

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 11th March, 2008

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following hon. Members:-

Ms. Abdalla Amina
 Ms. Abdallah Shakila
 Mr. Affey Mohammed Abdi
 Mr. Musikari Nazi Kombo
 Ms. Maison Leshoomo
 Mr. Nyagah Joseph
 Mr. Nyamweya George Omari
 Mrs. Noor Abdi Sophia
 Mrs. Odhiambo Millie Grace Akoth
 Ms. Shebesh Rachael Wambui
 Mr. Sirma Musa Cherutich
 Mr. Yakub Muhamad Dory Mohamad

NOTICE OF MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the following be appointed as Members of the House Business Committee:-

Hon. Kalonzo Musyoka, MP
 Hon. Raila A. Odinga, MP
 Hon. Martha Karua, MP
 Hon. Musalia Mudavadi, MP
 Hon. Prof. George Saitoti, MP
 Hon. William Ruto, MP
 Hon. Amos Kimunya, MP
 Hon. Najib Balala, MP
 Hon. Uhuru Kenyatta, MP
 Hon. Kiraitu Murungi, MP
 Hon. Henry Kosgey, MP

Hon. Mutula Kilonzo, MP
 Hon. Charity Ngilu, MP
 Hon. Prof. Anyang'-Nyong'o, MP
 Hon. Moses Wetangula, MP
 Hon. George Thuo, MP
 Hon. Omingo Magara, MP
 Hon. Jakoyo Midiwo, MP
 Hon. Adan W. Keynan, MP
 Hon. Ali Mohamed Mohamud, MP

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I beg to second this Motion.

yThe names have been as a result of---

Mr. Speaker: Order, Ms. Karua! Let us first move on to the next Order!

MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, the following be appointed as Members of the House Business Committee:-

Hon. Kalonzo Musyoka, MP
 Hon. Raila A. Odinga, MP
 Hon. Martha Karua, MP
 Hon. Musalia Mudavadi, MP
 Hon. Prof. George Saitoti, MP
 Hon. William Ruto, MP
 Hon. Amos Kimunya, MP
 Hon. Najib Balala, MP
 Hon. Uhuru Kenyatta, MP
 Hon. Kiraitu Murungi, MP
 Hon. Henry Kosgey, MP
 Hon. Mutula Kilonzo, MP
 Hon. Charity Ngilu, MP
 Hon. Prof. Anyang'-Nyong'o, MP
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 Hon. Omingo Magara, MP
 Hon. Jakoyo Midiwo, MP
 Hon. Adan W. Keynan, MP
 Hon. Ali Mohamed Mohamud, MP

Mr. Speaker, Sir, only last Thursday, the historic State Opening of the Second Session of the 10th Parliament took place. I am sure the House will agree with me that the House and, indeed, the whole country eagerly awaits progress by this august House, and progress all round, because the agenda was so clearly elaborated by His Excellency the President when he opened this Parliament. I know that hon. Members will have occasion, later on, to debate the contents of the Presidential

Address. Indeed, I gave notice of the Motion immediately after His Excellency the President opened Parliament.

Mr. Speaker, Sir, in order to be able to deal with the urgent issues, including what I know Kenyans are eagerly awaiting; the matter of putting into law the agreements signed by His Excellency the President and our colleague, Mr. Raila; we need to be able to put in place, at least, the Committee that will be able to fast-track that business, including, of course, the enactment of the National Accord and Reconciliation Bill and the Constitution of Kenya (Amendment) Bill. These are two pieces of legislation that are urgent, beginning with the Constitution of Kenya (Amendment) Bill.

Mr. Speaker, Sir, in order to be able to move speedily into business, I want to suggest that the House agrees with the formulation by the respective Chief Whips. I know that a lot of able hon. Members would have loved to serve as hon. Members of this Committee. Indeed, it has not been easy, even from my own side, to drop some of the names that we all know are, indeed, capable and worthy of serving in this Committee. But in order to be able to move on, I know that there will be many other Committees of this House, and many hon. Members, particularly the new ones, will be able to find a place in which to serve.

Mr. Speaker, Sir, I beg to move that we adopt this list. Without it, we cannot get on with the business of the House.

I beg to move.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, may I now properly second the Motion, which is as a result of consultations.

(Question proposed)

Mr. Speaker: Are there hon. Members interested in contributing to the Motion?

The Member for Loitokitok (Mr. ole Metito): Mr. Speaker, Sir, I support this Motion. But I would like to inform the proposed hon. Members of the House Business Committee that this Tenth Parliament is unique in the sense that there may not be an Opposition. Therefore, the membership of the House Business Committee will be fully Government. We are interested in Private Members' Bills. I would like to request that the proposed Committee gives priority to Private Members' Bills and Motions. I know that Private Members' Motions are set for Wednesday mornings, but in the last Parliament many of the Private Members' Bills never saw the light of day, because of concentration on Government Bills.

I would like to request the proposed Committee not to take advantage of the fact that there is no Opposition that pushes for Private Members' Bills, and only prioritise Government-sponsored Motions or Bills.

I beg to support.

The Member for Kitui Central (Mrs. Ngilu): Mr. Speaker, Sir, I stand to oppose the list of the House Business Committee as constituted. In this Tenth Parliament, we have more women hon. Members than we have had before. If you look at the list that we have before us, you will see gender balance has not been taken into account.

Therefore, I would like to ask those who constituted this Committee to go back and look into the various parties, and know that we have more women, so that we can include them in this Committee.

So, I oppose this list as constituted.

The Member for Isiolo South (Mr. Bahari): Mr. Speaker, Sir, I beg to support this Motion. Granted that the House Business Committee is the one that sets the agenda for this House---

Mr. Speaker, Sir, previous Parliaments have been accused of not doing enough for this country. It is expected that the new House Business Committee, which is now in the process of being put in place, will meticulously handle the issue of House business with a view to ensuring that this House is going to be productive to the satisfaction of Kenyans.

The Member for Mbita (Mr. Kajwang): Mr. Speaker, Sir, I wish to support this Motion.

Secondly, I wish to say that we expect the House Business Committee (HBC) to deliver. We need a HBC that does not sit on the work of this House. Sometime last year, in the Ninth Parliament, some Bills, for example, the "Keter Bill", never saw the light of day for five years.

In fact, if you remember, the Departmental Committee on Administration of Justice and Legal Affairs, which you deputised very well, brought before this House a Bill that was well done. However, it never saw the light of day until we closed.

The job of the HBC is to bring us work here so that we do it and not to obstruct the work of this House. I hope they will take that seriously and bring work before this House so that we do it. We do not want to be blamed for being idle when the HBC plays games.

Thank you very much.

I support

The Member for Dagoretti (Mrs. Mugo): Mr. Speaker, Sir, I wish to support this Motion. However, I want to echo hon. Ngilu's sentiments that there is a general feeling and understanding and acceptance in this country of the one-third rule. This time round, in this House, we have enough women; in fact, more than enough to fulfil that spirit.

Mr. Speaker, Sir, whereas I will not ask that this list be sent back, I would like to urge the Whips from both sides of the House not to use this list as an example in the formation of other Committees of this House. In those Committees, we expect our fair share which is that one-third of Members in those Committees have to be women. Again, at least one-third of those Committees should be chaired by women hon. Members.

(Applause)

The Member for Yatta (Mr. C. Kilonzo): Mr. Speaker, Sir, I rise to support this Motion. However, when I go through the list of the proposed names, it appears that most of them are the gurus of political parties. Therefore, it appears that all of them are likely to be appointed in the Cabinet.

Mr. Speaker, Sir, in the most likely event that all of them join the Cabinet, may I suggest that for the sake of promoting democracy and for the sake of "Opposition of National Unity", which will be the role of the Backbenchers, this list be brought back on the Floor of this House and Backbenchers be included in the HBC.

Thank you, Mr. Speaker, Sir.

(Mr. Muthama raised his hand)

(Laughter)

Mr. Speaker: Order, Mr. Muthama! You do not raise your hand! You only need to stand up to catch the Speaker's eye. However, you may proceed!

The Member for Kangundo (Mr. Muthama): Thank you, Mr. Speaker, Sir. I stand here to support this Motion, but also suggest slight changes.

I would like to echo Mrs. Ngilu's sentiments that it will be unfair to have only two women, out of the 20 women that we have in this House, sitting on this Committee. Women have sort of been rejected because they are seen as representatives who are not able or do not qualify to be included in a Committee such as this one. Therefore, I suggest that, through an amendment, we bring, at least, one-third of women into this Committee so that the electorate can have confidence in women.

I rest my case, Mr. Speaker, Sir.

(Loud consultations)

Mr. Speaker, Sir, I said that I support this Motion, but I want an amendment. I want one-third of women to be brought in.

An hon. Member: Are you supporting or opposing?

The Member for Kangundo (Mr. Muthama): Mr. Speaker, Sir, I oppose and also ask that one-third of women be included in this Committee.

The Member for Maragwa (Mr. Mbau): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Mbau!

The Member for Muhoroni (Prof. Olweny): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Another point of order has been raised by Mr. Mbau!

The Member for Maragwa (Mr. Mbau): Mr. Speaker, Sir, I am wondering whether it is in order for my colleague, Mr. Muthama, to oppose a list that is supposed to be coming from the Whip's Office.

(Applause)

Unless there were no due consultations--- When Ms. Karua was seconding this Motion, she said that this list was as a result of consultations. What, indeed, is Mr. Muthama trying to tell this House?

Mr. Speaker: Thank you, Mr. Mbau. Although that is not a valid point of order, the matter you have raised is a matter that is in the domain of political parties. It is the hope of the Chair that Mr. Muthama will respect the ethics of his political party.

The Member for Ndia (Mr. Githae): Mr. Speaker, Sir, I rise to support this Motion. This list was prepared with full consultation between all the various heads of political parties. I would like to take this opportunity to commend the Chief Whips of the various parties for a job well-done. As you can see, this list is being supported unlike in the Ninth Parliament when the list was opposed.

The other thing I would like to say is that just because we have a grand coalition, it does not mean that there is no Opposition. Not everybody can be appointed to the Cabinet. Those who will be left out of the Cabinet - the Backbenchers - will form the Official Opposition. It is, therefore, not true that this is the end of the Opposition. In fact, this is just the beginning. It would have been good, as somebody has said, if the names of more hon. lady Members could have been included in this list. It would also have been good if we had included one or two new Members of Parliament so that they can start learning the ropes. How will the new Members of Parliament learn if they are not included in this list?

I support.

The Member for Malava (Mr. Shitanda): Mr. Speaker, Sir, while I support this Motion, I would like to make a request to the HBC that as they start their sitting today or tomorrow, they should bear in mind that, for five years, in the last Parliament, Members managed to pass about 34 Bills only. Kenyans out there were very annoyed with that Parliament and that is why more than 80 per cent of those Members are not in this House today.

Mr. Speaker, Sir, looking at this list of names, we want to request them to set a target of passing, at least, more than 100 Bills during the five years that we are going to be here. We are going to deal with comprehensive Constitutional review and if there will be any laxity in the HBC, we might finish five years here without having given Kenyans a new Constitution and the Acts which will be guiding the new Constitution.

Mr. Speaker, Sir, I would also like to agree with Mrs. Ngilu. While I support this Motion, I would like to urge those charged with the responsibility of constituting the Committees that are remaining to bear in mind the issues of gender, small parties, big parties and all that goes with it.

Thank you, Mr. Speaker, Sir.

The Member for Muhoroni (Prof. Olweny): Mr. Speaker, Sir, I stand to support this Motion.

This Committee is quite representative and it is my belief that when the Whips were compiling this list, they consulted widely within their parties although there is this issue of gender balance, which I think is a bit lopsided and ought to have been looked at. Otherwise, I wish to put it to the Committee that we would not like to see what happened in the Ninth Parliament where most of the Bills did not come to the Floor of the House. Ministers kept away so many Government Bills that were supposed to have come to the Floor.

With those few remarks, I support.

The Member for Hamisi (Mr. Khaniri): On a point of order, Mr. Speaker, Sir. Considering that the Committee is supposed to meet this afternoon and draw our programme as from tomorrow, may I request that the Mover be now called upon to reply?

*(Question, that the Mover
be now called upon to reply,
put and agreed to)*

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I have taken a very serious view on some of the issues that have been raised; issues of gender balance and, particularly, what Mrs. Ngilu has said. I want to assure her that when we will be considering membership to all the other Committees of this House, we are certainly going to give primacy of consideration to the issue of gender. But on the other hand - and on the positive side - for the first time, out of the 12 nominated slots, we have, as a House, to go on a 50/50 basis. We have now six women nominated Members and six men nominated Members.

We have really made a wonderful beginning. I want to congratulate political parties that did the nominations for being gender-sensitive. They even became religious-sensitive as well. Mr. Balala will bear me witness. It went to the extent where SUPKEM have written to express their satisfaction with the nominations.

I want to assure hon. Members that we will do the best we can. It should be noted that it is not the House Business Committee (HBC) that is charged with the responsibility of enacting Bills. Ultimately, we are just a Committee of this House. Therefore, our business will be to fast-track. Mr. Shitanda, for whom I have a lot of respect, has talked about 34 Bills. I hope we can reach his target of 100 Bills. But that has to be by the House itself.

Mr. Speaker, Sir, there are some hon. Members who have expressed concerns about the fact that we may not have the Official Opposition during the Tenth Parliament. We clearly have to act in a manner that will not end up compromising what is expected of this august House. The quality of debate itself should reflect the vigour by the Kenyan people when they elected this House. Therefore, we do not expect that we will use this House to rubber-stamp any decision. There, indeed, should be furious opposition even within a Coalition Government. As soon as we pass this Motion and adjourn, I know that we are going to have our very first sitting so that, by 9.00 a.m. tomorrow morning, we will roll out a programme for this Parliament.

With those few remarks, I beg to move.

(Question put and agreed to)

POINT OF ORDER

REDUCTION OF PUBLICATION PERIOD:
CONSTITUTION OF KENYA (AMENDMENT)
BILL AND NATIONAL ACCORD AND RECONCILIATION BILL

The Member for Ugenya (Mr. Orengo): Mr. Speaker, Sir, I beg to move the following Motion under Standing Order No.45, which provide for the kind of Motions that may be moved without notice. It includes the Motion that I want to move.

Standing Order No.45(g) states:-

"The following Motions may be moved without notice: A Motion made in accordance with Standing Orders governing the procedure as to Bills.

Standing Order No.98 provides that:-

"No Bill shall be introduced unless such Bill, together with the Memorandum referred to in Standing Order 97 (Memorandum of objects and reasons) has been published in the Gazette (as a Bill to be originated in the House), and unless, in the case of a Consolidated Fund Bill, an Appropriation Bill or a Supplementary Appropriations Bill, a period of seven days, and in the case of any other Bill, a period of 14 days, beginning in each case with the day of such publication, or such shorter period as the House may resolve with respect to the Bill, has ended."

Therefore, I beg to move the following Motion.

THAT, this House resolves that the period for the introduction of the Constitution of Kenya (Amendment) Bill, 2008, published in the Special Issue of the Kenya Gazette as the Kenya Gazette Supplement No.14, Bills No.1 and the National Accord and Reconciliation Bill, 2008, published in the Special Issue of the Kenya Gazette, as Kenya Gazette Supplement No.15, Bills No.2, both be reduced from 14 days to five days from the date of publication in respect of each Bill, following the publication of the Bills on 6th March, 2008 by the Minister for Justice and Constitutional Affairs and the Attorney-General, respectfully.

Mr. Speaker, Sir, I am moving this Motion on the basis of the Accord that was signed by His Excellency the President, Mr. Kibaki and Mr. Raila Odinga. That accord was made and signed on 28th February, 2008. Part of it read as follows:-

"Having agreed to the critical issues above, we will now take this process to Parliament. It will be convened at the earliest moment to enact these agreements. This will be in the form of an Act of Parliament and the necessary amendments to the Constitution."

Mr. Speaker, Sir, if you remember the background to the convening of the House, it was in pursuance of the Accord which was signed by the two leaders on 28 February, 2008. If you look at the Presidential Speech which was delivered last week, on page 13 of the written Speech, he said as follows:-

"In this regard, four Bills should be accorded the highest priority; namely, the National Accord and Reconciliation Bill, the Constitution of Kenya (Amendment) Bill"

There are other Bills.

Mr. Speaker, Sir, if, like me, you have had the occasion to look at the programme of the House for the week, those two Bills, starting from tomorrow, are shown as part of the business that this House is going to deal with in the course of this week. If you look at it, both Bills appear for Wednesday and Thursday.

Mr. Speaker, Sir, we are in a very difficult problem. Those Bills cannot be discussed before the expiry of 14 days. They cannot even be introduced in the House before the expiry of 14 days. The House Business Committee (HBC) cannot deal with the Bills in preparation of the business of the House if they are not introduced in the House by way of First Reading. Therefore, these being the circumstances in which we are, I beg to move:-

THAT, the publication period for the two Bills be reduced from 14 days to five days. That will make it possible for the HBC to deal with the Bills. It will also make it possible for

the First Reading to be undertaken before the Bills are dealt by the House. Both Bills cannot be introduced until after the expiry of 14 days.

I, therefore, urge hon. Members that, in keeping with the momentum of the two leaders and the desire of Kenyans as a whole, this Motion be passed by way of a resolution of the House. I have shown that I do not need to give notice. I can stand on my feet and raise the Motion.

Mr. Speaker, Sir, I beg to move and ask my friend, Ms. Martha Karua, to second the Motion.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I rise to second the Motion. I have no problem with the shortened publication period. However, I need your confirmation that the manner we have moved the Motion is all right. This is a published by a Minister. I do not know whether a private Member can seek a shortened period of publication, or whether it should have been the other way round. Otherwise, just as has been said by hon. Orengo, in line with the accord, there is need to speed up the matter. I only need your confirmation that we have done this in the right way.

Subject to that, I beg to second.

(Applause)

Mr. Speaker: Hon. Members, in view of the concern that has been raised by Ms. Karua, whom I was on notice would second this Motion, there is need to clarify the position as to whether or not this Motion could be moved at this stage without it appearing on the Order Paper. I will adjourn for a considered ruling on this matter tomorrow morning.

ADJOURNMENT

Mr. Speaker: Hon. Members, that concludes our business for today. The House, therefore, stands adjourned until tomorrow, Wednesday 12th, March, 2008 at 9.00 a.m.

The House rose at 3.30 p.m.