

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 25th February, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

RESUMPTION OF DEBATE ON APPOINTMENT OF HOUSE BUSINESS COMMITTEE

Mr. Speaker: Hon. Members, in view of what transpired yesterday, Wednesday 24th February, 2010, the operational position now is that we will go back to Order No.8; the Motion pertaining to constitution of the House Business Committee.

MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

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. Ali Mohamed Mahmud, MP;
18. Hon. Thomas Ludindi Mwadeghu, MP;
19. Hon. (Dr.) Joyce Laboso, MP;

20. Hon. Charles Onyancha, MP;
21. Hon. Jakoyo Midiwo, MP; and,
22. Hon. Kenneth Marende, MP – Speaker (Ex-Officio Member)

(Mr. Midiwo on 24.2.2010)

(Resumption of Debate interrupted on 24.2.2010)

Mr. Speaker: Is there anybody who is interested in contributing to the Motion? Mr. Ruteere, would you like to contribute?

Mr. Ruteere: Yes, Mr. Speaker, Sir.

Mr. Speaker, Sir, even after yesterday's adjournment, we have been given a list whose contents have been here for the third time now. However, since the authors of this list do not take into consideration the wishes of the Members of this House, having been sent away with the list twice for review, it is only wise that we look at the list and accept it after we approve each individual name, because sending it away again will take another week. We will be wasting taxpayers' money if we do not transact the business of this House.

Thank you.

Dr. Khalwale: Mr. Speaker, Sir, I stand here to support the Motion. I am doing this because I remember that yesterday, I voted with the side that wished to give political parties in this House an opportunity to amend the list. We gave political parties that opportunity in good faith. I wish to say that it is wrong for any leader of a political party to use opportunities that hon. Members are exposed to in this House as a way of either rewarding or punishing them. It is my submission that the removal of the names of Messrs. Chachu and Monda from the list was done in bad faith because those of us who are on the Back Benches have no problems with Mr. Chachu or Mr. Monda.

However, since we also know that the Standing Orders are clear, that it is not the wish of Members of the Back Bench to determine whether these two hon. Members will be on the list or not, and that it is the decision of their party as communicated by the Whip, we wish to reluctantly accept the list. We will support replacement of Messrs. Chachu and Monda, if that replacement is being done in good faith.

The reason as to why I think it is equally wrong for the people who are replaced not to support this list is because it is clear in this House that when consultations were called for by the ODM, the hon. Members who are affected refused to go to their party meeting in order to defend their positions. If you are brave enough to stand before the cameras and address the House, why do you find it difficult to go to your political party consultations and advance your case?

Mr. Speaker, Sir, we are looking bad. Kenyans would like us to resume from where we left when we went on recess. We should embark on serious agenda. What is more important than having a new Constitution in this country? What is more important than fighting corruption in this country? What is more important than getting our place in history as leaders of this country who moved the country forward?

The Hon. Prime Minister, I beg you! You are our Prime Minister and you are very powerful! We put your office in the Constitution. Do not use that position to discipline us when we disagree with you. I beg you!

(Applause)

Hon. William Ruto, I beg you! However much you are in disagreement with the Prime Minister, think about the benefits this House brings to Kenyans when we move. Go and sort out your problems with the Prime Minister. Do not allow members of New FORD (K) or the PNU to help you. You are strong enough. You have a strong political party. Convene a National Delegates Conference which will decide who between you is bigger than the other. Allow us to transact the business of this House.

(Applause)

Mr. Speaker, Sir, I am worried that if we continue on this note, the Constitutional Review Process that we are looking forward to will start being threatened. Those of us who like being theoretical had thought that the threats to the new Constitution would not include political party feuds within parties. We thought there would be political feuds across political parties.

Mr. Speaker, Sir, honestly, because the Orange Democratic Movement (ODM) has more Members than any other party in this House, they owe it to all of us to be humble. Let us join hands across our political parties, regions and all our beautiful tribes that we come from to make sure that we move the country forward. It is not too big when you miss out on this list. Let us move forward.

I beg to support the Motion.

Mr. Speaker: Dr. Machage, I hope you have not contributed to the main Motion.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I have not.

Mr. Speaker: That is okay. Proceed!

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to support this Motion.

(Applause)

Mr. Speaker, Sir, wise people always consult, and the wise people of this House consulted for 24 hours or so. Therefore, the list is back to the House the way it was yesterday, but all the same, consultations were done.

The only qualification that one needs in order to be in this Committee is to be a Member of Parliament. I believe all Members of this House qualify to be in this Committee, but we cannot. Fortunately or unfortunately, a few names have been omitted during the drafting of this list. Take it easy, you are part of this community of this Parliament. Let others serve. You do not always have to serve.

Mr. Speaker, Sir, maybe it gives an opportunity for a little change in the constitution of this Committee to instill some wisdom into the Members of the Committee. I besiege Members of this House that we do not take more time just discussing a list of one Committee of this House. There are many other Committees of equal importance which will be created. May I appeal to all Members that we pass this list of our colleagues who have been anointed by God to be on it.

(Laughter)

This is because your name cannot just crop up from nowhere. Leadership is an anointment. If they are on this list, then God wishes it. Let us vote this list as it is. Let us stop side shows. Let us stop political semantics and move on.

I beg to support this Motion.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I stand to support this Motion.

I also plead with my colleagues that we pass the list as it is. The House was recalled one month earlier. Under normal circumstances, we are supposed to have a three month recess. However, because of the amount of work that we have for this country--- We have the new Constitution to deliver to this country. It is a waste of this country's resources if we squabble over names of hon. Members of this House who are equally qualified to be Member of this Committee. It is also a waste of our time and yet we are paid by taxpayers to deliberate on issues that affect this county.

I support the Motion. Let us pass this list as it is because parties have consulted. Consultation does not necessarily mean holding a meeting. You can consult as individuals within a group. I know that our party had a meeting which I attended that took about three hours.

Thank you, Mr. Speaker, Sir.

Mr. C. Kilonzo: Thank you, Mr. Speaker, Sir, You will recall that I rose yesterday to object to some of the names. However, in the interest of this country, allow me to support this Motion.

Mr. Speaker, Sir, I belong to a party which has ceased being a Parliamentary party. This party has flouted the Standing Orders. For the interest of the party members, allow me to define to them what a parliamentary party is. Page four of the Standing Orders says:-

“Parliamentary Party” means a party means a party or a coalition of parties consisting of not less than five percent of the membership of the National Assembly.”

Mr. Speaker, Sir, my party has close to eight percent of the members. The Standing Orders are very clear. Standing Order No.158 (2) says:-

“In nominating Members to the House Business Committee, each parliamentary party shall include its Whip into the membership”.

Mr. Speaker, Sir, my party has not included its own Whip. However, for the interest of this nation and to save time---

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. I have heard the hon. Member talk about his party without naming it. Could he do the House a favour by describing the party that he is talking about? The arithmetic he is talking about, in my imagination does not tally with the party I presume he is talking about.

Mr. Speaker: Order, Mr. C. Kilonzo! You need not respond to that.

Mr. Ogindo, resume your seat. The political parties to which Members who serve in the Tenth Parliament belong is a matter in the public domain. So, the hon. Member for Yatta does not have to give information which is already with the public.

Proceed, Mr. C. Kilonzo!

Mr. C. Kilonzo: Thank you, Mr. Speaker, Sir, for coming to my rescue. Obviously, the hon. Member was talking about imaginations which we are not talking about. He can as well get time and start reading newspapers.

Mr. Speaker, Sir, my position is very clear. Although my own party, which apparently seems to have totally ignored its own identify has identity the Standing Orders, in the interest of this nation, I beg that we pass this list as it is.

At the same time, we plead with the members, particularly those from the ODM not to bring their party differences to the Floor of this House. They can sort out their issues out there. It is my understanding that they hardly talk. It would be in bad taste for one party to bring its issue to the Floor of this House and ask other parties, particularly PNU, to help them.

Finally I would want to plead with those members who want to be used by ODM to support it on this particular issue to know that we have a new constitution which is coming and, we want to build consensus on all the issues. Anything which might offend the other side should really be avoided.

With those few remarks I support.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I want to support this Motion because we were recalled earlier than was expected, the reason being that we come and address the major and most important issue that Kenyans have been waiting for, for the last 20 years. That is the issue of the Constitutional Review. Each and every Member must remember that every day lost means then there was no need of us being recalled earlier than was expected. Secondly, those who feel that they are offended, or aggrieved in one way or the other by this list, should also be reminded that they have also made their point. You were here yesterday, you voted against the Motion and you made your point. You cannot keep on making your point everyday until Jesus comes back. You should accept that if it is about political supremacy within your own party, you have already made your point. You have shown that you are stronger than the other side, if that is the statement you wanted to make.

I want to remind hon. Members once again that funerals and, birthday parties are still going on in the country, and you have public rallies where you can still go and wrestle outside this House. You can go and make your point there. What we are saying is that we have already understood you, we know what is going on within the parties and every Kenyan understands this.

It is very unfortunate that we try to preach democracy wherever we go, but we do not drink from the same cup that we want others to drink from. I do not believe there are hon. Members today, leaders of this country, leaders of political parties, who would say that because you do not toe my line I will punish you in one way or the other. That should not be accepted. It should also be realised that this list was not made in good faith, especially by one side of the political divide. On our side as the Party of National Unity (PNU), personally, I have no problem with Dr. Khalwale or hon. Martha Karua serving in this committee. I have no problem; if someone does not want to serve on the Committee then they can resign quietly and we can replace them. However, the most important thing is that we must read the mood of Kenyans, that they are really anxious; they really do not know where we are taking them as leaders.

Just in the last two days, we have brought up the issue of corruption, then the issue of who is who in the National Accord. You see what has happened to the dollar today against other foreign currencies and, the securities market in the country; do we still have the confidence that we used to have in the economy of this country? What is happening with tourism in this country? Do we want to extend this anxiety to an extent that even those who had hope that we might unite once again and do what is expected of us this country are now going to run away completely? Are we doing it really for our selfish interests or do we want to put national interests first?

For me, I believe we must pass the draft Constitution, so that for the first time we can have it not only for our benefit but also for the future generations of this country. If we are serious, we can still be able to demonstrate this, because by the end of the day, Motions will be coming to the Floor of this House; there will be Questions and Bills that will be tabled here. If

you want to express your displeasure with a certain gentleman in the House, you will be able to go ahead and do that. I sympathise with those offended, but life must continue. Let us move on; I support.

Mr. Imanyara: Thank you, Mr. Speaker, Sir, for this opportunity. After the adjournment yesterday I had the opportunity of talking to the whips and to my colleagues on both sides. During those consultations, the chair of the PSC indicated to me that he and his Committee are ready to table the proposed Constitution of Kenya in this House next week. Having weighed that assurance, and taking all things into consideration, I am convinced that if we do not prepare ourselves by putting the House Business Committee in place before Tuesday next week, the process of constitution-making may well be delayed. Therefore, weighing the rights and wrongs-- I am very dissatisfied with the conduct of one of the whips; when we suggested some names, his response was most unsatisfactory. But I am prepared, in the interests of the nation, and in order to facilitate the tabling of the proposed new Constitution in this House next Tuesday, to forgo my objections and let this list be approved so that we can move forward.

I, therefore, support.

Ms. Karua: Mr. Speaker, I think the dispute that we have before the House is one that can be resolved by the Registrar of Political Parties. We have forgotten that we have new laws that can help a party that has internal conflict. Party members are entitled to move to the Registrar, and if they are still dissatisfied go to the Political Parties Disputes Tribunal.

Having said that, I want to agree with my colleague, Dr. Khalwale, that both the parties that are now delaying us have not acted in good faith. One party is alleged not to have consulted while the other is alleged to have failed to go to a meeting. With a Motion like this one, we have to be upfront with each other. Those who are dissatisfied with the names ought to be able to stand here and propose amendments, so that we know which names are being objected to and which ones ought to come on board, and then as hon. Members, we will be able to make decisions. In the absence of any amendments, then we are left with no option but to vote for the names that are before the House. I would encourage anybody dissatisfied to be upfront and say instead of x let it be y, and then we can make an informed decision.

I am forced to draw your attention to, again, the Political Parties Act, which became operational on the 1st of July, 2008. The term "PNU" refers to PNU, the coalition of parties, which is since deceased, because PNU became a membership party. So it is important that when rulings are made about the composition, it is understood that the term "PNU" refers to independent parties and NARC (K) as a party that is completely on its own--- For purposes of membership of committees, we are in that loose coalition, but not as individual members of that party and for the reason that some of our members remain in Government. This is so that we do not have the notion that being there means we subscribe to policies of PNU, the new born. It is to the loose coalition of parties, now deceased.

I want to appreciate, as I close this contribution, that last year I was in the same position some hon. Members find themselves in. I had been removed arbitrarily, and with the help of the House, I was able to come back to the list. That is why I am saying those displeased must be upfront and put their case before the House the same way I put my case, and others put their cases before the House without any hidden cards. Let our parties learn to consult; we have business to transact; let us be upfront with each other. Most of all, let us learn to respect each other and let us remember that there is the Registrar of Political parties and the Political Parties Disputes Tribunal.

If there is no amendment in those terms, I will have no option but to support the names before the House.

Mr. Abdirahman: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion. I stand to support it. It is the second time in this particular term that we are facing this issue. It is because of problems facing political parties and not individual hon. Members. As those who have spoken before me said, there are problems in the various parties. But those problems should not override all other national interests. I would also attribute it to problems within the larger membership of the Coalition Government. I think Kenyans have more important issues to address. They include drought, the new Constitution, poverty and unemployment. I think it is up to the party leadership in the various party organs to make sure that they lead from the front. They have failed to do that and, in the process, they have confused party membership and Kenyans. It is important that, as Parliamentarians and leaders, we avoid that.

With those few remarks, I beg to support.

Mr. Nyammo: On a point of order, Mr. Speaker, Sir. May I propose that the Question be put?

(Applause)

Mr. Speaker: Hon. Members, I have, up to where we are, gauged the mood of the House and hon. Members are being repetitive. So, I will proceed to put the Question.

As I have indicated, I will proceed and put the Question because we have spent the better part of the last two days on this Motion. We have heard the views of hon. Members and, in my evaluation, honest opinion and national interest which is fed by public interest, I must let democracy play its role. All hon. Members will be at liberty to vote one way or the other. Essentially, that is what democracy is about!

(Question put and agreed to)

Hon. Members, given that there is no other business on the Order Paper, we shall adjourn the House. But before we do so, may I put on notice those who have been selected to serve on the House Business Committee (HBC) that they will immediately proceed to Room No.7 for a meeting.

ADJOURNMENT

Mr. Speaker: Hon. Members, the House is, therefore, adjourned until Tuesday, 2nd March, 2010, at 2.30 p.m.

The House rose at 3.07 p.m.