

NATIONAL ASSEMBLY**OFFICIAL REPORT****Wednesday, 24th February, 2010**

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]***PRAYERS****PROCEDURAL MOTION****EXEMPTION OF BUSINESS FROM PROVISIONS OF STAND ORDER NO. 38****Mr. Thuo:** Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House orders that the Business appearing in today's Order Paper be exempted from the provisions of Standing Order No.38(1), being a Wednesday Morning, a day allocated for Private Members' Motions.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I second the Motion.*(Question proposed)*

Dr. Khalwale: Mr. Deputy Speaker, Sir, we are aware that today is a day that is reserved for Members of the Back Bench. However, because this is a Procedural Motion and we are going to sort it out in the coming four days, we have no objection. We shall support it.

Thank you.

*(Question put and agreed to)***MOTION****APPOINTMENT OF HOUSE BUSINESS COMMITTEE****Mr. Thuo:** Mr. Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Standing Order No.158, the following be appointed Members of the House Business Committee-

1. Hon. Stephen Kalonzo Musyoka, MP;
2. Hon. Uhuru Kenyatta, MP;
3. Hon. (Prof.) George Saitoti, MP;
4. Hon. Mutula Kilonzo, MP;
5. Hon. Beth Mugo, MP;
6. Hon. Martha Karua, MP;
7. Hon. (Dr.) Boni Khalwale, MP;
8. Hon. Adan Keynan, MP;

9. Hon. Musikari Kombo, MP;
10. Hon. George Thuo, MP;
11. Hon. (Prof.) Peter Anyang'-Nyong'o, MP;
12. Hon. Musalia Mudavadi, MP;
13. Hon. (Dr.) Sally Kosgei, MP;
14. Hon. Henry K. Kosgey, MP;
15. Hon. Charity Ngilu, MP;
16. Hon. Maalim Mohamud Mohamed, MP;
17. Hon. Thomas Ludindi Mwadeghu, MP;
18. Hon. (Dr.) Joyce Laboso, MP;
19. Hon. Charles Onyancha, MP;
20. Hon. Jakoyo Midiwo, MP; and,
21. Hon. Kenneth Marende, MP – Speaker (*Ex-Officio* Member)

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Since the Order Paper indicates that it is Mr. Jakoyo Midiwo who should have been moving this Motion, should Mr. Thuo not have indicated that he is moving the Motion on behalf of Mr. Midiwo or, at least, amended the Order Paper?

Mr. Thuo: Mr. Deputy Speaker, Sir, I am pleased to retrospectively confirm that I am moving the Motion on behalf of Mr. Midiwo.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I second the Motion.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. The appointment of the House Business Committee is done in accordance with Standing Order No.158(1), which states as follows:-

“There shall be a Select Committee, to be designated the House Business Committee, consisting of not less than 15 and not more than 21 Members, who shall be nominated by each parliamentary party and approved by the House at the commencement of every Session---“

Mr. Deputy Speaker, Sir, the issue here is that each person shall be nominated by a parliamentary party. My understanding of “parliamentary party” is not an individual or group of individuals.

Mr. Deputy Speaker: Order, Mr. Ruto! You are out of order in the sense that you are debating the Motion. You can oppose the Motion or request that the Question be proposed! The Motion has been moved and the Chair will propose the Question!

(Question proposed)

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. I am sorry for coming a bit too early. My issue is that the import of Standing Order No.158 indicates that there shall be consultations before these nominations.

A political party consists of organs. For purposes of Parliament, Parliamentary Groups (PGs) are such organs. Obviously, political parties would not call a National Delegates Conference (NDC), or the defunct Pentagon in my party, to confirm these Members. I believe it is the PG that should do this. With regard to the party, which I am a member, there has been no such consultation. The PG has not been convened and, therefore, the list presented ostensibly from the Orange Democratic Movement (ODM) does not come from that political party!

Mr. Midiwo: Mr. Deputy Speaker, Sir, I would like to say that I am the Whip of the ODM. We had a meeting last week and the hon. Member who has spoken has not attended our meetings consistently for the last one year. The---

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I am on a point of order.

Mr. Deputy Speaker: Are you on a point of order? You are debating the Motion!
Proceed Mr. Chachu!

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. Is the Chief Whip in order to mislead this House that we had the ODM PG when in actual fact what we had was the National Executive Committee (NEC) meeting? That was not an ODM PG meeting and the Whip is misleading this House.

Mr. Deputy Speaker: Hon. Members, there is no provision in the Standing Orders for the Chair to give a ruling on anything like the dynamics in a political party. You have a choice of either opposing or supporting the Motion! That is basically the position.

Mr. Munya, do you still want to contribute to this Motion?

(Mr. Munya remained seated)

Proceed, Mr. Bahari because Mr. Munya seems to be hesitant!

(Laughter)

Mr. Bahari: Mr. Deputy Speaker, Sir, I stand to oppose this Motion. This is because, time and again, Members of Parliament have been taken for granted. It looks like this list is a duplication of the last Session is House Business Committee (HBC) Membership. Every Member here wants to serve in that Committee. It is important that these matters, as much as we say consultations of party organs has nothing to do with the Chair---

Mr. Deputy Speaker, Sir, you remember the ruling the Chair made on the Leader of the HBC. The Chair said that it was decided that the Government should decide. Consultations have not been held in all the political parties. Therefore, I stand to oppose this Motion.

The Assistant Minister for East African Community (Mr. Munya): Mr. Deputy Speaker, Sir, I was not hesitant at all! I thought my friend, Mr. Ruto had not finished his contribution.

I also strongly oppose this Motion.

(Applause)

The rules are very clear that political parties are supposed to meet to agree on the names. It is totally wrong when a few individuals consult wherever they consult, and I do not know where, and decide to bring the names to the House, ignoring the existence of the political parties they always say they serve. That is a tradition we must fight as a House.

Mr. Deputy Speaker, Sir, I remember the same approach was adopted when the Select Committee on Constitutional Review was appointed. No consultations were done and this House rejected the names. It seems as if these people do not learn that democracy is important and it must be followed. Therefore, the House must send a message to them right now by rejecting these names.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Deputy Speaker, Sir, I stand to oppose this Motion.

Parliamentary and political party democracy is very important in everything that we do in this House. From the HBC which is a very important organ of this House to all Parliamentary Committees, parliamentary parties' decision is very crucial. We should not take this House for granted. Political parties do not belong to a few individuals and Chief Whips. Parties belong to the rank and file of the people of Kenya. In order for us to respect the Political Parties Act that we passed in this House, the PG meeting must be called and a consensus reached in order for the names of the Members of the HBC or any other parliamentary committee to be tabled in this House.

Mr. Deputy Speaker, Sir, I oppose this Motion.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Deputy Speaker, Sir, I beg to support this Motion.

The truth of the matter is that every organization or party has its leadership. We are the people who elected the leaders in the respective positions. It will be very bad if we bring our party problems to the Floor of this House.

Mr. Deputy Speaker, Sir, if we have no faith in our leaders, namely the Chief Whip, party leader or chairmen, we should remove them from the party organ instead of bringing the issue before this House.

Mr. Imanyara: Mr. Deputy Speaker, Sir, like the majority of hon. Members who have spoken before me, I rise to oppose this Motion.

Firstly, it does not comply with Standing Order No.158. It does not state which parliamentary parties have nominated these names that have been brought to this House. That is the first thing that this Motion should have set out. These names, as read out by the Whips, should have indicated which parliamentary parties nominated them in order to comply with the Standing Orders.

Secondly, this is supposed to be a Grand Coalition Government which is a coalition of parties. We expected the Whips to indicate that, in the spirit of the Grand Coalition Government, there have been meetings of the various political parties and as a result of consultations, they have arrived at these names in the following manner. That has not been done. This is the last time. This time they will not get away with it. We need to learn to live by the rules that we set for ourselves. So, let the list go back; let them prepare a list showing which political parties nominated these people, when, how and when consultations were made and then come back to this House.

I oppose.

Mr. Deputy Speaker: Hon. Kiema Kilonzo!

Mr. K. Kilonzo: Thank you Mr. Deputy Speaker, Sir. I stand to oppose this Motion. Clearly this House refuses to be used as a rubber stamp. This is not the first time we are seeing a list being brought here and we are just expected to pass it because a few individuals have sat down together and decided these are the names which are going to be approved. It is clear that the Grand Coalition Government has been unable to resolve its dispute and it is dragging its business into this Parliament. Just the other day, they were unable to agree on the Leader of Government Business. It took the Chair to take over the seat so that he could chair this important committee. Therefore, it is important to return this list to the whips so that parties can meet and agree which members are going to belong to this committee.

With those few words I oppose!

Mr. Linturi: Thank you Mr. Deputy Speaker, Sir. I also rise to oppose this Motion. Kenya is an emerging democracy and if we have to nurture democracy in this country, then our leaders must demonstrate that they are really interested in seeing democracy in this country grow. There should be serious consultations in the appointment of Members to the House Business Committee (HBC); it must be seen that consultations are really done.

I am the elected party Whip of KANU and this was done in a delegates congress in Kasarani, and being a Whip there is no time that KANU has sat to discuss and agree on the Members who are supposed to represent the party in the HBC. So, it is very surprising to me to find names here, when the KANU Parliamentary Group has never sat or discussed this matter. To bring back sanity, and for us to appear to do exactly what we are supposed to do, we have to oppose this Motion to have them go back and consult parliamentary parties. What we are seeing here is political party dictatorship; parties have all through been perceived to be individual outfits and we must say no to this.

I stand to oppose!

(Mr. Thuo stood up in his place)

Mr. Deputy Speaker: Do want to contribute or you are rising on a point of order? What is your point of order?

Mr. Thuo: On a point of order, Mr. Deputy Speaker, Sir. In view of what is clearly an acrimonious situation - we are bringing party politics into the House - I wonder if I would be in order to consider Standing Order No.57 and seek leave of this House to withdraw this Motion in order to facilitate further consultations.

Mr. Deputy Speaker: Order! Hon. Thuo you are out of order as a matter of fact. Standing Order No.51 says a notice of Motion may be withdrawn by the Member who gave the notice of Motion, but notice of the same Motion may be given again either by the same Member or by any other. You are not withdrawing the notice of Motion; it has past that stage. Standing Order No.57 says after the Question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the House and cannot be withdrawn without the leave of the House. Another Member can, indeed, seek the leave but not the Mover of the Motion; you are the Mover of the Motion.

Mr. Thuo: On a point of order, Mr. Deputy Spear, I do not seek to challenge your ruling but I need to make two clarifications. I did not stand under Standing Order No.51 and I never referred to it as the HANSARD will bear me out. The second thing is that your interpretation seems to suggest that under Stand Order No.57, I am stopped from seeking leave to withdraw a Motion.

Mr. Deputy Speaker: The Motion shall be deemed to be in the possession of the House and cannot be withdrawn without the leave of the House!

Mr. Thuo: It does not stop me!

Mr. Deputy Speaker: Order! The tradition of this House is that another Member can seek the leave but not the Mover! That is the tradition of the House.

(Mr. Midiwo stood up in his place)

Mr. Deputy Speaker: You are rising on a point of order? Okay proceed!

Mr. Midiwo: On a point of Order, Mr. Deputy Speaker, Sir. I rise on a point of order under the provisions of Standing Order No.57 to seek leave of the House---

(Mr. Ethuro stood up in his place)

Mr. Deputy Speaker: What is your point of order Mr. Ethuro?

Mr. Midiwo: I was on a point of order!

Mr. Deputy Speaker: The Chair has heard your point of order.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. You had given me the chance and I deferred to my Whip. But, obviously, he had not read from what you told his colleague, the other Whip, that he cannot purport to do the same. I, therefore, wish to seek, under Standing Order No. 57 that this Motion be withdrawn with the leave of the House.

Mr. Deputy Speaker: Order! Hon . Members can you be seated? Is there any objection? Under the circumstances, the Motion is withdrawn.

(Motion withdrawn)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members there being no other business on the Order Paper, the House stands adjourned until this afternoon at 2.30 p.m.

(The House rose at 9.30 a.m.)