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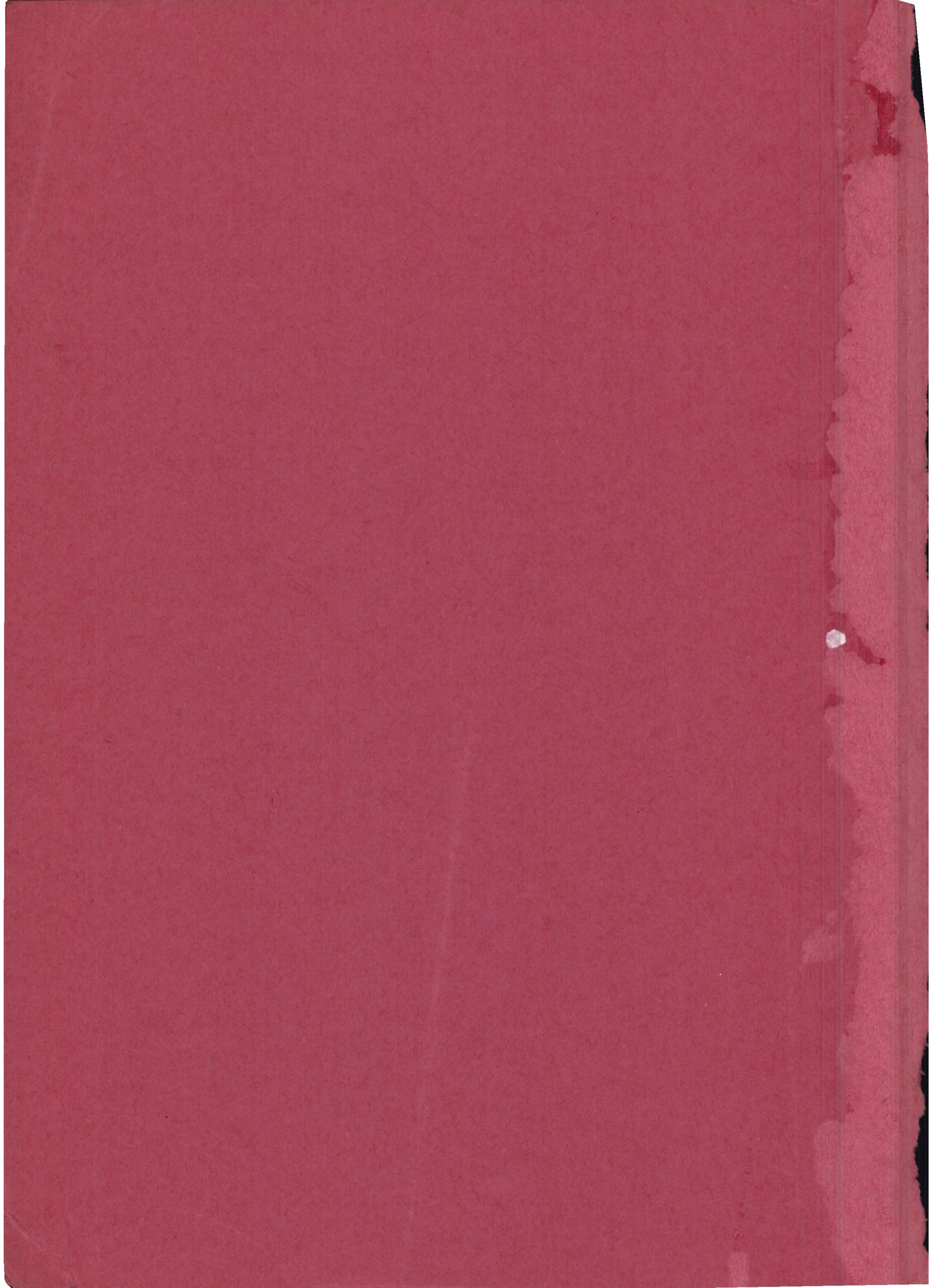
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**Report on the Official visit by the Deputy  
speaker, Chairmen of Committees and  
Three other Members of parliament  
from Various Committees to the  
Canadian Parliamentary Centre,  
Canadian Parliament and the  
New York State Assembly  
in Albany, U.S.A.**

28th JULY TO 8th AUGUST, 2003

NOVEMBER 2003.



**KENYA NATIONAL ASSEMBLY**

**REPORT ON**

**OFFICIAL VISIT BY THE DEPUTY SPEAKER,  
CHAIRMEN OF COMMITTEES AND THREE OTHER  
MEMBERS OF PARLIAMENT FROM VARIOUS  
COMMITTEES TO THE CANADIAN PARLIAMENTARY  
CENTRE, CANADIAN PARLIAMENT AND THE NEW  
YORK STATE ASSEMBLY IN ALBANY, U.S.A**

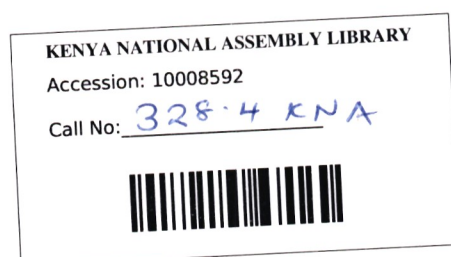
**28<sup>TH</sup> JULY TO 8<sup>TH</sup> AUGUST 2003**

**PARLIAMENT**

**BUILDINGS**

**NAIROBI**

**NOVEMBER 2003**



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**REPORT ON THE OFFICIAL VISIT BY THE DEPUTY SPEAKER,  
CHAIRMEN OF COMMITTEES AND THREE OTHER MEMBERS  
OF PARLIAMENT FROM VARIOUS COMMITTEES TO THE  
CANADIAN PARLIAMENTARY CENTRE, CANADIAN  
PARLIAMENT AND THE NEW YORK STATE ASSEMBLY IN  
ALBANY, U.S.A.**

**PREFACE**

As part of capacity building for members of Committees and the need to strengthen Committees, the Kenya National Assembly in conjunction with SUNY-Kenya, organized a two-week Chair study tour to Canadian Parliamentary Center, Parliament of Canada and the New York State Assembly, in Albany, U.S.A. between 28<sup>th</sup> July to 6<sup>th</sup> August 2003.

The study tour to the Canadian Parliament and the New York State Legislature was intended to help Chairmen of Committees understand matters such as effective Committee management, the roles of Committee Chairs, how to work with parliamentary staff, how to handle legislation, the oversight functions of Committees, the use of public hearings and relations with the media and general public. The SUNY-Kenya, a USAID funded Parliamentary Support Programme that works in partnership with Parliament to promote assistance in such areas as training, Committee support, workshops, study tours and budgetary process, agreed to provide overall logistical and financial support.

This report emanates from the Study Tour by the Deputy Speaker who is also the Chairman, Liaison Committee, Chairmen of Departmental and Watchdog Committees, and three other members of Parliament from various Departmental Committees to the Parliament of Canada in Ottawa and the New York Legislature at Albany, New York. During the two-week tour the delegation had the opportunity to hold frank discussions with their counterparts in the House of Commons and the State Assembly in Ottawa and New York respectively, including Committee Chairmen; senior Members of the Opposition parties and Senior Members of Staff from both Legislatures.

The delegation had also an opportunity to meet with people in the media and senior officers of the two institutions. This report gives an introduction of the Canadian and New York State Parliamentary Systems and highlights significant areas in the Legislative, the Executive and the Judiciary arms of

government The major features of the Committee system have also been elaborated while areas where differences exist have also been highlighted.

In the report are several recommendations arising out of the lessons learnt which the delegation finds useful to other Members and urge them to use them as a springboard through which discussions on the issues facing our committee system could be initiated and deliberated with a view to building and sustaining a healthy democratic and active Parliament. Nevertheless the experience gained and observation made highlighted various strengths in the operations of the Committee system in Kenya and clearly demonstrate that the latter has achieved a lot as far as Committee operations are concerned. What is required is the dedication and commitment of all the players towards making the requisite changes and for the Members to exhaust the powers inherent in the Standing Orders as far as Committee operations are concerned. In preparation for the tour, the Kenya National Assembly in conjunction with the SUNY-Kenya organized a one-day preparatory seminar for the delegation to orient them on procedures and rules for Committees as well as introduction to the purpose and themes of the tour.

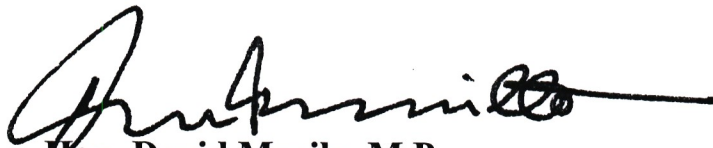
As a follow up to the Canadian and the U.S.A trip, the Kenya National Assembly in conjunction with SUNY-Kenya organized a Workshop for the Liaison Committee on the management of House Committees in Mombasa between 4<sup>th</sup> and 6<sup>th</sup> December 2003. The Workshop adopted a report on the trip and resolved that it should be tabled in the House. A report on the Workshop and recommendations made thereon is appended to this report.

The delegation wishes to thank SUNY-Kenya for agreeing to finance and organize the tour. We are also grateful to the Speaker of the National Assembly for being supportive of the tour and for granting leave to the Members to participate. Our special thanks also go to the Clerk of the National Assembly and staff for the timely production of this report.

The following Members and Staff participated in the study tour:

- 1. The Hon. David Musila, M.P. - (Chairman) – Deputy Speaker and  
Chairman Liaison Committee**
- 2. The Hon. (Dr) Noah Wekesa, M.P.- Chairman, Agriculture, Lands  
and Natural Resources**
- 3. The Hon. Gideon Moi, M.P.- Chairman, Energy, Communications  
and Public Works**

4. **The Hon. Daniel D. Karaba, M.P.- Chairman, Education, Research and Technology**
5. **The Hon. (Dr) Galgalo G. Boru, M.P.- Chairman, Health, Housing, Labour and Social Welfare**
6. **The Hon. Soita Shitanda, M.P.- Chairman, Finance, Planning and Trade**
  
7. **Hon. David Mwenje, M.P.- Chairman, Administration, National Security and Local Authorities**
  
8. **Hon. Geoffrey Kariuki, M.P.- Chairman, Defence and Foreign Relations**
9. **Hon. Paul Muite, M.P.- Chairman, Administration of justice and Legal Affairs**
10. **Hon. Justin B.N. Muturi, M.P.- Chairman, Public Investments Committee**
11. **Hon. James Omingo Magara, M.P.- Chairman, Public Accounts Committee**
12. **Hon. (Prof) Christine K. A. Mango, M.P.**
  
13. **Hon. Amina Abdallah, M.P.**
  
14. **Hon. Jane W. K. Kihara, M.P.**
  
15. **Mr. Michael R. Sialai- Senior Clerk Assistant**
  
16. **Mrs. Florence Eunice Abonyo- First Clerk Assistant**



**Hon. David Musila, M.P.,  
Deputy Speaker and Leader  
of the Delegation.**

## **1.0 INTRODUCTION TO PARLIAMENTARY SYSTEM**

### **1.1 CANADA**

Canada is a democratic constitutional monarchy with the Queen of Canada as the Head of State and whose powers her representative, the Governor-General, exercises. Although the Queen is the Head of the State, Canada is an independent Sovereign democracy. The Governor-General, who is now always a Canadian, is appointed by the Queen on the advice of the Canadian Prime Minister, and except in very extra-ordinary circumstances, exercises all powers of the Office on the advice of the Cabinet which has the support of a majority of the Members of the popularly-elected House of Commons. Canada is a Federal State, with ten largely self-governing provinces and two territories controlled by the Central Government. The provinces formed a Federation with strong central government for each of the federating communities.

Like other democracies, Canada has three arms of Government namely the Legislature, the Executive and the Judiciary.

#### **1.1.1 Legislature**

The Parliament of Canada consists of the Queen, the Senate and the House of Commons at the Federal level and the Legislatures at the provincial level. The Members of the House of Commons are elected while the Senate is appointed. Each province has a legislative assembly with no upper house. The national Parliament makes laws, while the provincial legislatures have power over direct taxation in the province for provincial purposes, natural resources, prisons, hospitals, local works and undertakings, solemnization of marriage, property and civil rights in the province etc. However, Parliament and the provincial legislatures both have power over agriculture, immigration and over certain aspects of natural resources, but if their laws conflict, the national laws prevail.

The exclusive national powers include taxation, direct and indirect; regulation of trade and commerce, higher education; the post office; defence; railways; the fisheries among others. Cabinet Ministers report to Parliament on the activities and programs of their federal departments and must defend their actions before Parliament. The Courts' interpretation of Provincial and national powers has added more power to the Central Government on a number of areas.

### **1.1.1.1 The Senate**

The Senate has 104 Members who are all appointed by the Prime Minister. They hold the office till the age of 75 years unless they miss two consecutive sessions of Parliament. For Senators to be appointed, they must be at least 30 years old, and must have real estate worth \$4, 000 net, and total net assets of at least \$ 4, 000. They must reside in the province or territory for which they are appointed. The Senate can initiate any bills except for money bills. It can amend or reject a bill referred to it by the House of Commons.

In practice, however, the Senate rarely makes any amendment that touches on the principle of a bill and their amendments include clarifying, simplifying and tidying-up amendments, which are almost always accepted by the House of Commons. The Senate's main function in the consideration of bills is in its Committees where it goes over bills clause by clause and hears evidence from various stakeholders. This Committee's work is especially effective because the Senate has many Members with specialized knowledge and many years of legal, business or administrative experience.

### **1.1.1.2 The House of Commons**

The House of Commons has 282 Members who are directly elected from 282 constituencies (ridings) through the system of first-past-the-post. Every province must have at least as many Members in the Commons as it has in the Senate. The number of ridings is changed after every census, pursuant to the Constitution and Electoral Boundaries Readjustment Act that allot parliamentary seats roughly on the basis of population.

Members of Parliament or of a provincial legislature are normally elected for not more than five years. However, the term can be shortened by a snap election called by the Prime Minister. Political power is heavily concentrated in the elected House of Commons

where the leader of a political party with the most seats becomes a Prime Minister.

### 1.1.2 The Executive

The Executive power in Canada is effectively in the hands of the Prime Minister and his Cabinet. The premiership (First minister ship) is not created by law, though the law recognizes it. The Canadian Constitution still contains not one syllable of his qualifications, how he is chosen or removed, or his powers. However, there is an Act of Parliament providing for a salary for the person holding the recognized position of First Minister. Everything else is a matter of established usage or ``**convention**``. The Prime Minister is normally, a Member of the House of Commons. A non-member could hold the Office but would, by custom, have to get elected to a seat soon thereafter. The Governor-General appoints him.

The Prime Minister appoints Members of his Cabinet from amongst the Members of the House of Commons, although Senators may also be appointed to the Cabinet. By custom, almost all the Members of the Cabinet must be Members of the House of Commons, or, if not, must get elected as soon as possible. Usually there is only one Cabinet Minister in the Senate, who becomes the Leader of the Government in the Senate. The Cabinet consists of a varying number of Ministers who hold ``port-folios`` for which they are answerable and accountable to the House of Commons or the legislature for their particular departments.

The Cabinet is responsible for most of the legislations. It has the sole power to prepare and introduce tax legislation and legislation involving the expenditure of public money. The money bills are introduced in the House subject to a royal recommendation in the form of a message from the Governor-General. However, any Member of either House can move a motion to decrease a tax or expenditure, and the House concerned can pass it, though this hardly ever happens. If a Cabinet is defeated in the House of Commons on a Motion of Censure or want of Confidence, the Cabinet must resign or ask for dissolution of Parliament.

### 1.1.3 Judiciary

A cornerstone of Canada system of government is an independent judiciary. No one is above the law not even the three arms of the government.

The Judicial power is organized at the federal and provincial levels and protected against interference by the legislature or executive power by the doctrine of separation of powers. The Supreme Court, apart from dealing with criminal and civil law, also interprets the constitution, notably the charter of Rights and Freedoms.

The Judges of the Supreme Court of Canada are appointed by the Governor-General on the advice of the National Cabinet and hold the office till they are 75 years old. They can be removed only if both Houses of Parliament asked for their removal by a formal address to the Crown. However, no Judge of any Canadian Superior Court has ever been so removed. Judges of the County Courts can be removed only if one or more judges of the Supreme Court of Canada, or the Federal Court, or any Provincial Court, after inquiry, report that they have been guilty of misbehavior, or have shown inability or incapacity to perform their duties. Otherwise the independence of judiciary in Canada is enhanced by the fact that the Supreme Court has the final decision on all constitutional questions and that no one is above the law.

### 1.2 THE NEW YORK STATE ASSEMBLY

New York State has been a leader in the political, cultural and economical life of the United States.

The Governor, who is elected for four years term, heads the Executive Branch of the Government. Also elected for four years are the Lieutenant Governor, the Comptroller, and the Attorney General. The Lieutenant Governor serves as the Senate's President and has a casting vote. The Governor appoints senior officials, is the Chief of the State militia and is responsible for delivering an annual State and the State message to the people.

The state legislature has a senate of 62 members and an assembly of 150 members who are elected for two- years terms. The Chief Officer in the Assembly is the Speaker while a legislative leader in the Senate is the Temporary President. New York elects two U.S. Senators and 29 members of the House of Representatives, giving the state 31 electoral votes in Presidential elections.

## **1.2.1 The Legislature**

The New York State Constitution vests the State's law-making power in a two-house legislature composed of a 62-member senate and a 150 member Assembly. The responsibilities of the Legislature include proposing laws, reapportioning legislative and congressional districts every ten years after the national census, confirmation of the Senate of appointments of non-elected state officials and court judges, proposing the amendments to the state Constitution among others.

### **1.2.1.1 The Senate**

The Senate is composed of Sixty-two Members who represent approximately 306,000 constituents each. The Senate elects among its members a Temporary President who directs and guides the business of the Senate, appoints members to Senate standing committees and appoints the Senate staff. He serves as the Majority Leader of the majority party while the minority party of the Senate chooses a Minority Leader. Senators are provided with staff to assist them carry out their legislative duties, delivering constituent services etc. They are also provided with office space both in Albany and the District as well as office equipment, furnishings and supplies in order to serve their constituents. The Majority and Minority leaders each have staff to provide counsel, policy analysis program development and Washington DC representation.

### **1.2.1.2 The Assembly**

The Assembly which is composed of 150 members elected from districts (ridings) around the State represent about 127 000 constituents each. It has 36 Standing Committees through which it conducts its legislative business. The Assembly elects from among its members a Speaker who directs and guides the business of the Assembly and appoints members of the Committees and other Assembly positions.

Each Member of Assembly is entitled to employ staff to assist them in carrying out their Legislative duties and, where applicable, their responsibilities as Committee chairs or leadership. The Speaker of the Assembly and the Assembly Minority Leader employ staff to provide counsel, legislative program development and policy analyses.

**In Kenya we have a multiparty parliamentary cum Presidential system of Government with an executive President, who is the Head of State as well as of the Government. There are three arms of Government namely the Executive, Legislature and the Judiciary. The concept of separation of powers between the three arms is recognized in the Constitution. The Executive authority of the Government is vested in the President who is directly elected by the people and forms the Government from among the Members of the National Assembly. The Legislature, which consists of President and the National Assembly, has been vested with the legislative power of the Republic. The Judiciary on the other hand has unlimited original jurisdiction in civil and criminal matters and such other jurisdiction and powers as may be conferred by the Constitution or any other law of the land. The delineation of powers of the three organs of the State is not strictly distinct and separate from each other. They have been put in place as mechanisms to ensure balanced control of the State organs.**

**Whereas the Judiciary is central to the legitimate operation and sustainability of the constitutional system, parliament has virtual supremacy over the powers of legislation in the land. On the other hand, the functions of the Executive and the Legislature are complementary in that the President and Ministers are Members of Parliament and President assents to Bills passed by Parliament. Also the President who is a Member of the Executive appoints Chief Justice and Judges of the High Court on the advice of the Judicial Service Commission. However, Judiciary is independent in that the Judges enjoy security of tenure. Parliament also plays an important role in this relationship, in that it has the ability to pass a vote of no confidence in the Government of Kenya (Executive) and controls Government financial expenditure.**

## **2.0 PARLIAMENTARY COMMITTEE SYSTEM**

### **2.1 CANADA**

The House of Commons establishes various types of Committees under specific terms of reference through Standing Orders or from time to time, by special orders of the House.

Standing Orders 104 to 128 of the Canadian House of Commons regulate the formation of Committees and the Committees exercise only those powers vested in them by the House.

There are six types of Committees namely:

- Standing Committees
- Special Committees
- Legislative Committees
- Joint Committees
- Sub-Committees
- Committee of the Whole House

### **2.1.1 Types Of Committees**

#### **2.1.1.1 Standing Committees**

Standing Order 104(2) provides for the creation of 17 Standing Committees, which are appointed for the life of a Parliament.

There are currently 18 Standing Committees namely:

- Aboriginal Affairs and Northern Development
- Agriculture and Agric-Food
- Canadian Heritage
- Citizenship and Immigration
- Environment as sustainable Development
- Finance
- Fisheries and Oceans
- Foreign Affairs and International Trade
- Health
- Human Resources Development and the status of persons with disabilities
- Industry
- Justice and Human Rights
- National Defence and Veterans Affairs
- Natural Resources and Government Operations
- Procedure and House Affairs
- Public Accounts
- Transport

The Standing Committees study and report on all matters relating to the mandate, management and operation of government departments assigned to them; review all Order in Council appointments referred to them; and examine all reports referred to them.

#### 2.1.1.2 Legislative Committees

Legislative Committees are created on ad hoc basis to examine bills in detail and may report on the bills with or without amendments.

#### 2.1.1.3 Special Committees

These Committees are sometimes referred to as “task forces” and are appointed on ad hoc basis by the House through a motion to study specific matters.

#### 2.1.1.4 Joint Committees

Standing Order 104(2) provides for the creation of three Standing Joint Committees namely:

- Library of Parliament
- Official Languages
- Scrutiny of Regulations

#### 2.1.1.5 Committee of the Whole House

The Committee comprises of the entire membership of the House of Commons and operates under a different set of rules.

#### 2.1.1.6 Sub-Committees

Standing Committees are free to create Sub-Committees and may delegate their responsibilities to such Committees created with the exception of the power to directly report to the House. The Sub-Committee on Agenda and procedure commonly called the Steering Committee meet at the call of the Chair to consider business to be recommended to the Committee and the schedule of Committee meetings.

**In the Kenyan context there are four types of Committees namely:**

- **Investigatory/Oversight Committees (2)**
- **Departmental Committees (8)**
- **House Keeping Committees**
- **Ad hoc Committees**

**These are Select Committees of the House and are governed by various Standing Orders. In the case of Ad hoc Committees, the House through a Motion establishing them gives their mandates.**

### **2.1.2 Power and Mandate of the Committees**

Committees are given different kinds of powers by the House of Commons in relation to their specific task. In general all Committees are empowered to retain the services of such expert, professional, technical or clerical staff as may be necessary.

#### **2.1.2.1 Legislative Committees**

The powers of a Legislative Committee are set out in Standing Orders 113(5) and 120 to examine and inquire into the bills referred to it by the House and to report on the bills with or without amendments. Legislative Committees are appointed on an ad hoc basis and cease to exist once they have reported back to the House. The current trend has been for legislation to be studied in Standing Committees.

#### **2.1.2.2 Special Committees**

The powers of a Special Committee are set out in its order of Reference and do not include those listed in the Standing Orders unless specified in the Order of Reference. Special Committees which are sometimes called “task forces” cease to exist after they have presented their report or at the end of the Session.

***Ad hoc Committees in the Kenyan Parliament operate like Special and Legislative Committees in considered case in that they exist once they have reported back to the House. They***

*can request for an extension through a report or Motion to the House if the time allocated by the House is insufficient.*

#### 2.1.2.3 Standing Committees

- Standing Committees are empowered to study and report on all matters relating to the mandate, management and operation of government departments assigned to them; to review all Order in Council appointments referred to them; and examine referred reports, returns or other papers tabled in the House in accordance with an Act of Parliament.
  
- Standing Committees receive their mandates in three different ways:
  - (i) An order of reference from the House
  - (ii) Standing Order 108(2) and (3)
  - (iii) Mandate arising from legislation

#### 2.1.2.4 Joint Committees

Joint Committees have the same powers as those of Standing and Special Committees. However, the Standing Joint Committee for the scrutiny of Regulation has additional powers because its activities sometimes lead to the invocation of special procedures in the House.

The House of Commons has three Standing Joint Committees namely:

- (i) Committee on Scrutiny of Regulations whose mandate includes review and scrutiny of statutory instruments.
- (ii) Library of Parliament Committee which looks into the effectiveness, management and the operation of the Library.
- (iii) Official Languages Committee, which reviews and reports on official languages, policies and programmes including reports of the Commissioner of official languages.

Kenya Parliament does not have Joint Committees since the House has a Unicameral Chamber. However, some Departmental Committees have held joint sittings e.g. both Finance and Agriculture Committees held joint sittings when discussing Kenya Meat Commission and Agriculture Finance Corporation Sessional Paper during the Eighth Parliament.

#### 2.1.2.5 Sub-Committees

Standing Order 108(1)(a) provides that Standing Committees can create Sub-Committees and may delegate their responsibilities to the Sub-Committees with the exception of the power to report directly to the House. Special Committees may form Sub-Committees only if so ordered by the House. Legislative Committees may form only one Sub-Committee on agenda and procedure commonly called the “Steering Committee”.

***Committees in the Kenya Parliament are empowered to form Sub-Committees to look into specific issues and report back to them. Like the Canadian case, the Sub-Committees cannot be delegated the power to report to the House as this is the reserve of the main Committee itself.***

### 2.1.3 Membership Of Committees

#### 2.1.3.1 Standing Committees

- As provided in Standing Order 104, most Standing Committees consist of 16 Members with the exception of the following i.e. Committee on Public Accounts which has 17 members while Committee on Foreign Affairs and International Trade and Committee on Human Resource Development and the Status of Persons with Disabilities which have 18 Members each.
- The Standing Committee on Procedure and House Affairs, which acts as the Striking Committee, selects members.
- Within the first ten sitting days after its appointment, the Committee on Procedure and House Affairs is required to

prepare and report to the House, list of Members to sit on the Standing Committees of the House.

- The Standing Orders provide for “**associate Members**” of Committees who may be named to Sub-Committees of the main Committees and who may serve as substitute for one or a number of Committee meetings.
- Within 5 sitting days of the organization of a Standing Committee, pursuant to Standing Order 114(2)(a), every Member may file with the Clerk of the Committee a list of not more than 14 Members from his own party who may substitute for him during Committee meetings.

#### 2.1.3.2 Special Committees

- Each Special Committee is created by means of a Motion defining its mandate and membership and Standing Order 105 limits the membership to 15.
- If the Members of the Special Committee are not named in the order of reference then the Standing Committee on procedure and House Affairs prepares a list of Members immediately following the Committee’s creation. The Standing Orders do not provide for changes in the membership of Special Committees and the concept of substitute Members does not exist for Special Committees. Members of a Special Committee may be appointed in the same motion that establishes the Committee or later by the Standing Committee on Procedure and House Affairs.

#### 2.1.3.3 Legislative Committees

- Standing Order 113(1) limits to 15 the number of Members who can be appointed to a Legislative Committee.
- Within five sitting days after the commencement of debate at second reading of a bill, which is to be referred to a Legislative Committee, the Standing Committee on procedure and House Affairs is required to meet and draw up a list of Members of the Legislative Committee.

- Standing Order 114(3) provides for changes in the membership of Legislative Committees. Such changes take effect after notification thereof, signed by the whip of recognized party.
- Members who are unable to carry out their duties on a Legislative Committee may be replaced by filing a change in membership signed by the party whip.

**In the Kenyan case, Bills are referred to the relevant Committees in form of a Motion pursuant to S.O 101A.**

#### 2.1.3.4 Joint Committees

- Joint Committees are composed of Members from both the House of Commons and the Senate. They are appointed under the Standing Orders of each House or by a separate motion passed by both Houses.
- Under Standing Order 104(3), the Standing Committee on procedure and House Affairs draws up and presents a list of Members of Parliament called to sit on these Committees.
- The composition of special Joint Committees is carried out in the same manner as other Special Committee. Both Houses always receive proportional representation on Joint Committees.

#### 2.1.3.5 Sub-Committees

- Standing Order 108(1)(b) stipulates that Standing Committees are empowered to establish Sub-Committees whose Members may be selected from among the list of associate Members as provided for by Standing Order 104.
- Members appointed to a Sub-Committee are usually chosen from among the Members of the Standing Committee in question.

#### 2.1.4 The Role of a Chair of a Committee

- Members of the Standing and Special Committees elect their Chairmen through secret ballot. It is traditional for Joint Committees to elect Co-Chairs, one of whom is a Senator and the other Member of the House of Commons.
- Should a vacancy occur, the Vice-Chair of Standing or Special Committees cannot assume the Chair and the Committee must

elect a successor immediately. In the temporary absence of the Chair and Vice-Chair, the Committees select one of its Members to be Acting Chair.

- The Speakers from the Panel of Chairmen appoint legislative Committees Chairs.
- **Power, Role and Responsibilities of the Chair**
  - The Chair is elected by the Committee to serve as its presiding officer and the spokesman through whom all matters are channeled.
  - Under the Standing Orders of the House, the Chair has the power to maintain order and decorum and to decide all questions of order and procedure.
- The Chair's responsibilities include:
  - Presiding at meetings and to ensure the presence of the Vice-Chair or an Acting Chair in his absence.
  - Calling meetings on his own authority as authorized by the Committee or as requested by four Members pursuant to Standing Order 106(3).
  - Recognizing Members and deciding their order of speaking in accordance with established procedure.
  - To prepare Committee budgets.
  - To sign all Committee reports and present them to the House. In Canada, the decisions of the Chair are not debatable but may be appealed to the Committee.

**In the Kenyan case, Chairman of a Committee presides over the committee's business and oversees its proceedings in accordance with the provisions of the standing orders. The chairman presides a committee when it is deliberating on its programme of work, schedule of sittings, inspection tours, findings, witnesses to be called/summoned, agenda for each sitting, drafting and deliberation of the reports to the House. Pursuant to the standing orders the chairman has the power to maintain order and decorum during sittings and decides all questions of order and procedure. However Mr. Speaker may be asked to make a ruling on a matter that has arisen from the committee for which Members are not satisfied with the chairman's ruling. The Speaker's ruling will be final.**

**In the absence of the chairmen, members elect one of their own to act for that particular meeting. At the moment there is no provision for**

**a vice-chairman. The chairmen of Public Accounts Committee and Public Investments Committee have powers to designate a member to act in their absence, provided they belong to an Opposition Party.**

### **Right to vote**

**The chairman has an original vote only. In case of a tie the matter under consideration is lost. Members are however encouraged to arrive at their decisions in consensus.**

**Duties and responsibilities of the chairman include presiding at meetings and calling meetings in consultation with members and the Office of the Clerk.**

#### **2.1.5 The Role a Committee Member**

A Committee Member, like the Chairman, has a role to play in the management and operations of the committee.

This role covers the period before, during and after the meeting as categorized below:

##### **(i) Attending a meeting**

It is the responsibility of each participant of a meeting to ensure that it attains its objectives. As a result, the member must adequately prepare in advance and actively contribute to make every meeting productive.

##### **(ii) Taking an active role**

This involves gathering information, e.g., background research and contacting other participants. It also entails identifying opposition by taking cognizance of other attendees' views on a topic and positive lobbying.

##### **(iii) Being seen and heard**

The member should focus on the subject, be confident and participate actively.

**(iv) Listening to others**

Should listen attentively, take personal notes, respect others and tailor speech to suit the occasion.

**(v) Handling problems**

Should identify weaknesses, reprimand the chairman where necessary, and be useful in solving problems.

**(vi) Attending to assigned responsibilities**

The member should attend to assigned responsibilities, particularly after the meeting.

**2.1.6 The Role of A Committee Clerk**

A Committee Clerk plays the twin role of a procedural adviser as well as an administrative officer of the Chairman and the Committee respectively.

He/she is the Chairman's right-hand person and is supposed to develop and maintain full cooperation and rapport with the chairman. He deals with routine and detailed work of the Committee and also ensures that the Chairman is fully briefed on Committee matters. In the course of his/ her work, the Secretary should consult the Chairman from time to time.

The duties of the Clerk are as follows:-

a) Preparing for a Committee meeting:-

- Preparation of the notice for the meeting and sending it out within the period prescribed in the constitution/Standing Orders.
- Preparation of the agenda in consultation with the Chair.
- Timely preparation of minutes
- Booking the venue complete with all necessary furniture and equipment

When preparing for the meeting, however, the Secretary ought to establish that the timing is appropriate and that the room venue is suitable for the purpose for which the meeting is called.

(b) The Clerk attends the meeting and performs the following tasks:

- Records attendance and liaises with the chair to ensure quorum before the meeting begins;
- Records proceedings including motions with proposers and seconders and records numbers who have voted;

- Records names of those who have to take further action and deadlines for such action
- Collects all committee materials for filing and custody.

(c) After the meeting the Clerk ensures that:-

- The minutes are written and a copy is filed.
- All letters are written as directed by the Committee.
- The chair is briefed on all matters to be followed up
- Members who undertook during the meeting to do specific tasks after the meeting are reminded and briefed accordingly,
- In conjunction with the Chair, an agenda for the next meeting is prepared and
- All rules are correctly followed during meetings.

The Clerk is required to prepare briefing notes to the Committee members when matters before the Committee are complex and technical in nature. The notes should be rid of storylines and streams of consciousness and concentrate on what the audience finds of value and what will convince them to act as required. When writing the brief, therefore, two issues ought to come out clearly; namely,

- (i) The purpose of the brief- whether it aims at recommending or offering options and;
- (ii) How the meeting will act in response to the brief.

The Clerk prepares where necessary the brief to help the Chairman steer the meeting. These briefs touch on all items in the agenda and assist in ensuring that all-important issues are highlighted in the meeting.

### **2.1.7 Standing Committee On Finance**

The Standing Committee on Finance in the House of Commons is appointed for the life of Parliament and is charged with the responsibility of examining activities, administrative policies of the Department of Finance as well as the estimates of the Government. The Committee also examines specific issues related to the Finance Department like order-in-council appointments, legislation, reports and other relevant papers tabled in the House.

The government has opened up budget preparation and there are no major surprises. The Budget is developed from comments made following the prior budget, public opinion and the estimates. A Minister prepares a Committee Memorandum on the budget and present to relevant Cabinet Committee. The Committee considers the Memorandum and forwards it to the Minister for

Finance and the Prime Minister who would make a final decision on the budget proposals. The Treasury Board Secretariat works with individual Departments to assess their needs and new proposals before the budget is finalized. After the tabling of the estimates the Minister for Finance appears before the parliamentary Finance Committee to give a follow-up on the budget since it was tabled. New emerging policies, and other economic factors impacting on the budget projections are also discussed. The Minister uses the opportunity to focus on the future budget areas that Committee may need to focus on as a prelude to the tabling of a new budgetary proposal. Involvement of Members of Parliament in the budget making is minimal, as the government has already set agenda and commitment in the election campaign.

**In the Kenyan case, the Finance Committee considers financial matters and related issues to do with planning, trade, industry, tourist and promotion and management. The Minister responsible for Finance appears before the Committee on the measures taken to improve fiscal and monetary performance of the system. The Committee's participation in the budget preparation is inadequate. The technocrats in the Ministry of Finance and the other ministries play significant role in the budget making.**

#### **2.1.8 Public Accounts Committee (PAC)**

The Committee primary focus is not on policy but on the administration of policy i.e. to hold Government to account for the effective, efficient and economical implementation of policies, programs and initiatives. The Committee is therefore at the forefront of promoting democratic governance at the national level. The mandate of the Committee in Canada includes among other matters, review of and report on the Public Accounts of Canada and all reports of the Auditor General of Canada which are severally deemed permanently referred to the Committee immediately they are laid upon the Table, and any other matter which may be referred to it by to the House. To carry out its responsibilities effectively, the Auditor-General is given an unusual degree of independence from the Government. He is appointed by the Parliament from the private sector for a non-renewable 10-year term and reports to Parliament. Throughout the year, the Committee holds hearing attended by the Auditor-General, the audit team and senior public servants of the audited departments to review audit findings.

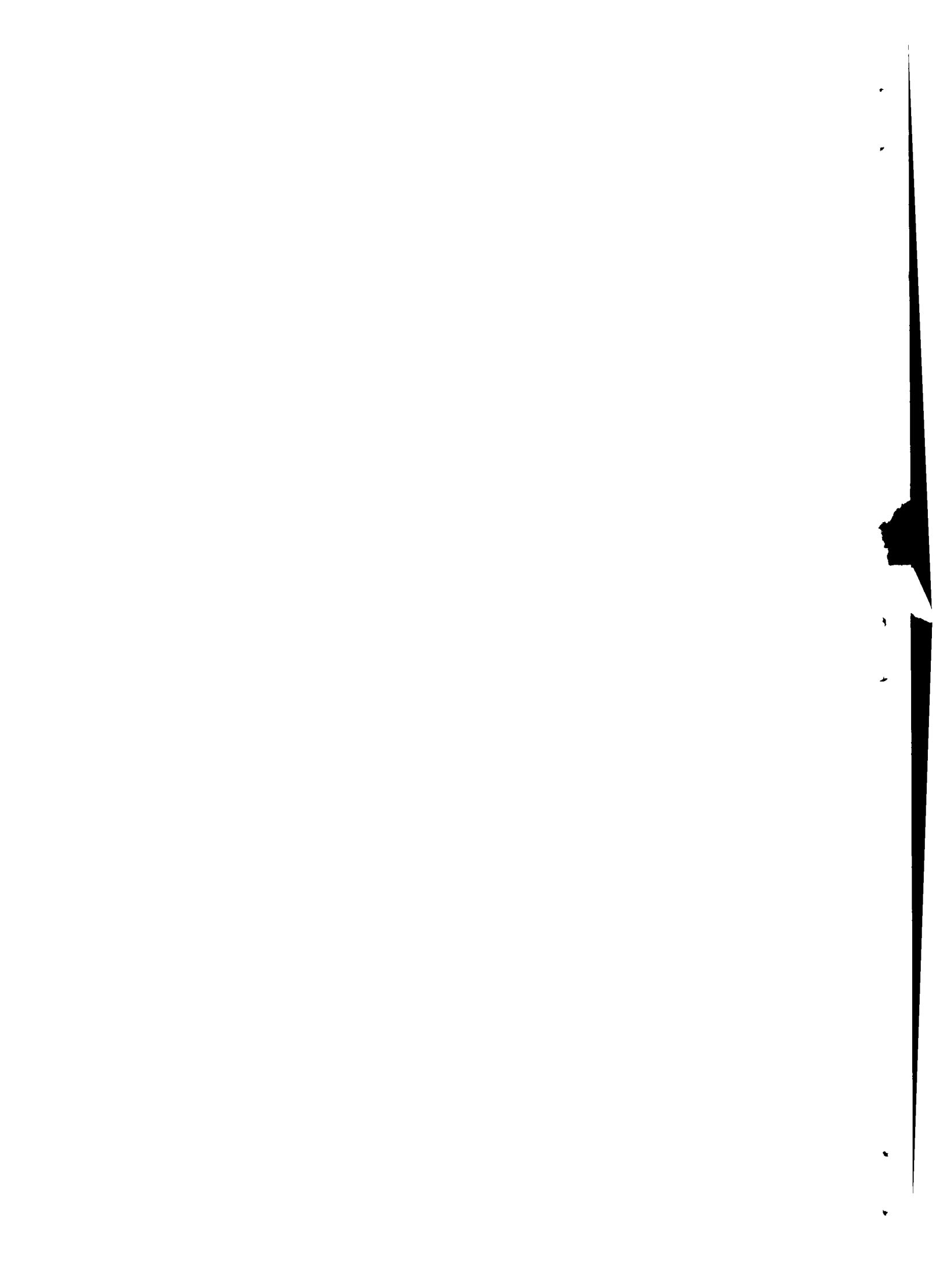
## Membership of Committee

The Public Accounts Committee consists of seventeen members who are appointed by the Standing Committee on Procedure and House Affairs according to party strength in the House. The House of Commons approves membership lists of the Committee through concurrence in a report of the Standing Committee. Every member of the Committee is supposed to provide the Clerk of the Committee with a list of not more than fourteen members selected from members of his/her own party, who may substitute for him/her during a meeting of the Committee.

The substitute Members shall not however become permanent members of the Committee. If no list has been filed by an individual member, the Chief Whip of any recognized party effects substitutions by filling notice thereof with the Clerk of the Committee. A Member resigns from the Committee by giving notice in writing to the Chairman of the Standing Committee on Procedure and House Affairs. Once the House has adopted the list of the Members, the Committee meets to elect a Chairman and two Vice-Chairmen, of whom two shall be members of the governing party and the third, a member in opposition party. Traditionally and following the British practices, a member from the Official Opposition has been appointed Chairman of the committee. He chairs the Committee in order to ensure that the Government financial transactions must be open to scrutiny that is independent and beyond reproach. The Chair serves as the presiding officer of the Committee and spokesperson through whom all maintains order and decorum and to decide all questions of order and procedure. Decisions of the Chair are not debatable but may be appealed to the Committee. The Chair's duties and responsibilities include calling meetings in his own authority as authorized by the committee, to recognize members and to decide their order of speaking, to sign all committee reports and present them to the House, and leads and receives delegations.

The Chairman of the Committee may vote only when there is a tie to keep the question before the committee but not to make a final decision.

The PAC has recommended that the Auditor General be enabled to present his comprehensive and other audit reports as soon as they are completed, rather than in one annual report format. This will allow the committee to deal with the Report in a timely manner and to exert a remedial influence as soon as possible after the audit is completed.



At the time of tabling the report, the Auditor General customarily provides a letter to the Chair of the Committee offering his suggestions as to the matters in the report that the committee may wish to consider as priority items in public hearings. There after a Subcommittee of the Public Accounts Committee is appointed to look at the issues raised in the Report. Minor issues are agreed to without taking evidence, while contentious and major audit queries are dealt with. This allows the Committee to clear backlog work.

Although the Committee's main task is to scrutinize the Auditor General reports, it also selects for scrutiny significant areas in the Public Accounts such as Financial Statements of the Government of Canada and the state corporations as well as some of the major programme expenditures of departments or agencies other than the immediate explained above. The Committee on Public Accounts considers the main Estimates for the office of the Auditor General, appointment of the Comptroller General and Auditor General.

The Auditor General is independent of the government, and is appointed for a 10-year period. The Office has the freedom to recruit its own staff and set the terms and conditions of employment for staff. The Auditor General has the right to ask the government for any information required to do the job as outlined in the Auditor General Act. Moreover, the Auditor General submits his reports directly to the House of Commons, through the Speaker.

In order for the watchdog Committees to be effective, Members from Government side should not assume that they are Government. They must question Government's activities and must not condone maladministration. The Standing Orders allows the Committee to form a sub-Committee on Agenda and Procedure (Steering Committee), which makes recommendations to the Committee.

## **Meetings**

The clerk of the House calls the first meeting of the Committee for the purpose of electing a Chairman. 48 hours' notice is given for any such meeting. A majority of the members of the Committee constitute a quorum. However, the Committee may authorize the Chairman to hold meetings in order to receive evidence despite lack of quorum. The Chair calls subsequent meetings of the Committee.

## **Witness**

The Committee has the power to send for persons, and such witnesses appear before the Committee after being invited to do so. However, should a witness refuse an invitation, the Committee may then decide by motion to summon the witness to appear. If a Committee wishes to hear testimony from a Member, the Chair would normally request that Member to attend. *However, the decision to order a Member of the House of Commons or the Senate to appear before the Committee lies with the House itself.*

The Public Accounts Committee meetings are normally open to the public and media, although it can decide to hold its deliberations in **camera**. In Canada, PAC takes up a large amount of time and work for parliamentary staff. Staff must prepare Members to face witnesses who are appearing before the Committee, and have good background knowledge and/or questions prepared in advance that will get to the heart of the matter.

## **Report to the House Presentation of Report**

Upon completion of its inquiry, the Committee presents its report to the House. This is done during the **Presenting reports From Committees** time, and the presenter may explain briefly the subject matter of the Report. The Report is not normally debated or adopted by the House. However, the Committee may wish to have its report concurred by the House by which means the Committee Chair will give notice of a Motion that the Report that has been presented to the House be concurred with. This Motion will be considered during Routine Proceedings under Motions. When a motion to concur with a report is moved, the House may hold a debate on the Report, adopt it, reject it or refer it back to the Committee with an instruction to amend a particular point therein.

## **Government Response**

The Committee may in its final recommendation request that the Government table a comprehensive response to its report within 150 days of the presentation in accordance with the Standing Orders. Whereas a request for a response to a report survive propagation, it should be noted that the request does not provide any sanction in case the Government fails to comply with the request.

However, subsequent Governments in power have implemented close to sixty percent of the Committee's recommendations in order to enjoy parliamentary support and confidence in their various agenda.

**In Kenya, the Public Accounts Committee (PAC) is one of the main watchdog Committees. Its main function is to examine the accounts and Reports by the Controller and Auditor-General showing the appropriation of the sum voted by the House to meet public expenditure and of such other accounts laid before the House as the Committee may deem fit. In Canada the Committee is chaired by a Member of the Opposition party with largest membership in the House of Commons, while in Kenya the Chairman is elected from amongst the Opposition Members in the Committee. However, the Leader of the Official Opposition has traditionally held the Chairmanship.**

**A Member of the Committee in Kenya resigns by writing to the Speaker of the Assembly, but in Canada a Member resigns by notice in writing to the Chairman of the Standing Committee on Procedure and House Affairs. Whereas in Canada the Committee may authorize the Chairman to hold meetings in order to receive evidence despite lack of quorum, which is a majority of the Members of the Committee, in Kenya the Committee cannot proceed with its deliberation without the requisite quorum.**

**The Canadian Public Accounts Committee sittings are normally open to the public and media, but in Kenya the PAC sittings and the other committee's sittings are held in Camera. While the PAC Report is not normally debated or adopted by the House in Canada, in Kenya the Report is debated and adopted with or without amendments or rejected altogether. However, in the history of Parliaments no PAC report has ever been rejected by the House. The Canadian Government responds to the Committee's Report through a Treasury Memorandum. However, there is no specific time within which the Government must respond except in specific paragraphs where the Committee recommends that certain action(s) must be taken within a particular date. Just like in Canada where the Standing Orders do not provide any sanction in case the Government fails to comply with the request for response, the Kenya National Assembly Standing Orders has no such**

provisions either. However, in the recent times Members have called for the establishment of an Implementation Committee to monitor the extent to which recommendations of the House are implemented.

The Office of the Controller and Auditor-General in Kenya is a constitutional office with security of tenure while his officers are employed and deployed to the Department by Public Service Commission. The C&A-G delivers his Report to the Minister for Finance who then tables it in the House. However, should the Minister delays the Report may be presented to the Speaker for tabling.

### 2.1.9 The Panel Of Chairmen

- Members of Standing and Special Committees elect their Chair. In the contrary, the Chair of a Legislative Committee is appointed by the Speaker of the House from the appropriate panel of Chairmen for Legislative Committees.
- Pursuant to Standing Order 112, at the commencement of each session, the Speaker appoints as many as 12 Members and from time to time additional members as required to act as Chairs. A proportionate number of Members are appointed from both the government party and the opposition parties.
- Each group of Members together with the Deputy Speaker of the House, Chairman of Committee of the Whole, Deputy Chairman of Committee of the Whole and the assistant Deputy Chairman of Committees of the Whole, make up the Panel of Legislative Committees.
- *The panel of Chairmen in the Kenyan case, referred to as the Chairmen's panel consist of the Deputy Speaker and three other Members appointed by the Speaker to assist in the chairmanship of the Committee of the Whole House and to preside in the House on behalf of the Speaker.*
- *The respective departmental Committees in Kenya deal with all legislative matters.*

## 2.2 COMMITTEES IN THE NEW YORK STATE ASSEMBLY

There are over 40 committees in the legislature. The longer an M.P. has been in the house, the easy they get elected as Chairs of the Committees and the

more allowances they get. The Chair gets U.S \$12,500 stipend and another U.S \$9,500 for running the Committee. Ordinary Members do not get paid for sitting in Committees. Members of the Majority party Chair all the Committees. In the USA, Committees tend to be law-making and budget-building institutions.

The Committees have powers of subpoena, to hold hearings and to ask questions and demand answers. Ample space for Committee business has empowered them in discharging their mandate.

### **3.0 PARLIAMENTARY RESEARCH BRANCH**

#### **3.1 CANADA**

Legislatures require expert assistance to be able to evaluate, criticize, propose vote and serve their constituents most effectively. To satisfy the need for a professional research service for MPs, a Parliamentary Research Branch was established in Canada's Library of Parliament in 1965. The Research department was put under the library as it is a traditional source for the provision of reference assistance. Librarians and researchers working together in their respective areas of expertise provide parliamentarians with a formidable team for all their information requirements. When the department was established in 1965 it had six staff only but today it boasts of sixty professional staff that are highly educated and trained. They meet a minimum qualification of Master's degree or equivalent and many advanced or multiple degrees including Phds. They have extensive professional and academic qualifications in economics, history, political science, biological sciences, public administration, environmental science, engineering and philosophy.

The department is divided into four separate divisions. Economics, Law and Government, Political and Social affairs and Science and Technology each headed by a Division chief. The Research officers who are now designated as Analysts range from Research Officers I, II and III. The Branch has remained the major source of professional assistance to MPs over the years; the type of work undertaken has varied according to individual requirements and expressed needs of each Committee.

The Research officers present oral and/or written overviews of the policy fields falling within a committee mandate, identify major and emerging

issues between individual parliamentarians on committee-related issues, prepare work plans, background papers briefing notes, prepare and present draft reports. Since there is a big turnover of members in an election the Research officers serve to maintain Committee corporate memory. Prior to a new Parliament, Branch staffs prepare background documents for the new members of the Committees, which include historical information, issues the Committee previously studied, and summaries of reports and recommendations. Research officers put together the evidence and present it in an organized, objective manner. They provided service in an objective and non-partisan manner. This is a fundamental principal of any unit operating in the political arena-serving members with different political philosophies. They endeavor to write in clear, concise language easily comprehended by non-specialist. They are professionals upon whom Members rely for substantive objective information, analysis and policy advice.

When considering bills, the Branch role is generally limited to providing background material on the bill and explaining and interpreting its provisions. When departmental estimates were referred to Committees, staff had to develop an understanding of the information provided and be able to critically analyze the forces. Briefing notes were developed which reviewed the financial information and provide lines of questioning that members can pose to the minister and departmental officials.

The Branch is not intended to be a purely academic or policy - oriented advisory unit. Parliamentarians request factual information, statistics, legislation from other jurisdictions, arguments to stress their point of view, an assessment of the strengths and weaknesses of a policy option, a professional judgment, or an explanation or interpretation. Research work is done with particular orientation requested by a Member, to the extent that this is consistent with factual accuracy. Over fifty percent of the time worked by the professional staff of the parliamentary Research Branch is spent assisting parliamentarians. A written disclaimer appears on projects prepared at the request of a Member indicating that the paper was designed in accordance with the requirements and the views of the Member and should not be regarded as those of the Branch or author.

The Parliamentary Research Branch provides research, analysis and information to members of the senate and the House of Commons as well as to Parliamentary committees on a wide range of legislative, policy and secretariat division or constituency issues. Parliamentarians use this service

to develop their policy proposals from interest groups, prepare background material on private Members' bills, interpret complex economic and legal data, and develop speech material. The Research Branch works in close cooperation with the departments responsible for interparliamentary associations and other delegations of parliamentarians like IPU, Commonwealth Parliamentary Association etc. The Branch prepares background papers on the agenda items for the regular meetings of the groups as well as individualized papers for conference speakers. Briefing sessions are held prior to the meetings and research staff accompanies delegations as technical advisors.

In order to enhance the efficiency of the Department, Parliament is investing resources in developing information technology. Parties are also allocated funds by the House of Commons for additional research activity. The department prepares and makes available to parliamentarians an inventory of publications on current issues legislations and major public policy questions. It also organizes a variety of seminars for parliamentarians and staff on important issues related to their parliamentary responsibilities and provides comprehensive overviews of the principal issues in public policy areas likely to be discussed in parliament over the coming months.

### 3.2 NEW YORK STATE ASSEMBLY

The New York State Senate Research Service Department was started in 1975 with the main objective of gathering and disseminating information to the Senators. The information is provided to the Senate and staff. The Department has a compliment of 50 staff members consisting of 12 analysts with 2 special duty staff. The rest of the staff serves in the Library. The Research department produces newspapers clips twice a day on matters touching on the Senators, indexing a weekly News Digest, Sketches, periodical review, and issues in focus.

The sketches give an overview of major legislative issues and a broad perspective of significant actions that took place in the past legislative sessions. Unlike Canada, where research services is for consumption of all parliamentarians, most of the research information in the New York State Senate is restricted to the majority party while the minority party relies on its own generated information. Even the research officers attached to one

research department are partisan and would leave office in case of change of government.

**In the Kenyan Parliament parliamentary officers in Clerk's Chambers and Librarians do research work, which in most cases is modest. The research work undertaken comprise mainly of position papers presented in international conferences and seminars, procedural matters and request from Members. However, the officers are overworked as they have other duties to perform and do not therefore get adequate time to concentrate on research work. Committee Clerks are expected to prepare work plans, background briefing notes, prepare and present draft reports and to provide background material on the Bills referred to Committees. The Parliamentary Service Commission is in the process of recruiting Research Officers to help Members in doing research work.**

#### **4.0 WORKING WITH THE PRESS**

The press is a part of the political system and plays an integral part of democracy in the United States of America. Press is a forum for debate in the New York State Assembly and Parliamentarians are aggressive with the press. The Speaker has eight full time pressmen working for him and every Committee has a person to deal with the press.

The Committee, through the press-link-person, publicizes its work and hearings to attract the press. However, before Members get in touch with the press they should do a lot of homework and be expert on issues being done by the Committee. The delegation was informed that it has taken the New York State Assembly 30 years to develop and get press facilities. Committee work could build a politician and raise his political stand if there is a good relation with the press.

**Until recently when a Public Relation Officer was hired, Parliamentarians relied on journalists from several media houses attached to parliament to publicize their work. However, provisions of Standing Order No. 161, which bar publication and disclosure of evidence received, by a committee have hindered publicizing of the Committee work until the report of the committee has been presented to the House.**

A Select Committee on broadcasting formed in the last Parliament recommended that standing order No. 161 should be done away with. Members should also use the Office of the Public Relation Officer to publicize their activities.

## **5.0 LOBBYING**

Lobbying is increasingly becoming intertwined with political and democratic growth in many countries in the world. Lobbyists, who are highly informed people in different fields, educate members of parliaments to understand issues before them. In the U.S.A. most lobbyists have once worked with Members and Senators before starting their organizations to lobby the legislators. Lobbying in the U.S.A. is not regulated and Legislators must have personal control to avoid conflict of interest and being influenced by the lobbyists. The main work of the lobbyist is to provide data and statistics on major issues under discussion. It will be upon the Members to make their own judgment and decision on the argument to support after getting the information. As Parliament becomes more independent and strengthened, there will be lobbying from the public on a number of issues under consideration in parliament.

**Lobbying is not yet developed in the Kenyan Parliament. Most people who have stake on matters being considered by Parliament have either channeled their concerns through Members or appeared before Committees to express their opinions. It has been very difficult to draw a line between getting informed by lobbyists or stakeholders and being able to ensure that the provisions of Cap 6 of the Laws of Kenya, section 24 are not breached. There is need to regulate the activities of lobbyists/stakeholders, through standing orders particularly in view of the provisions of Cap.6 and the enactment of the Anti-corruption and Economic Crimes Act, which may criminalize certain aspects of lobbying.**

## **6.0 INTERNSHIP**

### **6.1 ROLE OF INTERNS AND GRADUATE FELLOWS IN RUNNING THE SENATE**

Postgraduate Internship Programme, a ten-month fellowship programme was started in 1965 in the New York State Senate. Interested persons send their applications, undergoes a selection process after which

they are picked to come to the Senate. All academic disciplines are admitted in this programme. In addition, students' participation in politics is minimized.

The programme inducts new people into the system, thus giving the opportunity to gain fresh approaches, ideas and cultural experiences.

It increases the knowledge people have on the legislature. Indeed, it increases manpower and should strengthen the institution.

Some interns are retained for fellowship programme- usually eleven of them. Interns are attached to Senators to do research work and perform other duties. The Assembly has a similar program. Fellows in the Fellowship Program have been retained by senators and have even worked in the White House.

**The Kenya National Assembly in conjunction with SUNY/Kenya has started an internship programme where University graduates are attached to parliament for eight months. During the internship, the interns are exposed to the working of different departments and particularly those dealing directly with parliamentary business like servicing of committees, drafting of Questions and Motions and carrying out research. Interns are picked after competitive and an intensive interview process amongst graduates of several local universities.**

## **7.0 OFFICES SUPPORTING PARLIAMENT IN THE NEW YORK STATE ASSEMBLY**

### **7.1 LEGISLATIVE ETHICS COMMITTEE**

Legislative Ethics Committee is a joint bipartisan Committee authorized by law to distribute, collect and review financial disclosure statements from legislative employees and candidates for legislative office. The Committee offers formal advice on the law and investigates violations of the law, which are subject to civil and criminal penalties. The eight-member Committee is comprised of two members each from the Senate and Assembly Majority and Minority parties.

**In the Kenyan case the Powers and Privileges Committee is charged with the responsibility of dealing with the Members' wealth disclosures and their ethics.**

## **7.2 LEGISLATIVE BILL DRAFTING COMMISSION**

The Commission is composed of two commissioners jointly appointed by the Temporary President of the Senate and the Speaker of Assembly. The Commission is mandated to draft or aid in the drafting of Legislative bills. The Commission upon research, and examination, may advise as to the constitutionality, consistency or effect of proposed legislation upon request of a Member or Committee of either House of the Legislature. The Commissioners direct a legal staff of attorneys and are supported by a data processing and technical staff.

**In the Kenyan case, such a Commission does not exist. However, a Parliamentary Counsel at the Attorney General's Office performs similar duties and individual Members who want to introduce Bills in the House seek such services outside Parliament. There is a move to create an office a Parliamentary Counsel to assist Members in the drafting of Legislative Bills.**

## **8.0 RECOMMENDATIONS**

**1. Lack of preparedness of Committee Members is a source of concern. This factor has far reaching consequences on the effectiveness of the Committees. A member who does not prepare for a meeting will not only be unproductive but is likely to distract other members from the main agenda.**

**Lack of or lateness in attendance is another problem, which continues to stalk the operations of Committees. This generates apathy and a legion of other problems, e.g., latecomers keep dragging the Committee to issues already discussed leading to time wasting. Many Committees do not start on time due to lack of quorum.**

**Ways and means of encouraging Members to actively and positively participate in Committee deliberations must be evolved.**

***Action: Party Whips and the House Business Committee***

**2. The delegation notes that the Kenyan Committees tend to be understaffed to the point that a Committee Clerk does so much work to the detriment of the Committee. Whereas a committee like Public Accounts Committee in Canada has two Clerks, two Researchers and an Administrative Assistant attached to it, in the Kenyan case two Clerks service a similar Committee. As a result of this, real in-depth study of issues often fall by the wayside. The delegation, therefore, recommends that the Parliamentary Service Commission should move with speed to employ more Clerks and Research Officers to facilitate more efficient functioning of Committees.**

***Action: The Parliamentary Service Commission and Office of the Clerk***

**3. The Committee Clerks be facilitated to run Committees. They should be assigned administrative Assistants; provided with computers including laptop computers and adequate offices. The Committee Clerks should be continuously trained and equipped with the necessary skills. This would include attachment programme to other Parliaments, and attending other courses provided by bodies like ESAMI, RIPA, e.t.c. They could also be enrolled in the postgraduate internship programme in the New York State University.**

*Action: The Parliamentary Service Commission and Office of the Clerk*

**4. The Committee Clerks must develop a good working relation with the Chairs and Members and have a mastery of the issues being dealt with.**

*Action: The Office of the Clerk*

**5. Professional background and interest should be principal components in the nomination of Members to Committees. At the commencement of a new parliament/sessions, Members should be asked to indicate the Committees they would like to serve. There is need for the Clerk's office to liaise closely with the party whips on this matter.**

*Action: Party Whips and the House Business Committee*

**6. The delegation recommends that Workshops should be mounted for Chairmen and Members of Committees to enhance their understanding of the procedures, operational and administrative framework that regulate Committee workings and the manner of running them.**

*Action: Liaison Committee and the Office of the Clerk*

**7. A chairman's manual on the role of committee should be prepared including their code of conduct, rules, etiquettes, practice and procedures in meetings.**

***Action: Liaison Committee and the Office of the Clerk***

**8. In order to ensure total commitment to his/her duty no Chairman nor a Member should serve in more than one Departmental Committee.**

***Action: Party Whips, the House Business Committee and the Standing Orders Committee***

**9. The delegation notes that the core of success for Committees rests strongly on the Chairs' roles. Thus the delegation recommends that the Chair should build consensus and encourage cooperation in the Committee as well as providing initiative and leadership.**

**Action: Liaison Committee and Chairmen**

**10. All Committees must make their reports on local and external tours within two weeks of the end of the tours. In most cases the reports must be tabled in the House.**

***Action: Chairmen and Clerk of Committees, and the Liaison Committee***

**11. The delegation recommends that recommendations by Committees should be made in such a way that it leaves the Government to be accountable without appearing to interfere in the day- to-day management of Government, as Parliament is an institution of oversight and not a management institution. The Delegation further recommends that Assurance and Implementation Committee be established to follow up on the recommendations made by Committees.**

***Action: Parliamentary Committees***

**12. The delegation notes that there has been a tendency for Departmental Committees to deal with so many issues without developing substantive policies.**

**The delegation, therefore, recommends that Departmental Committees should become pro-active in their tasks and pick on issues, study them critically and report to the House.**

***Action: Parliamentary Committees***

**13. There has been concern that Committee reports delay in being presented to the House and that as a result some issues become irrelevant or are overtaken by events.**

**It is therefore recommended that Committees should make timely reports as soon as matters before them are completed to ensure that remedial actions are taken. The Controller and Auditor General should be encouraged to present comprehensive and other audit reports as soon as they are completed for Committee's attention rather than in one annual report format.**

***Action: Chairmen and Clerk of Committees***

**14. The delegation also recommends that the watchdog Committees should liaise with the Office of the Controller and Auditor-General with a view to identifying matters in the Report that the Committees may wish to consider as priority items in order to clear backlog of reports.**

***Action: Public Accounts and Public Investments Committees***

**15. Given that Departmental Committees deal with complex matters in the legal field when Bills are referred to them, it is recommended that Research Officers and legal specialists be attached to such Committees to provide background information and other legal advice.**

***Action: The Office of the Clerk***

**16. The delegation recommends that a Parliamentary Counsel be recruited as approved by the Parliamentary Service Commission to assist Members in drafting of Bills and in offering other legal services as may be required by the House and Committees.**

*Action: The Parliamentary Service Commission and Office of the Clerk*

**17. The delegation observes that space is a major empowering factor to the legislature for networking and interaction.**

**The delegation, therefore, recommends that adequate space be provided to Committees.**

*Action: The Parliamentary Service Commission and Office of the Clerk*

**18. The delegation, while noting the significant role that is played by the media in propagating issues being dealt by the Committees, recommends that the Committees should use the media in shaping the public opinion on matters of importance being considered provided it is within the provisions of the Standing Orders.**

*Action: Parliamentary Committees*

**19. The delegation recommends that Departmental Committees should exploit opportunities available in the Standing Orders to be pro-active in their functioning including studying Annual Reports from Ministries and Departments.**

*Action: Parliamentary Committees*

**20. The delegation recommends that Liaison Committee should be more involved in the co-ordination of Committees' activities.**

## **WORKSHOP ON MANAGEMENT OF HOUSE COMMITTEES**

Members of the Liaison Committee held a two day Workshop on management of House Committees at Serena Beach Hotel, Mombasa on 5<sup>th</sup> and 6<sup>th</sup> December, 2003 organised by the State University of New York (SUNY) and was attended by the following Members:-

### **MEMBERS OF PARLIAMENT**

- |                                    |   |   |
|------------------------------------|---|---|
| The Hon. David Musila, MP          | - | Deputy Speaker/Chairman,<br>Liaison Committee                                     |
| The Hon. (Dr.) Noah Wekesa, MP     | - | Chairman, Agriculture, Lands<br>and Social Welfare Committee                      |
| The Hon.(Dr) Galgallo G. Boru, MP- |   | Chairman, Health, Housing,<br>Labour and Social Welfare<br>Committee              |
| The Hon. David Mwenje, MP          | - | Chairman, Administration,<br>National Security and Local<br>Authorities Committee |
| The Hon. Soita Shitanda, MP        | - | Chairman, Finance, Planning<br>and Trade Committee                                |
| The Hon. D. D. Karaba, MP          | - | Chairman, Education, Research<br>and Technology Committee                         |
| The Hon. Justin Muturi, MP         | - | Chairman, Public<br>Investments Committee   |
| The Hon. Jimmy Ngwenyi, MP         | - | Member, Energy,<br>Communications and Public<br>Works Committee                   |
| The Hon. Alfred Nderitu, MP        | - | Member, Administration,<br>National Security and Local<br>Authorities Committee   |

The Hon. Suleiman Shakombo, MP	-	Member, Defence & Foreign Relations Committee
The Hon. Christine Mango, MP	-	Member, Education, Research and Technology Committee
The Hon. Jane Kihara, MP	-	Member, Kenya Women Parliamentary Group
The Hon. Gor Sungu, MP	-	Chairman, Ad Hoc Committee Probing Ouko's death
The Hon. Antony Kimetto, MP	-	Member, Catering Committee

### **KENYA NATIONAL ASSEMBLY**

Mr. Murumba Werunga	-	Deputy Clerk
Mr. P.C. Owino Omolo	-	Deputy Clerk
Mr. Justin Bundi	-	Principal Clerk Assistant
Mrs Consolata Munga	-	Principal Clerk Assistant
Mr. Michael Sialai	-	Senior Clerk Assistant
Mrs Florence Abonyo	-	Clerk Assistant
Ms Diana Munene	-	Secretary

### **SUNY – KENYA**

Dr. Jesse Biddle	-	Director
Ms Margy Nakitare	-	Office Manager
Mr. Ojango Gogo	-	Ag. Finance Manager
Mr. Duncan Okello	-	Consultant

The following topics were discussed in the Workshop:-

- 1. Committees Accountability and Effectiveness**
- 2. Management of Select Committees**
- 3. Standing Orders Critic vis-à-vis Parliamentary Committees**
- 4. Suggestions on Implementation of Reports, Way forward and Closing Session.**

## **RECOMMENDATIONS**

The Committee adopted the report on the visit to Canada 2003 with amendments and recommended that the report be tabled for adoption by the House.

### **The Committee further made the following recommendations during the Workshop:-**

- Each Parliamentary Committee should be assigned at least one Clerk to service it on a full time basis. The Clerks should be facilitated by being reimbursed cost of air time incurred on mobile telephone calls in reaching to Members or be allowed to use land lines in order to reach Committee Members.

#### **Action – Clerk of the National Assembly**

- The Committees should handle witnesses with decorum and Members at their meetings should observe the same manner of dressing which is acceptable in the Chamber.

#### **Action – Committee Chairs**

- The selection of Members to tours abroad should be based on attendance and active participation in the Committee sittings. However, priority should be given to local trips to enable Members familiarize themselves with local issues.

#### **Action – Committee Chairs**

- The Standing Orders Committee should provide for the amendment of the Standing Orders as follows:-
  - (i) by a resolution of two thirds majority, s Committee can remove a Chairman;

- (ii) by a resolution of two thirds majority, a Committee can recommend to the House Business Committee the removal of a Member of definite grounds which must be stated.
- (iii) An individual's membership in a Committee should cease if he/she fails to attend four consecutive sittings of a Committee without leave.

#### **Action – Standing Orders Committee**

- Committees should form sub-committees to study particular issues on behalf of the main Committees.

#### **Action – Committee Chairs**

- The participants recommended that assurance and implementation committee should be formed to follow up Committees' recommendations and assurances made on the floor of the House by Ministers and Motions which have been passed by the House.

#### **Action – Standing Orders Committee**

- Members should also use the office of the Public Relations Officer to publicize their activities. Any Committee that wishes to address the press should have a written statement agreed upon by its Members to ensure accuracy, acceptability and ownership of the press report.

#### **Action – Committee Chair**

- The mandate of Committees should be clearly defined to avoid duplication of functions. The Committee observed that Departmental Committees should be increased in number so that each could deal with less Ministries and departments than currently mandated in order to be more effective.

#### **Action – Standing Orders Committee**

- As far as possible no Member should serve in more than one Departmental Committee. Under no circumstance shall a Chair serve in more than one Committee unless it is provided for in the rules. Chairing of Committees by Whips should be re-examined.

#### **Action – House Business Committee**

- In order to effectively use the newly recruited Clerks and Research Assistants, training should be mounted for them both locally and abroad and proper allocation of duties should be done to distinguish the functions of procedural, administrative, committee and research officers.

#### **Action – Clerk of the National Assembly**

- Committees should prepare working programmes and annual reports detailing their operations, reports made, tours undertaken, bills dealt with and proposed budget. In future, Committee programmes and sitting arrangements should be coordinated by the Clerk of the Liaison Committee in liaison with the Serjeant-At-Arms. The Clerk of the National Assembly should ensure that there are waiting rooms for witnesses who appear before Committees.

#### **Action – Liaison Committee Chair/Clerk of the National Assembly**

- There should be appropriate transport for Chairs and Committee Members whenever they are undertaking inspection tours locally.

#### **Action – Clerk of the National Assembly**

- Parliament should have its own website and all Members and staff should have access to Internet.

#### **Action - Clerk of National Assembly**

- In order to improve efficiency in Committees, it is recommended that Committee Chairs and Clerks should **urgently** be provided with laptops.

### **Action – Clerk of the National Assembly**

- Dates and times of Committee sittings should be set by the Chairman in liaison with the Committee Clerk. Postponement of meetings should only be done with the Chairman's concurrence.

### **Action – Committee Chairs/Clerk of National Assembly**

- The Committee urged that the Standing Orders should be amended to provide that when a meeting is called at specific time and thirty minutes after the specified time there is no quorum, that meeting should be postponed to another date.

### **Action – Standing Orders Committee**

- Having examined Committee briefs of the Eighth Parliament prepared by SUNY, the Committee approved their publication and recommended that at the end of every Parliament, a publication on activities of all Select Committees should be produced by the Liaison Committee.

### **Action – Chair, Liaison Committee/Clerk of the National Assembly**

- After every tour, the Committee report on the tour should be ready within two weeks. Each Committee should give copies of its reports to the Liaison Committee which shall decide on those to be deliberated in the House.

### **Action – Committee Chairs**