there a similar head or vote-head or sub-head in the 2016/2017 Budget? If there was in both, this would amount to double allocation.

Hon. Musyimi: Hon. Speaker, my reading of this provision, *prima facie*, is as follows: The national Exchequer is seeking a resolution from the House to debit this account further; to enter into debt to the tune of Kshs2.5 billion; and to do the work that has to be done and then they tidy up the books in the next financial year. They remain the National Treasury in the 2016/2017 and 2017/2018 financial years. The National Treasury exists in perpetuity. It is a matter of tidying up the books. The law will come into force at some point but we have a National Assembly that adjourns in the next one week. We have elections that are coming in the next eight weeks. We have transactions that have to be incurred within the next two-and-a-half weeks. The conversation between the Treasury and my Committee led us to suggest to you that this is the only way to deal with that problem in the national interest.

Hon. Speaker: Hon. Members, we do not need to debate this. The proper way is that this two figures need to be considered by the relevant committees even if it means moving a Motion on Tuesday to exempt Wednesday's morning sitting from Private Members' business to consider this. I hear you Hon. Mutava Musyimi. I do not think that what you are doing is personal. Everybody would understand, and like I said, we are sympathetic. But to the extent that it is not clear now in plenary to many of us, it may require that this sum of Kshs300 million to the NIS be considered by the Departmental Committee on Defence and Foreign Relations, who will give you a report with regard to this increase. It is good that it be explained before the Committee so that a report--- They will appear before your Committee and then you sort out that matter. It is a lot easier in Committee. In the plenary, we run the risk of passing a resolution which could very well become problematic, even if it is balancing books.

With regard to this increment of Kshs2.5 billion for purposes of initial payment of printing of ballot papers, if we look at the 2016/2017 books, of the sums voted to the IEBC, most likely we would see a similar sum. They must have made a request for this. Whatever sums are to come in 2017/2018 should actually be coming to deal with other issues that would be

involved, like the cost incurred in the carrying out of the general election but not this one of printing of ballot papers. They must have been allocated funds for this purpose, unless they are now saying they require double the sum.

Yes, Hon. Mutava.

Hon. Musyimi: We stand guided, Hon. Speaker. I want to thank Hon. Members for raising this point. You are right to the extent that you are prepared to guide the House so that we have an extra sitting to deal with this matter. I could not be more grateful personally because the Members of the Committee would...

(Loud consultations)

Hon. Speaker, I can hardly hear myself. The Members of my Committee will bear me witness that I have been reluctant to bring any recommendations to this House without having the comfort of knowing that the relevant Committee has met with the spending agents. That has been the way we have always worked.

Can I, however, very humbly perhaps suggest that instead of putting the extra sitting on Tuesday, you consider putting it on Thursday so that it gives us enough time, as a Committee, to deal with the matters on Tuesday and Wednesday. My problem is that many Members are going to campaign, but that is your decision. We stand a better chance of having time to consult if we do it on Thursday morning, but if you say on Tuesday, I stand guided.

Thank you.

Hon. Speaker: Of course, there is the question of even the resolution of the House on the Second Supplementary Appropriations Bill, which will follow immediately after passage of this Motion.

Hon. Mutava Musyimi, Members will have to make some sacrifice even if it is tomorrow so that you can consider this matter. I appreciate what you are saying, that there is time constraint. However, the House is at liberty to vote to have more than one sitting at any given time. Even if it is Tuesday, you can have two sittings, but it will be important that at least this matter be cleared so that we carry it along.

Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, now that you have given direction, because of the amount of time remaining, let us ask Hon. Rasso and the Members of the Departmental Committee on Defence and Foreign Relations, who are here, to meet tomorrow so that on Tuesday afternoon, we deal with this matter. We have the Supplementary Appropriations Bill, which we need to vote on. This will need 50 Members. Thursday is a risky day. We must complete this thing latest by Tuesday afternoon. We can even have two sittings. The problem we have now is the Committee. Hon. Jakoyo, Hon. Wamalwa and Hon. Rasso can even sit this afternoon and take their report to the Budget and Appropriations Committee.

Hon. Speaker: I can already see about five of them.

Hon. A.B. Duale: Hon. Speaker, use your power to direct these Committees to sit so that on Tuesday we have this matter on the Order Paper. On Wednesday, we can deal with the Supplementary Appropriations Bill in the morning or in the afternoon.

Hon. Speaker: Hon. Mutava Musyimi.

Hon. Musyimi: I thank you again for indulging me, Hon. Speaker. To add to what the Leader of the Majority Party has said, if in your wisdom you can direct that the reports of those

Committees be given to the Budget and Appropriations Committee by 10.00 a.m. on Tuesday, we will deal with it and bring a report to this House.

Thank you, Hon. Speaker.

Hon. Speaker: I can see Hon. Rasso, Hon. Keynan, Hon. Onyonka, Hon. Wamalwa, Hon. Midiwo and Hon. Wamunyinyi. You are about five of you. You just require an addition of four Members to raise a quorum. Even Hon. Lekuton is here. Therefore, you just need another three Members to raise a quorum. Is Hon. Katoo a Member of that Committee? Do I get concurrence of the Members of the Departmental Committee on Defence and Foreign Relations that they can actually sit today at 4.30 p.m. or do you want to sit tomorrow morning?

An Hon. Member: Tomorrow morning.

Hon. Speaker: Do you want to sit tomorrow morning at 10.00 a.m., Hon. Rasso?

Hon. Dido: Thank you very much, Hon. Speaker. Hon. Midiwo, Hon. Chris Wamalwa and Hon. Onyonka are key attendees of meetings of the Departmental Committee on Defence and Foreign Relations. We can summon the NIS officials to appear before the Committee tomorrow at 10.00 a.m.

Hon. Speaker: Is Hon. Wamunyinyi a Member of the Committee?

Hon. Dido: Yes, he is, Hon. Speaker.

Hon. Speaker: He is a ranking Member. Hon. Keynan is also there. Hon. Lekuton. All the ranking Members of the Committee are here.

Hon. Dido: Hon. Speaker, we can dispense with the matter tomorrow at 10.00 a.m.

Hon. Speaker: Very well. The Committee sits tomorrow morning at 10.00 a.m. to deal with the matter. It is just one item? Hon. Mutava Musyimi, you had suggested that the Departmental Committee on Justice and Legal Affairs sits, similarly, tomorrow morning at 10.00 a.m. Do we have enough Members of that Committee here? Do we see enough Members of the Departmental Committee on Justice and Legal Affairs other than Hon. John Olago Aluoch, Hon. Aghostinho Neto and Hon. Fatuma? Are you capable of sitting tomorrow?

Hon. Aluoch: Hon. Speaker, I see Hon. Neto and myself. I do not see our Chairman. At least, there are four of us in the House.

Hon. Speaker: Hon. Njoroge Baiya and Hon. Moses Cheboi are there.

Hon. Aluoch: Hon. Amina is also here. Hon. Speaker, may I propose Monday afternoon?

An Hon. Member: Do it tomorrow.

Hon. Aluoch: Hon. Speaker, tomorrow will be okay.

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, the matter of the IEBC is not a matter of IEBC itself. The explanation made by the Cabinet Secretary (CS) to me and, I am sure to the Budget and Appropriations Committee, is that he is not going to pay the company. He wants to make a commitment, even in the form of a bank guarantee. He wants to show something administratively.

The Committee can sit tomorrow at 10.00 O'clock and call Mr. Chiloba, and the CS of the National Treasury, Dr. Rotich. It is more of understanding. Some of the Members of the Budget and Appropriations Committee can be there. We can as well finish with this matter. The matter on the IEBC is about not putting the election processes in jeopardy. The House must rise to the occasion. The Kshs2.5 billion is just to make a commitment. That is what I read from it. Therefore, if the Departmental Committee on Justice and Legal Affairs, and the Budget and Appropriations Committee, can listen to the CEO of the IEBC, Mr. Chiloba; and the CS of the National Treasury, on what they intend to do, we might dispense with this matter. The

Committee will also give their report to the House. The numbers for quorum have been diminishing lately. We know how we survived the quorum hitch this week. Let us finish this thing by tomorrow, so that the Chair can bring the Committee's report on Tuesday morning. We will finish with this matter on Tuesday afternoon and deal with the Second Supplementary Appropriations Bill on Wednesday morning.

I want to ask the Members of the Departmental Committee on Justice and Legal Affairs, particularly those who have won the nominations that they do not need to go home on Friday. You need to relax around here and participate in these processes. Hon. Olago can chair the Committee. Hon. Fatuma is there. She is fasting. I do not think she is going anywhere. There are many others. I will whip even the Chair, Hon. Nyokabi and Hon. Baiya. I want to indulge both Committees to ensure that we complete these processes tomorrow.

Hon. Speaker: I thought we had finished this matter.

Hon. Wakhungu: Thank you, Hon. Speaker. You mentioned something which has been going through my mind in terms of the double allocation. It is good we have to discuss this matter. However, some of us are not very comfortable with that aspect of the double allocation, particularly when we are approaching elections. So, as we are going to sit, which we agree, we need a proper explanation so that we do not make a mistake of that double allocation. This is because at a time like this---

Hon. Speaker: Hon. Wamalwa, you are not a Member of the Departmental Committee on Justice and Legal Affairs. I thought you are in the other one. Let that come from Hon. Olago Aluoch.

Hon. Aluoch: Hon. Speaker that, indeed, is a genuine concern but I do not wish to comment on that now and whether it is a double allocation or not. However, I do recall from where I am standing that, that is a matter that our Committee dealt with a little earlier on in the year, but we will see when the Committee meets.

Hon. Speaker, allow me to ask you to clarify a point that has come up here. Hon. Mutava Musyimi seems to be running against time and his worry is that after Thursday next week, we may not be able to speak. May I kindly ask you to clarify this to the House and to the nation? When this House adjourns *sine die* on Thursday next week, does it mean that if there is an urgent issue for Parliament to discuss we cannot be convened? Is it known by Members and the nation that we remain valid members of this Assembly until 8th August? We should not be running like if we do not deal with this thing tomorrow we are going to run out of time. Hon. Speaker, I kindly ask you to clarify this to the House and the nation.

Hon. Speaker: As you know, of course, if there is an emergency, the Members of the House that will have adjourned *sine die* will still be recalled, even under the former Constitution. So should it be even under the current Constitution. More importantly, under the current dispensation, the Leader of the Majority Party or Leader of the Minority Party can write to the Speaker to request for a special sitting even during the recess time.

Nevertheless, listening to what Hon. Mutava Musyimi is explaining, it is becoming increasingly difficult to attain quorum, both in the plenary and in the Committees. Therefore, I think it will not be good for us to leave some of these issues to the vagaries of a chance or nature. This is because people will be busy crisscrossing their areas of representation and it may not be very easy bringing them together.

So, Hon. Olago Aluoch is the Committee able to sit tomorrow or do you want to sit on Monday?

Hon. Aluoch: Hon. Speaker, from where I am, it would be comfortable for us to sit on Monday because lately, I do not even see the chairman or members of our Committee. Even the Vice Chair, Hon. Nyokabi, is hardly available in the Chamber. Those of us who are in the Committee who are here are on this side only. We are hardly six of us here. I fear that if we were to meet tomorrow, we may not raise quorum and this is a very serious matter. Hon. Duale is saying he will whip his members. However, there is a possibility that even tomorrow, for someone who comes from Nyeri; it will not be very easy. I will feel comfortable on Monday morning.

Hon. Speaker: If there is consensus, let the Departmental Committee on Justice and Legal Affairs meet on Monday and make sure that by 10.00 a.m., Hon. Mutava Musyimi's Committee has your Report relating to this issue of the Kshs2.5 billion.

Hon. Njoroge Baiya.

Hon. Baiya: Hon. Speaker, I believe that the suggestion for us to meet on Monday is quite appropriate, given the assurance by the Leader of the Majority Party that he will also help us to mobilise some of our Members.

I just want to set straight some information because I have also been in the Committee when we were deliberating on these matters. Generally, the request by the Independent Electoral and Boundaries Commission was based on the fact that the activities that they are funding cut across both financial years, the current 2016/2017 and 2017/2018. It was felt by the National Treasury that they require to be given resources for activities they require to fund up to 30th June. Then the rest were spread in the next financial year. Unfortunately, what I am gathering from what the Budget and Appropriations Committee Chairman is saying is that some of those expenses, which we thought would be payable later after 30th June, are required to be partly financed in terms of deposit within the current financial year.

So, the question of double allocation may not arise because what will be funded in the current financial year will, obviously, be deducted from the next financial year.

Hon. Speaker: Can you canvass that matter in the Committee? You see when you speak, you speak like the Chief Executive Officer (CEO) of IEBC. You can do that in the Committee and when the Report comes here, you can expound. Now it will become difficult to debate because the way it is, it is not possible. The net effect of that is that the Motion is deferred and taken out of the Order Paper. The entire business appearing as Order No. 8 is deferred to Tuesday afternoon to allow the respective committees to present reports to the Budget and Appropriations Committee, who in turn, will then be in a position to smoothly move through.

(Motion deferred)

Hon. Mutava Musyimi, once this is agreed, still there will be no debate. It is just a matter of you explaining to the House and then we put the Question. That is the procedure we shall adopt.

Let us move to the next Order.

BILLS

CONSIDERATION OF REPORT AND THIRD READING

THE COMPANIES (AMENDMENT) BILL

Hon. Speaker: Hon. Members, I have confirmed that we have the requisite quorum. I, therefore, put the Question.

(Question put and agreed to)

Hon. Speaker: Mover!

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Companies (Amendment) Bill (National Assembly Bill No. 23 of 2017) be now read a Third Time. I request the Member for Mandera East, Hon. Abdulaziz, to second.

Hon. Farah seconded.

(Question proposed)

Hon. Speaker: I put the Question, having confirmed that the quorum still subsists.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

CONSIDERATION OF REPORT AND THIRD READING

THE TRAFFIC (AMENDMENT) BILL

Hon. Speaker: Order. Hon. Members!

(Question put and agreed to)

Hon. Speaker: Mover, Hon. Lekuton!

Hon. Lekuton: Hon. Speaker, I beg to move that the Traffic (Amendment) Bill (National Assembly Bill No. 33 of 2014) be now read a Third Time. I request the Member for Samburu West to second.

Hon. Speaker: Hon. Lati Lelelit.

Hon. Lati: Thank you, Hon. Speaker. I second.

Before I sit down, I want to congratulate Hon. Lekuton. He has been very prolific in this House. I wish him well and that the people of Laisamis will see the good work he has done and bring him back. He is one of the best pastoralists we have ever had in this House.

Thank you.

Hon. Speaker: The Member for Laisamis, Hon. Joseph Lekuton, I put the Question. Of course the quorum still subsists, including the Member standing.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

REPORT

STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL

Hon. Speaker: Hon. Sakaja.

Hon. Sakaja: Thank you, Hon. Speaker. I beg to move:

THAT, the Motion for agreement with the report of the Committee of the whole House be amended by inserting “subject to recommittal of provisions relating to the National Employment Authority Act (No. 3 of 2016)”.

I would like to ask Hon. Kamama to second the amendment.

Hon. Speaker: Hon. Kamama.

Hon. Abongotum: Hon. Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Members, for the convenience of the House, I have to get the House to agree on the next Order, so that if the House agrees to go into committee, it does so with regard to both businesses.

Next Order.

REPORT

THE REFUGEES BILL

Hon. Abongotum: Thank you, Hon. Speaker. I wish to move that the Motion for agreement with the report of the Committee of the whole House be amended by inserting the words “subject to recommittal of Clause 7.”

I ask my good friend the next Senator of this great city to second.

Hon. Speaker: Hon. Sakaja Johnson.

Hon. Sakaja: Thank you for the prophetic words from the Member for Tiaty.

I second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Members, I need to guide that having passed those two Motions, we refer to the business appearing as Nos. 11 and 12 in Committee of the whole House. So, let us rise.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Muturi) left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Cheboi) took the Chair]*

The Temporary Deputy Chairman (Hon. Cheboi): We will start with the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 48 of 2016). As you are aware, there is only one clause we are dealing with.

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL

*(Recommittal of provisions relating to the
National Employment Authority Act (No.3 of 2016)*

Provisions relating to the National Employment Authority Act (No.3 of 2016)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Employment Authority Act (No.3 of 2016) by inserting the following items in proper chronological sequence—

s.28(1) Delete and substitute therefor the following new sub-section

“28. (1) Whenever a vacancy arises in a public or State office at the national government or county government, the concerned State office, public office or national government or county government shall convey details of the vacancy to the Authority.”

s.30 (3) Insert the words “county entity,” immediately after the words “State entity”

I am grateful for the kind indulgence of both the substantive Speaker and yourself. This matter was brought yesterday but not procedurally. This amendment is very simple and it is for the benefit of a lot of the young people you can see here today.

We passed the National Employment Authority Act, which I sponsored, in 2016, but at the time we omitted county governments because at that point we could not wait for it to go to the Senate.

This Authority that is soon to be launched will now, given this amendment, require that even county governments, before making any employment in public service, to go through the Authority so that whoever is hired, especially for young people, are not hired on the basis of tribe, who they know or connections, but purely on the basis of merit, and that there be a national database of all those seeking employment. It also includes positions of internship for young people in colleges. Therefore, now it is going to apply at both national and county levels.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Provisions relating to the National Employment Authority Act (No.3 of 2016) as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): We are through with that one. We will move to the next.

Hon. Sakaja, proceed and move.

Hon. Sakaja: Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 48 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Let us go to the next one.

THE REFUGEES BILL

(Recommittal of Clause 7)

Clause 7

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Bill be amended by deleting clause 7 and substituting therefor the following new clause— The Refugee Advisory Committee.

The Refugee
Advisory
Committee

7. (1) The Committee shall consist of—

(a) the chairperson who has knowledge and experience in public affairs for a period of not less than ten years appointed by the Cabinet Secretary;

(b) the Principal Secretary or their representative from the Ministry responsible for refugee affairs;

(c) the Principal Secretary or their representative from the ministry responsible for foreign affairs;

- (d) the Principal Secretary or their representative from the Ministry responsible for devolution affairs;
 - (e) the Principal Secretary or their representative from the Ministry responsible for health;
 - (f) the Principal Secretary or their representative from the Ministry responsible for finance;
 - (g) the principal Secretary or their representative from the Ministry responsible for education;
 - (h) the Attorney-General or their representative;
 - (i) the Director of the Department of Immigration or their representative;
 - (j) the Inspector-General or their representative; and
 - (k) the Director, who shall be the Secretary to the Committee.
- (2) The Committee may when necessary co-opt for a specified period of time a representative from the host communities, a representative from Kenya National Commission for Human Rights and a representative from the United Nations High Commissioner for Refugees on an advisory role only and who shall have no right to vote.
- (3) The quorum for a meeting of the Committee shall be five members.
- (4) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.
- (5) The chairperson shall convene at least four meetings in every year.
- (6) Except as expressly provided in this Act, the Committee shall regulate its own procedure as it deems fit.

Hon. Temporary Deputy Chairman, the import of this amendment is that the Refugee Affairs Committee already exists under the current Refugee Act. This particular amendment seeks to change the name of the Committee to the “Refugee Advisory Committee” while retaining its membership as representatives of institutions charged with the mandate of policy-making. So, that is the justification.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 7 as amended agreed to)

Hon. Abongotum: Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Refugee Bill (National Assembly Bill No.29 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Omulele) in the Chair]*

REPORTS AND THIRD READINGS

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

The Temporary Deputy Speaker (Hon. Omulele): We will start with the Statute Law (Miscellaneous Amendments) Bill.

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.48 of 2016) and approved the same with amendments.

Hon. Sakaja: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I would like to request Hon. Wamalwa to second.

Hon. Wakhungu: Hon. Temporary Deputy Speaker, that was a critical amendment, especially with regard to the youth. We know that 70 per cent of the unemployed persons are the youth. When vacancies arise at both the national and the county level, notification has to be given to the authorities so that we have in place processes and procedures which are objective. The young people need employment opportunities and it should not be based on tribalism and nepotism.

I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, we do not have the numbers to put the Question. I direct that we move to the next Bill.

(Putting of the Question deferred)

THE REFUGEES BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Refugees Bill (National Assembly Bill No.29 of 2016) and approved the same with amendments.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I would like to request, Hon. Sakaja, the next Senator of the County of Nairobi to second.

Hon. Sakaja: Hon. Temporary Deputy Speaker, once again Hon. Kamama has been gracious enough to speak fact and truth about the future.

I second that the House doth agree with the Report. We were not able to put the Question on the earlier Bill, but permit me to thank the Members of this House for the support they have given on matters relating to the young people of Kenya. Over the last four years, Members of this House have supported the four Bills I brought to this House. I am sure you remember the

one on 30 per cent of procurement for the youth and that one on the National Employment Authority. There are two others that are still being processed. I want to graciously thank them. I also want to assure them that I shall continue with this agenda as the Senator of Nairobi County, especially in implementation of the National Employment Authority which is now going to affect counties. All employment in counties must be done in a way that the youth get opportunities. It is no longer about who you know or where you come from or how much you can pay, it is about merit.

I wish all the Members of Parliament the best. I will not be back in this House; I will be in the upper House next door.

(Laughter)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Sakaja, we wish you well in your new endeavour. We hope that you will achieve your dreams.

(Question proposed)

For obvious reasons, I will not put the Question. I direct that we move to the next business in the Order Paper.

(Putting of the Question deferred)

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.6) BILL

(Hon. Katoo on 24.5.2017)

(Resumption of Debate interrupted on 7.6.2017)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, this is resumption of debate. Do I see interest from Hon. Okoth, Member for Kibra? I am informed that you had already spoken to this matter.

Hon. Okoth: Hon. Temporary Deputy Speaker, I already spoke on this matter, however, I rise to point out the issue of quorum. The numbers are very low in the House. We do not have quorum.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Okoth, give me a minute to ascertain that there is no quorum. Therefore, in accordance to our Standing Order Nos.34 and 35, I direct that the Quorum Bell be rung for 10 minutes.

(Quorum Bell was rung)

Hon. Members, I direct that you stop ringing the Bell. The 10 minutes have lapsed.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, the time being 4.11 p.m., this House stands adjourned until Tuesday, 13th June 2017 at 2.30 p.m.

The House rose at 4.11 p.m.