

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd March, 2006

The House met at 9.00 a.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

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

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

The Hon. M.A. Awori, MP, (Chairman),

The Hon. Martha Karua, MP,

The Hon. Amos Kimunya, MP,

The Hon. John Michuki, MP,

The Hon. Musikari Kombo, MP,

The Hon. Charity Ngilu, MP,

The Hon. (Dr.) Mukhisa Kituyi, MP,

The Hon. Chirau Mwakwere, MP,

The Hon. Kipruto Kirwa, MP,

The Hon. Raphael Tuju, MP,

The Hon. Moses Wetangula, MP,

The Hon. Norman M.G.K. Nyagah, MP,

The Hon. Simeon Nyachae, MP,

The Hon. Henry Obwocha, MP,

The Hon. Uhuru Kenyatta, MP,

The Hon. Justin B.N. Muturi, MP,

The Hon. (Dr.) Bonaya Godana, MP,

The Hon. Henry Kosgey, MP,

The Hon. Joseph Kamotho, MP,

The Hon. Major Marsden Madoka, MP.

Mr. Raila: On a point of order, Mr. Speaker, Sir. With regard to the list that has been read out by the Vice-President and Minister for Home Affairs, I would like to seek your ruling on the issue of the composition of Membership of Committees here, with regard particularly to one party called FORD(P). I would like to know whether FORD(P) is an Opposition or a Government Party because that has got consequences in terms of the composition of the Committees of the House.

Mr. Speaker: Hon. Raila, that may very well be a good point, but you have jumped the gun. That was just a Notice of Motion. We will deal with that matter when it comes to the

substantive Motion.

(Loud consultations)

Order, hon. Members! We will transact the business of this House with dignity and decorum! Those who feel that they cannot possibly fit into that arrangement, I am sorry, they are in the wrong place! There must be decorum in this House. There should be no shouting!

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER NO.33

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

THAT, this House orders that the Business appearing in today's Order Paper be exempted from the provisions---

(Loud consultations)

Mr. Speaker: Order, hon. Members! How do you debate what the Vice-President and Minister for Home Affairs is moving if you cannot hear him out? Please, give him a chance to be heard!

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. 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.33, being a Wednesday morning, a day allocated for Private Members' Motions.

This is merely a procedural Motion to ensure that we hold business other than the business that we normally hold on Wednesday mornings, which are always allocated to Private Members' Motions.

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

(Question proposed)

(Question put and agreed to)

MOTION

APPOINTMENT OF HOUSE
BUSINESS COMMITTEE

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

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

The Hon. M.A. Awori, MP, (Chairman),

The Hon. Martha Karua, MP,

The Hon. Amos Kimunya, MP,
 The Hon. John Michuki, MP,
 The Hon. Musikari Kombo, MP,
 The Hon. Charity Ngilu, MP,
 The Hon. (Dr.) Mukhisa Kituyi, MP,
 The Hon. Chirau Mwakwere, MP,
 The Hon. Kipruto Kirwa, MP,
 The Hon. Raphael Tuju, MP.
 The Hon. Moses Wetangula, MP,
 The Hon. N.M.G.K. Nyagah, MP,
 The Hon. Simeon Nyachae, MP,
 The Hon. Henry Obwocha, MP,
 The Hon. Uhuru Kenyatta, MP,
 The Hon. Justin B.N. Muturi, MP,
 The Hon. (Dr.) Bonaya Godana, MP,
 The Hon. Henry Kosgey, MP,
 The Hon. Joseph Kamotho, MP,
 The Hon. Major Marsden Madoka, MP.

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker, Sir, I beg to second this Motion.

Under Standing Order No.145, the House Business Committee's procedures and rules are clearly set out. These hon. Members represent political parties, and as we know, FORD(P) is entitled to have its own slots in this Committee. The fact that some Members of FORD(P) are supporting the Government does not mean that the political party has died. The political party is entitled to its slots. In fact, some of the Members of the party are still in the Opposition.

Hon. Members: No! No!

The Minister for Planning and National Development (Mr. Obwocha): You have Mr. Magara! You think he is not a member?

Mr. Speaker, Sir, FORD(P) is entitled to its slots. I also remember the ruling of the Chair that, when KANU had its slots from the total Membership, we were also entitled to our slots. I do not think that, that ruling has been changed or amended by yourself.

Mr. Speaker, Sir, as we know it, NARC has not been dissolved---

Mr. Speaker: Order, hon. Members! Just for the benefit of the Chair--- I do not want to make a ruling in abstract! I want to make rulings on facts. I want to ask you a question as FORD(P). Are you in the Opposition or are you a party---

(Applause)

Order, hon. Members! Are you a party forming the Government in accordance; for example, with the provisions of the Constitution that, a structured consultation with a party can make that party to be part of the Government? What is the official FORD(K)'s position?

Hon. Members: FORD(P)!

Mr. Speaker: I mean FORD(P). There is no FORD(K) in this House!

The Minister for Planning and National Development (Mr. Obwocha): There is FORD(K) led by Mr. Kombo!

Mr. Speaker: Order, Mr. Obwocha! If he admits as much, he loses his seat!

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker,

Sir, as we know it, this is one of the rulings---

(Loud consultations)

Mr. Speaker: Order, hon. Members! We are dealing with a very momentous question and you do not want to listen! How do you respond if you do not listen? Let us listen to Mr. Obwocha!

The Minister for Planning and National Development (Mr. Obwocha): This is one of the rulings that the Chair is yet to make. It deals with the composition of this House. In the structure of this House now, it does not appear that there is one party that forms the Opposition. That is because some members of KANU are also in Government.

An hon. Member: It is illegal!

The Minister for Planning and National Development (Mr. Obwocha): To that extent, I do not know whether it is illegal or not.

Mr. Speaker, Sir, the official position of FORD(P) is that, we are in the Opposition but supporting the Government!

Hon. Members: No! No!

Mr. Speaker: Order! Order, hon. Members! I have an hon. Member from the other side.

Mr. Angwenyi, please, proceed!

Mr. Angwenyi: Mr. Speaker, Sir, I want to answer the question that you have posed. We have a parliamentary political party called FORD(P). That party has joined a Government of National Unity (GNU). The GNU comprises of all parties in this Parliament, except Safina.

(Laughter)

Mr. Speaker, Sir, I also know that there are Members of the governing party, NARC, who are sitting in the Opposition Benches. You have not declared them---

(Several hon. Members stood up in their places)

Mr. Speaker: Order, all of you! There is a difference between where you sit and where you legally belong. As far as the Chair knows, this House is represented by the following parties: The majority party; NARC. The second party is the Official Opposition; KANU. The third party, taking into account the numerical strength is FORD(P). The fourth party, I believe, is Safina. Then, there is Sisi kwa Sisi. There is also FORD(A).

An hon. Member: LDP!

Mr. Speaker: Yes, LDP! It is not yet in until I swear its Members. So far, LDP is absent until I swear in the newly-elected Member this afternoon. So, as of today, LDP does not exist in this House!

The last ones are fringe parties. I think we need to address--- This is what I will come to. We must look at the relevant Standing Orders. We do not talk out of the blue. The Standing Orders give us guidance. I think, for the time being, let us address ourselves to Standing Order No.145; on the House Business Committee. As far as I can read that - and I do not want to make rulings out of it - I want hon. Members to read Standing Order No.145 very carefully. Then, after that, follow it with the provisions of Standing Order No.147. I suspect that we may be jumping the gun. I suspect that some hon. Members have in mind the provisions of Standing Order No.147, rather than Standing Order No.145. However, let the matter come to the House. Think about it.

But as for Mr. Obwocha and others, I want to remind them that the question of belonging to

a structured coalition is not a mute issue. It is, indeed, provided for in the Constitution which I must actualise, and you must live with it. So, in the meantime, please, peruse Standing Order No.145. If I look at Standing Order No.145, I may be getting at a loss if that is not a mute issue. But let us hear from the arguments.

But, Mr. Obwocha, finish the seconding first!

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker, Sir, it is clear that political parties---

Mr. Kombe: On a point of order, Mr. Speaker, Sir. In mentioning the parliamentary political parties, you forgot to mention Shirikisho Party of Kenya (SPK).

Mr. Speaker: I forgot what?

Mr. Kombe: Shirikisho Party of Kenya (SPK), Mr. Speaker, Sir.

Mr. Speaker: Oh yeah! Order, hon. Members! I said those are other fringe parties.

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker, Sir, I totally agree with you. You have already named the parties that will constitute the House Business Committee. They are NARC, KANU, FORD(P) and other miscellaneous political parties.

I beg to second.

(Applause)

*(Several hon. Members stood
up in their places)*

Mr. Speaker: Very well! Order, hon. Members! Relax! I will give you the time! This is how business must be done. We must reason together, look at the laws and talk as hon. Members! This is how I want it to continue all the time. So, let us follow the law. It seems I will have to propose the Question and then you can debate.

(Question proposed)

Dr. Godana: Thank you very much, Mr. Speaker, Sir. I stand to oppose this horrible Motion!

(Applause)

Mr. Speaker, Sir, taking into account the list that the hon. Vice-President and Leader of Government Business has brought here without consulting with everybody, is a mockery of parliamentary procedure. It is an insult to the integrity of the Ninth Parliament. For the purpose of conduct of parliamentary business in our system of Parliament, there are only two sides; the Government and the Opposition. The principle, of course which we concede, is that the majority side, which is the Government side, normally has the majority in the Committees except where it is specifically provided for as in the case of the two principal watchdog Committees; that they will not have a majority above a certain number.

Mr. Speaker, Sir, the practice and conventions of this House have been very similar since we started multi-partyism; that the various strengths of the Committee Membership must be reflective of the size of the Government and Opposition sides. Where positions are to be reserved for the Opposition which has more than one party, KANU considered hon. Obwocha and hon. Nyachae sit in the House Business Committee because they are Members of a parliamentary party in the Opposition. As the Official Opposition----

Mr. Speaker: Dr. Godana, can I tap your mighty brain because I would certainly like to benefit out of it?

Dr. Godana: Yes, Mr. Speaker, Sir.

Mr. Speaker: I am sure you are addressing Standing Order No.145. If you are doing so, then you are rightly saying that the Committees are given positions in accordance with their strength in the House. That is why I spelt out initially that---

(Loud consultations)

Order, hon. Members! If you listen you will all know why a certain ruling has been made. If you can listen you will be able to know why a certain issue is being contested and the rationale for the ruling that will be forthcoming. What was the Membership in the last Session? Was it 12 to eight?

*(Mr. Speaker consulted the
Clerk-at-the-Table)*

Mr. Speaker: Hon. Members, as I understand, when we first came in here with the strength of NARC, they had 12 positions given to them because of their numbers. I believe the party Whips did that calculation to arrive at those numbers. I believe that is the position. The Opposition which then comprised of KANU, FORD(P), Safina, Shirikisho and whoever else was there, their total membership, entitled to their combined opposition, was eight positions. Now this Standing Order No.145, and I might need to answer you in order to help this House and the Chair, does not give a limitation as to what number the majority of the Government can be. Even supposing they had 80 per cent of the House, they would be entitled to 90 per cent of Membership of the Committee.

(Loud consultations)

Hon. Members, I think there is virtue in listening because I want to--- We are just extending what was there at that time. Supposing they are 90 per cent of the House, I think the formula used by Messrs. Muturi and N. Nyagah would apply. However, what I would centrally ask now is: When FORD(P) through, I believe what I hear and have heard from the Floor of the House, a structured movement are getting out of the Opposition to the Government, are they not transferring as it were, their strength to the other side? That is what I want to hear from you.

Dr. Godana: Thank you very much, Mr. Speaker, Sir. As you have said, that we have to respect the conventions of this House, we are in a multi-party era democratic Parliament. There are certain principles which, if we pretend to be a democracy and a multi-party Government, we have to respect. I am saying that the principle under which this Parliament operates is that the Government forms the Government because it is a majority side.

Mr. Speaker, Sir, the purpose of the House Business Committee is to act as a guide to the House. The business of a Parliament is principally Government business and that is why the Government has a majority. When the Ford (P) party had two slots, or rather did not have two slots, it was a parliamentary party in the Opposition and as such the Opposition conceded two positions to them equitably. As I said, the Chair should recognise only two sides which are the Government and the Opposition. The slots are 12 for the Government and eight to the Opposition. The party which ceases to be part of the Opposition and moves to the Government, cannot move with the position of the Opposition.

(Applause)

Mr. Speaker, Sir, and whatever we do, we got to think of posterity. What we do today will go down in the records. It is through this that I wanted to say that let us provide for specific numbers as in the case of Standing Order No.147, but the principle is similar. We concede the majority to the majority side but we do not stifle the minority into non-existence. The way this Committee has been constituted has no purpose. It will serve no purpose for five Members of the Opposition to sit on a Committee dominated by 20 Government Members! In any case, the rationale behind these nominations has been made very clear by hon. Obwocha. In defence of his position, he said that we are a party in the Opposition which means he is conceding that his position is that of the Opposition. He has conceded that here on the Floor of the House that the positions that he has occupied on the proposed list are positions of the Opposition. That is why he is insisting as a Cabinet Minister that he feels their party is still a party in the Opposition. The honourable Leader of Government Business in this House will have some good sense to realise that this is a terrible embarrassment even to him personally. It will go down the annals of this country's history that at a time when this country had become an established multi-party State, they were trying to wind back the rules of democracy. Will he have the grace to withdraw this Motion and go and consult for a more representative and fairer list of the House Business Committee?

(Loud consultations)

Mr. Speaker: Order, Members! You know, we really do not have to get overworked over this matter. I want to find out what happened. Ordinarily, the calculation of the percentages in the Committees is by the Whips. Now, I want to know from the Whips whether they actually consulted and agreed on this list. How did this list, in the end, come to this House?

What is it, Mr. Mwandawiro?

Mr. Mwandawiro: Bw. Spika, umemsikia mhe. Obwocha akisema kwamba chama cha FORD(P) kinapatikana katika pande mbili humu Bungeni; kiko upande wa Upinzani na upande wa Serikali. Huo ni ukweli. Suluhu ambayo mimi napendekeza ni kwamba hizo nafasi zipatiwe wale Wabunge wa FORD(P) ambao wako upande wa Upinzani.

(Applause)

Mr. Speaker: Order, Members! Please, I want us to solve this. I want us to legally and reasonably settle this matter.

Mr. N. Nyagah: Mr. Speaker, Sir, it is good to set the record straight. Going by the argument that has been advanced by hon. Mwandawiro, I think he should realise that the name of hon. Kamotho was not presented by me; rather it was presented by hon. Muturi who is the KANU Whip, and yet he is a Member of the ruling Party.

(Loud consultations)

We must swallow our pride. That, indeed, is the position.

Mr. Speaker, Sir, the names of hon. Nyachae and hon. Obwocha were presented to the Clerk of the National Assembly by hon. Nyachae who is the Leader of the political party called FORD(P). There is record to attest to that fact.

When we first met as Whips, in the absence of hon. Dr. Bonaya Godana, we looked at the

strengths of various political parties in this House. From the Opposition side, FORD(P) presented two Members as its representatives in the House Business Committee. Likewise, we have continued to use the same representation in all Committees of this House other than the Public Accounts Committee (PAC), which is set out by Standing Order No.147, as you rightly stated. For the case of the PAC, we had to get rid of the name of hon. M'Mukindia from that Committee and replaced it with that of hon. Twaha without actually being prodded by this House. It was only fair and right that we follow, to the letter, what that Standing Order requires.

Therefore, the NARC Party, for which I am the Whip, presented its names according to the stated requirement which takes numbers into account.

(Applause)

Mr. Speaker: Order, Members! Let me hear from the people who actually work out these things. It is not actually my business to do that. I only find them on the Table. What is your take on this, Mr. Muturi?

Mr. Muturi: Mr. Speaker, Sir, I was called by the Clerk of the National Assembly to present names of people that our party proposed to be in the House Business Committee yesterday. I looked through the composition of all other Committees of this House, particularly the Departmental Committees. I realised that in the Departmental Committee on Energy, Communications and Public Works, one of my Members, namely, hon. Kimathi, had been appointed by the governing party sometime last year, in keeping with the practice that they had established in 2004; that is, stealing from this side. Therefore, I felt that consultation---

Mr. Khamasi: On a point of order, Mr. Speaker, Sir. Did you not hear Mr. Muturi use unparliamentary language? He used the word "stealing".

Mr. Speaker: Yes, I heard him and he is out of order. Could you, please, withdraw that word, Mr. Muturi?

Mr. Muturi: Mr. Speaker, Sir, I withdraw the word "stealing" and replace it with "poaching".

Mr. Speaker: Which one is worse, stealing or poaching?

(Laughter)

Mr. Muturi: Mr. Speaker, Sir, the word is withdrawn and replaced with the words "lack of consultation".

Indeed, Mr. Speaker, Sir, what is coming out today is that there has not been any consultation between the Whips. Primarily, as you will appreciate from the Standing Orders, even FORD(P) is supposed to have a Whip as a parliamentary party. However, we have not been able to locate one because the one who was the Whip, and with whom we could consult, became a Minister and ceased being a Whip. Ever since, we have not been provided with any one to consult with.

Mr. Speaker, Sir, it is, therefore, appropriate that this matter be adjourned so that we carry out proper consultations particularly with regard to the number of slots that are going to be allocated to our side.

(Loud consultations)

Mr. Speaker: Order, Members! Order, all of you!

(The Minister for Livestock and Fisheries Development (Mr. Munyao) walked into the Chamber)

Order, Minister!

Hon. Members: Freeze! Freeze!

Mr. Speaker: Okay, take your seat, Mr. Minister.

(Laughter)

Mr. Speaker: Order, Members! Sometimes when we are inquiring into these issues, perhaps, some of us think that they are not important. Maybe we think that they are just an avenue for a contest. Some of the things we are discussing now are raising even fundamental issues on the role of the Whips. Why do they exist if they cannot do the Whips' business? The business of the Whips is to make it possible for the House to receive information already agreed to by the Whips and presented to the House. Whips are not there by naming; they are legal and they even have financial benefits attached to their positions.

Hon. Members, we have to be very careful. I want you to listen to me very carefully. We must be very careful as the Ninth Parliament because we stand a real danger of actually destroying the parliamentary system as it is known around the world.

(Applause)

We must be very careful because we are not the last parliamentarians to come to this House. There will be others who will come. Let us leave a sound basis for a working Parliament.

What I want to know is this: Is there any problem if the Whips, as recognised, meet and give to the Leader of Government Business an agreed-upon issue? Is there any problem? Could I get an answer from Mr. Muturi? Do you have a problem? Ultimately, you will ask me to make a decision. So, I must understand these things and the rationale behind what we are doing.

The Assistant Minister for Health (Dr. Khalwale): On a point of order, Mr. Speaker, Sir. I am wondering whether the Chair could help us on this issue. I believe what is going to give us the way forward is the respect for traditions of this House. This is not the first time this is happening! Could you guide us on what happened in the Eighth Parliament when Mr. Raila was a Member of the House Business Committee and in the Opposition as NDP? When he moved, did he move with that position?

Mr. Speaker: Order, Dr. Khalwale! I truly beseech you! I think the era of personalising issues in this House must be gone. You should talk about a party. Suppose it was Mr. Kombo? Would it have made a difference? So, please, do not personalise. Let us talk about issues.

(Loud consultations)

Order! There is no need to pretend to be agitated on a non-agitative issue. This is not agitative. In the end, it is going to be a mathematical issue! Mathematics have a knack for being non-emotional. So, when you face mathematics in its face, I am afraid you will get to the resolve whether you like it or not. It will be the same resolve. It will not be emotive.

I think the following is my direction. First, you have already heard what I have said about parties recognised in this House. It is upon that recognition that in 2003, Committees were set up using a certain set formula which is very well known to Mr. N. Nyagah, Mr. Muturi and Mr.

Obwocha. Mr. Obwocha was then the Whip of FORD(P). I believe that, that mathematics has not changed. What the Whips should do is to go and look at that this issue and bring it back to the House.

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, I have listened to very enlightening questions from you; first to Dr. Godana. Answers to those questions could make a phenomenal contribution to the way forward. Dr. Godana is a very clever person and debater. He conveniently side-stepped the questions. When you told him that percentages and proportions were assigned to political parties, he chose to create a weaker question that positions are given to the Opposition and the Government. I had the privilege to be the first Whip of the Opposition in the first multi-party Parliament in our generation. From the first time in 1993, when we were constituting Committees, percentages were assigned to parliamentary parties and not to the Opposition and the Government, except for the two audit Committees where you numerically give half-plus-one to the Opposition. The question then becomes: What this Opposition approbated, it cannot reprobate. When NDP moved from being a party in the Opposition to become a party in the Government, they diminished the membership of Opposition in all Committees of the House apart from the audit committees and, by the same measure, enhanced the members of the Government side in those Committees. The party in which Dr. Godana was a Minister at that time gained strength because of the movement of a party from the Opposition to the Government side. If we are following tradition, we cannot blindly say that there was a percentage for the Opposition and that for the Government. There were certain proportions which were depleted from the Opposition side by the movement of a party---

Mr. Mwandawiro: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Please, sit down! I urge hon. Members to listen to one another. Nobody dies for listening! The arguments being put forward by the Minister are of immense interest to the Chair. So, I must listen to them.

What is your point of order?

Mr. Mwandawiro: On a point of order, Mr. Speaker, Sir. When NDP moved from the Opposition to the Government, they moved as a whole. But some members of FORD(P) are still in the Opposition. That is the difference!

Mr. Speaker: Order! As you are likely to find out later or even now, maybe, to your discomfort and that of Mr. Obwocha, for purposes of Standing Order No.147, I will treat FORD(P) as a party forming the Government. In fact, all that you are talking about is mute. As the Minister here is saying, if a party moves in a structured manner to another party, it takes that strength. I can tell you, Honourable Vice-President, that your strength will never be added one iota by any Member of KANU forming the Government. I can tell you that because, as I heard before, the Leader of the Official Opposition has not consented to that. But FORD(P) leadership has made that decision to go there. I think we are arguing a mute point.

Mr. Muturi, what you should know now is: Do the numbers presented here tally to the formula that you people agreed to previously? Could you respond to that?

Mr. Raila: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Raila. But I will have to come back to you, Mr. Muturi. But, Mr. Minister, had you finished?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Speaker, Sir, I am not yet done.

Mr. Speaker: Dr. Kituyi, if you are not yet done, continue!

The Minister for Trade and Industry (Dr. Kituyi): Thank you, Mr. Speaker, Sir. I will soon vacate the Floor. I celebrate the fact that we are having a very civil discussion on this issue. We are ventilating opinions on the traditions and procedures of this House, as to whether what happened in the past was good basis for a tradition or not. To my mind, the precedent set in the past

was a good one; that portfolios in Parliamentary Committees are assigned to parties on the basis of their strength in the House. When there is a formal leadership of a parliamentary party shifting sides, the portfolio of that party shifts the side with the party. When Liberal Democratic Party (LDP) crossed the Floor of the House, Dr. Shem Ochuodho remained in the Opposition. He did not cross over.

Today, if an hon. Member of FORD (P) decides to remain on another side other than that of his party, he can be adopted, as an oryx can be adopted by a lioness. However, he cannot pretend that his party belongs to the lion.

(Applause)

Mr. Speaker, Sir, my humble submission to the specific and targeted questions that you raised which were: "Were the mandates agreed at the beginning of this Parliament?", is that yes, they were. "Were they legitimate and assigned to an Opposition parliamentary party other than KANU?" Yes, they were, and that party was FORD (P). "Did the political party called FORD (P) legitimately cross the Floor to be a legitimate Government party?" Yes, it did. Did it have the right to transfer its mandate to the side it moved to?" Yes, it did. If those are correct premises, the answer is obvious; there is no issue to deal with here.

Mr. Kosgey: Thank you, Mr. Speaker, Sir. The issue we should deal with is whether FORD (P) is an Opposition or a Government Party. If we can answer that question---

Mr. Speaker: I have!

Mr. Kosgey: Mr. Speaker, Sir, the hon. Members of that party cannot have their cake and eat it at the same time!

(Loud consultations)

Mr. Speaker: Order, hon. Members! We will dialogue. I prayed yesterday, may God hear me, that we may have the opportunity to dialogue and not shout at one another.

The hon. Member who was on the Floor, proceed!

Mr. Kosgey: Thank you, Mr. Speaker, Sir. I know you have made a ruling. I was only emphasising a point; that they cannot have their cake and eat it at the same time. They cannot be in Government and claim to be in the Opposition at the same time. The simple solution is that they must forfeit the current positions being held by Mr. Nyachae and Mr. Obwocha. There is only one major Opposition party, and that is KANU. There is only one hon. Member from the Liberal Democratic Party (LDP) sitting on the Opposition side. The fact that historically, they were given two slots in the Government when they were still in the Opposition side, that---

Mr. Speaker: Order! Will you take a seat now? We always make progress when we move through things systematically. I want to ask you, Mr. Kosgey, a very simple question: Were the two slots given to FORD (P) given on donation or on merit?

Mr. Kosgey: Mr. Speaker, Sir, they were actually a donation.

(Loud consultations)

Mr. Speaker, Sir, I am still on the Floor.

Mr. Speaker: Order, hon. Members! Relax! Mr. Kosgey, do not be agitated. There is nothing criminal about a donation. It simply means that you do not have to work for or earn it. You just get it for free. So, that was the question, and it is not an insult. It is a question and I will

give you an opportunity to react. I do not want to be here forever. Could I give the chance to the Leader of Official Opposition?

Mr. Kosgey: Let me finish, Mr. Speaker, Sir!

Mr. Speaker: Then finish!

Mr. Kosgey: In recognition that FORD (P) was still in the Opposition at that time, we donated two slots to it. Regardless of whether it was a donation or not, the matter now is that the situation has changed. FORD(P) has become a Government party. It has joined the so-called Government of National Unity (GNU). Therefore, it should surrender those two Government positions.

Mr. Raila: Mr. Speaker, Sir, I had recognised this issue in the spirit of your remarks yesterday, when you addressed the House. You said that this House must show leadership of this country, because we are in a critical stage of our development. That requires that we must be tolerant, honest and accommodative with each other.

(Applause)

*(Hon. Members from the Government
side consulted loudly)*

Mr. Speaker: Order, hon. Members! You must listen because he has a right to say so! I will protect him to say that.

Proceed!

Mr. Raila: Thank you, Mr. Speaker, Sir, for protecting me from the other side. The plain talk of *de facto, de jure*--- Last time when we came here and said that we wanted to have a PGM of ODM, you said that ODM was not a party. You also said that you would not allow the GNU to meet here. That is the reason why it met at the KICC. Positions for hon. Members in the Committees are decided in the Parliamentary Groups of the respective political parties. That is the Commonwealth practice all over the world. It is important that the Whip must recognise the composition of parties that selected him. What we are dealing with are some unprecedented issues which have not come to the Floor of the House before. The important thing is that the Whip of the National Rainbow Coalition (NARC), to which I belong until the end of this Parliament, does not recognise the composition of NARC as a political party. That is why the list which has been given here is very biased and partisan. That is why we are saying---

*(Mr. Salat consulted loudly
with an hon. Member)*

Mr. Speaker: Order, hon. Members! Mr. Salat and other hon. Members, you must keep your peace. If I have misdirected my fire on you, Mr. Salat, I am sorry. However, just relax completely.

Mr. Raila: Mr. Speaker, Sir, Standing Order No.145 does not talk of percentages. The percentages system is a way of tradition. It is not provided for specifically in words under Standing Order No.145. The House Business Committee is the most important Committee of this House because it decides on the business that is brought before the House. Its composition must be reflective of the membership of the House. The Opposition must have sufficient voice in that Committee. That is the spirit in which FORD (P) and KANU were given the slots they were given the last time the Committee was constituted. It is, therefore, very unfair for FORD (P) to go on, add numbers and deprive the Opposition side the slot that is required in the provision. The business that

will be discussed in the Committee is not just Government business, but also Opposition business. We have Private Members' Motions that will come on the Floor of the House and there are Bills that will be brought by the Opposition. It is important that other hon. Members of NARC who do not belong to the "Banana side" are also represented in the House Business Committee.

(Applause)

Mr. Speaker: Order, Mr. Raila! Did I hear you say "banana?" What is it?

Mr. Raila: Mr. Speaker, Sir, banana is a fruit.

(Laughter)

Mr. Speaker: Order! Who is that agitated Member? Will you please, sit down?

Mr. Raila, talk about the matter before us. When we go to the restaurant, we will talk about bananas.

Mr. Raila: Mr. Speaker, Sir, I would, therefore, want to propose that this Motion be deferred and effective consultations take place so that we come up with a list of Members that is reflective and representative.

(Applause)

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. I rise to seek the protection of FORD(P) by the Chair. FORD(P) is a Parliamentary party, but some Members do not recognise it as such. In fact, the question we should be asking ourselves is, should those Members who have crossed from the Government to the Opposition not vacate their seats and go for elections? That is a more fundamental question!

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! If, in fact, moving from one side to another entitles one to go home, you would have been the first to go!

(Laughter)

But you know, in your own wisdom, under the Inter-Parties Parliamentary Group (IPPG), you amended the Constitution to remove the power of the Speaker to declare seats vacant because of the conduct and utterances of Members. You said that the Speaker can only do so if the Member, by writing, declares to the Speaker that he has changed parties. What you do will live to haunt you. So, for the time being, relax.

*(Several hon. Members stood
up in their places)*

Order, hon. Members! You are not pendulums! Please sit down! I have heard your position. Now, I want to hear the Minister for Justice and Constitutional Affairs and then the Leader of Official Opposition and I will make my ruling. Once I do that, then the debate will end.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Speaker, Sir. My colleague, hon. Raila, has clearly said that the Government Chief Whip has failed

to recognise the coalition in his party. What the Chair is being asked to do here is to run party business; to enter party disputes and to regulate them, which is not his mandate.

(Applause)

Mr. Speaker, Sir, in the Commonwealth tradition, a Whip maintains discipline in the party. A Member who defies his party runs the risk of being de-whipped. That is why my colleague, Dr. Kituyi, said correctly that you cannot approbate and reprobate. You cannot defy your party and expect it to confer positions upon you. This is a matter well established in the Commonwealth tradition. How else would parties keep discipline?

Mr. Speaker, Sir, I want to admit that there are difficulties within the ruling coalition, NARC, and that is why the Chief Whip has to crack his whip.

Mr. Ochilo-Ayacko: On a point of order, Mr. Speaker, Sir. Pursuant to Standing Order No. 145, there is no mention of political parties, but just Members of the House. The Minister for Justice and Constitutional Affairs has mentioned parties. Would I be in order to ask the Chair to interpret this particular Standing Order?

Mr. Speaker: I did, in fact, interpret that in 1993. By the way, we are not hypothesising on this. This issue came to my attention in 1993 when I was a brand new Speaker. That was the very first time we had multi-partyism. The issue then was, how do we form these committees? It was my decision then, and still remains, that parties will be represented in accordance with their strength in the House. That interpretation is still valid and good law up to this moment.

(Applause)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, it is quite clear, therefore, from the contributions that have been made that the formula for representation of parties in this Committee has not changed since 2003. The only thing that has changed is the dynamics within the ruling party, NARC.

The other factor is that FORD(P) crossed over with their strength, the same way NDP crossed over to KANU with their strength, leaving a very weak Opposition because, at that time, the Opposition was not as robust as it is now, in terms of numbers. Therefore, this House, has the tradition that a party moves with its strength when it does so through structured negotiations to the Government side. The NDP crossed over as a result of structured negotiations and so has FORD(P).

Mr. Speaker, Sir, I want to admit that there may be a case for Members to dialogue and see how much they can accommodate one another. But that is within the parties, not a matter for the Chair. What is before this House is proper names given by the party Whips.

Mr. Speaker, Sir, it is true that Standing Order No.145 does not refer to parties, but there is a formula which the Chair ruled on way back in 1993, on how to arrive at those numbers. What is presenting itself is that it is now dawning on some Members that certain decisions have consequences. That is the case in life. When you take a decision, it can have either positive or negative impact. But because we are leaders, there are negotiations outside this House that can go on. But that should not stop the business of this House. Let us approve these names as properly presented by the parties.

Mr. Kenyatta: Mr. Speaker, Sir, I recall yesterday when you made your remarks, you asked for honesty. I think this is a subject that demands honesty.

You have referred to 2003 when the Ninth Parliament convened. It was very clear at the time what was Government and indeed was the Opposition. If the hon. Nyachae was here today

and he were to stand and speak honestly, he would confirm that we, as KANU, sat with them as FORD(P), jointly occupying the Opposition Benches and agreed that we needed to work together as the Opposition. In fact, the only recognised Opposition Whip at the time was the KANU Chief Whip. All the names of Members of the House Business Committee from the Opposition side were submitted by the KANU Chief Whip. But we sat, dialogued and agreed with our brothers on the Opposition Benches, including FORD(P).

The Minister for Planning and National Development (Mr. Obwocha): On a point of order, Mr. Speaker, Sir. Is the Leader of Opposition in order to imply that at that time, FORD (P) did not have a whip! What happens naturally is that, a party with more than seven Members is a parliamentary party. But the person who submits the names within the consultation of the whips; and there are many whips as every political party has a whip--- Is he, therefore, in order to imply that there was no whip---

Mr. Speaker: Order! Order! Order, hon. Members! Sometimes, we again relapse to small issues. It does not really matter to me whether there are 1,000 or 100 whips! What matters to me is; is the formula used at that time: (a) agreed to, (b) valid? If it is not valid, and I want hon. Kenyatta to tell me, what are the reasons that challenge it? I want to make it absolutely clear here and I want every hon. Member to listen! Positions are not given to Government or Opposition; they are given to your strength as parties!

(Applause)

So, the basis of allocation of positions in Committees is the parties! So, please, address that issue and I will make my decision. I want all of you to listen to this: Whatever decision I make will not subtract from the fact that we have a Motion before the House which the House will either agree or not agree to. So, let us agree that, ultimately, you will have to vote for that Motion.

Continue, hon. Kenyatta!

Mr. Kenyatta: Thank you, Mr. Speaker, Sir. The formula, as you have referred to in relationship to this particular Committee was, indeed, our understanding. I recall that we had lengthy discussions even amongst ourselves as to the exact number, but the only thing we got was that the Opposition was entitled to eight positions and the Government was entitled to 12 positions. That was the basis in which, and hon. Obwocha, I am not saying that FORD(P) did not have a whip. But the recognized whip was the Official Opposition Whip. It was the Official Opposition Whip who submitted those names on behalf of the Opposition.

Mr. Speaker, Sir, I have no argument---

Mr. Speaker: If you can help me because I learnt a little mathematics; what was your combined strength as the Official Opposition at that time?

Mr. Kenyatta: 83 out of 222 Members.

Mr. Speaker: All right, and what was the NARC number then?

An hon. Member: 131!

Mr. Speaker: All right. FORD(P) was?

An hon. Member: 15, which comes to one member in the Committee.

(Loud consultations)

Mr. Speaker: Order! Order! I think we can sort out this issue mathematically. Whether you like it or not, mathematics has no emotions, all right? So, I think I will now take this argument from all of you and give it to mathematicians. Now, I want mathematicians to tell me the

following: In a population of 222; NARC has 131 members, what is their percentage and the share of the whole cake?

An hon. Member: 12!

Mr. Speaker: It is 12, I know. Now, the balance of 83 attracts eight positions. Now, KANU has 68 Members, FORD(P) has 15 Members. Taking into account the strengths of KANU and FORD(P) and we have eight positions, how many of the eight positions should KANU take and how many of the eight positions should FORD(P) take?

(Loud consultations)

Mr. Speaker: Order! Order! I want calculations! I hope the Clerk has asked his clerks in the office to use all the most recent and modern calculators to give me the answers to my question!

(Laughter)

Mr. H.M. Mohammed: Mr. Speaker, Sir, I have another solution to the problem before you go to mathematics; KANU donated two slots to FORD(P) in 2003. FORD(P) and KANU are still there and have not died. Normally, when you donate something, you never take it back; you are not supposed to take it back!

(Laughter and applause)

Mr. Speaker: Order! Order! Order! I think that probably, this morning is actually the best time the ninth Parliament has reasoned and dialogued together and I really encourage this to go on.

What was it, Dr. Godana?

Dr. Godana: Mr. Speaker, Sir, this is a very serious matter. I want to plead with you in your wisdom as the ultimate custodian of the Standing Orders, in whose hands the record of posterity will go. The House Business Committee is not just any other committee like a departmental committee; it is not! It is a special Committee and it is important that whatever interpretation you make, you should make a teleological interpretation to achieve the best interest of the House; namely, that the minority shall be given an affordable opportunity to be heard.

Mr. Speaker, Sir, I said in my submission---

Mr. Speaker: Order, Dr. Godana! Standing Order No.1 gives me the powers to do certain things, if they are not expressly provided for. However, if a matter is provided for, why should you get me into the mix?

Mr. Kenyatta: But, Mr. Speaker, Sir---

Mr. Speaker: Please, sit down!

I heard Ms. Karua extending an invitation for dialogue to her colleagues in their party, who have not been treated well. Please, mark my words, "treated well". It is really the business of political parties to manage their own politics, not mine! I manage the procedures of the House. I would be exceedingly happy if I saw a positive move in the direction Ms. Karua talked about. Her colleagues need to reach out to their colleagues.

Mr. Kenyatta: I have not concluded what I was saying!

Mr. Speaker: Just hold on, you will finish! I think it is a nice thing for them to reach out to their colleagues.

(Mrs. Ngilu stood up in her place)

Mrs. Ngilu, it seems you want to say something before Mr. Kenyatta concludes.

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, in the same spirit in which Ms. Karua has stated---

(Loud consultations)

Mr. Speaker: Order, hon. Members! Could we listen to Mrs. Ngilu?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, we need to work and run the business of this House together. Therefore, I would like to give up my position in the House Business Committee so that it can go to one of the other deserving hon. Members.

(Applause)

Mr. Speaker: Very well! Let us listen to Mr. Kenyatta.

Mr. Kenyatta: Mr. Speaker, Sir, first, I would like to thank Mrs. Ngilu---

(Loud consultations)

Mr. Speaker: Order, hon. Members! Could we listen to Mr. Kenyatta?

Mr. Kenyatta: Mr. Speaker, Sir, I would like to thank Mrs. Ngilu for the position that she has just taken. That is a position that recognises the realities that exist in this House. That position also recognises the truth that you demanded yesterday.

(Applause)

When the Ninth Parliament began its work in 2003, we were able to dialogue amongst ourselves as hon. Members of the Opposition, because we recognised ourselves as KANU and as FORD(P). We had combined our strength. Our aim was to ensure that the Opposition had a voice in this most important Committee of this House. That was the essence of it, and we worked very well together. Unfortunately, this House has condoned something which, in your own words, has the ability to erode the gains the people of this country have made since 1992. We have hon. Members of the Opposition, without sanctions of the Opposition, answering Questions on behalf of the Government. These are fundamental issues. This is why you now find hon. Members of NARC sitting on the Opposition - there has been no structured dialogue. Dialogue has been thrown out of the window, and impunity is what is ruling! These are the problems that we have. This House has the responsibility to put this in order!

(Applause)

Mr. Speaker: Order, hon. Members! It is very nice to listen to such a passionate speech for a change. A lot of our speeches have not had passion, and I congratulate Mr. Kenyatta for the very passionate way in which he has articulated his position.

However, the passion notwithstanding, the problem we now have in relation to appointment of Ministers from outside your party was made possible by your own party. Before you came to this House, and Dr. Godana will agree with me, and I demand intellectual honesty, before the General Election of 1992 there were several constitutional amendments. The first one created multipartism. The second one, a very clear provision in the Constitution, provided that the President shall appoint Ministers from only his own party.

That was the Constitution that got us into the multiparty situation in 1992. That situation continued until 1997. The House, with the support of your party, under the Interparties Parliamentary Group (IPPG), deleted that provision and put the current provision, which provides that the President may appoint any hon. Member of the House to the Cabinet in consultation, I believe, with other parties. That is the current position. Now, what happens is, if you consult as parties, the Speaker, is absent from your consultations. I am not a party to party consultations.

Now, you complain, maybe rightly, because I have seen your letter, that you were not consulted when your hon. Members were taken away from you to the Government. The issue would then be, were there consultations or not? That will require evidence. I believe it is a triable issue. It is an issue that you have taken to court for constitutional interpretation. That matter is still pending in court. Under our law, there is separation of powers. Parliament makes laws, and the courts interpret the laws, including the Constitution. The Speaker's job is not to interpret the Constitution. That is the business of the courts. I am as worried as you are. In fact, I would like to say to this House that I am absolutely worried about the direction to which we are directing our parliamentary practice. I said this in my speech yesterday; you should discipline your Members. Why should they disobey you and move to the other side?

Hon. Members: How?

Mr. Speaker: Order, hon. Members! We are hon. Members of Parliament; we have the power to make and unmake laws. This House has had the opportunity to, in fact, amend the Constitution more than once through private Members' Bills. There are possibilities of amending it further. I would be a very happy man if order is brought to political parties because there is completely no order in them. There is total disorder! However, do not put me into the fray! Swim on your own, and let the Speaker be above party politics! You can swim in whatever direction you want!

(Mr. Kenyatta stood up in his place)

Mr. Kenyatta, I see you are up. I thought you had concluded what you were saying! Anyway, finish up.

Mr. Kenyatta: Mr. Speaker, Sir, I do not think this matter can be brushed aside that easily. I do not think we can run away from this responsibility as a House. To use your terms: "Let honesty prevail in this House if we are to move forward." The summary you have just given will not allow the kind of debating that you desire to see in this House, which you appealed for. If the Chair will not take a position, as you took prior to the referendum when you said, that the business of this House cannot be stopped by issues that are before the court---

Mr. Speaker: Mr. Kenyatta, it is very clear now to me that you actually want to blame the woes of KANU on the Chair. You are in the case which is in court and, the matter is *sub judice*. What has stopped you from prosecuting it? What do you want me to do? Do you want me to be a Judge as well?

Mr. Kenyatta: Mr. Speaker, Sir, I would like to remind you that, that issue went to court because you refused to rule on it.

Mr. Speaker: Order! I will not do what is not my business. A breach of the Constitution can only be declared by a constitutional court and not by me. It does not matter what views I have. It will not be legal for me to do that. I may have some misgivings about this, but that is all it is.

The Minister for Justice and Constitutional Affairs, why has this case been going on forever? Justice delayed is justice denied. I will ask that all parties concerned go and sort out this issue. I cannot make a decision on a case pending in court.

Mr. Sasura: Mr. Speaker, Sir, we have discussed this matter for more than one hour. I

believe we have been going in the right direction until the last few seconds. You said very clearly that the slots in the House Business Committee are shared on the basis of the merit to the parties. The problem we have been having in this Ninth Parliament is that of movement from one side of the House to the other side. You said very clearly that FORD(P) have moved in a structured basis from the Opposition side to the Government side and that they have their slots on the basis of the Standing Orders.

The other confusion we have is that whilst we discussed the issue of structured movements from the Opposition to the Government, we never discussed the issue of structured or unstructured movement from the Government to the Opposition side. You said very rightfully, and I agree with you, that the issue of mathematics has no shortcuts because mathematics has got its own formula. We are treading on dangerous grounds when we talk about donations. Unless the Chief Whips are not telling us the truth, if they had sat down together and shared the slots on the basis of percentages and pro rata basis of the party formulation in this House, the issue of donations should not arise. If the Government Chief Whip in consultation with his party has nominated Mrs. Ngilu on behalf of the party, I do not understand how Mrs. Ngilu can donate a donation that was given to her. The onus is on the Whips.

Mr. Speaker: Order! Mr. Sasura, let the Government speak for itself. You are in the Opposition.

Mr. Sasura: I agree with you, Mr. Speaker, Sir. I am not speaking for the Government. I am an hon. Member of this House and I do not have to agree with what is said on this side of the House or the other side. I agree with myself and I am speaking for myself. The onus is on the Whips. Mr. Muturi did not even finish the discussion he had with Mr. N. Nyagah. If we are going by mathematics, let us share the slots on the basis of percentages of the party formulation. If we share these slots in this manner, this afternoon we cannot rule out the possibility of one party moving from one side of the House to the other and forth tomorrow. This will create confusion in this House and this country.

Mr. Speaker: Mr. Clerk, why are you taking forever to get this calculation? What is going on? Any hon. Member who has done the calculation can give it to me. I order that my officers bring me the calculation from the computer. Why should they take forever?

(Several hon. Members presented their calculations to the Speaker)

Order! I thank all the hon. Members for the various differing calculations which makes it absolutely clear that some of you are using old mathematics while others are using new mathematics. Otherwise, you should have arrived at the same answer. I demand from my officers that I get the answer to the following question; 15 over 83 times 8.

Mr. Gachagua: Mr. Speaker, Sir, in working out the 83, there has been some rounding off. The actual calculation should be, in a House of 222 Members with 20 slots. You divide 222 by 20 times 15. That gives you 1.665 which you round off to two.

Mr. Speaker: Order! I may not be an expert in mathematics, but I know what I want. I know that out of the 20 positions available for 224 Members, 12 have been taken by NARC. NARC must be sitting pretty now and I think they should keep quiet because it is not their business. They already have their 12 and they should keep their peace completely because they have nothing to offer. They already have their share. What is left is 83 Membership to whom we must allot or share the available eight positions. NARC is not a participant. They should not even nod their heads. This is FORD(P) and KANU territory.

(Dr. Godana stood up in his place)

Could you, please, sit down, Dr. Godana! You are impatient.

Dr. Godana: On a point of order, Mr. Speaker, Sir, we know we are the minority---

*(Hon. Kenyatta and hon. Karua
consulted with the Chair)*

Mr. Speaker, Sir, there are people consulting with the Chair.

Mr. Speaker: Order! Order, hon. Members!

For some strange reason, I cannot get this calculation from my officers. This is a very unhappy situation. I have some voluntary results from hon. Members. One hon. Member says that FORD(P) will be entitled to 1.665 slots---

(Loud consultations)

Order, hon. Members! I am reading the results given by some hon. Members.

Another hon. Member has said that KANU is entitled to 6.5 slots and FORD(P) 1.4 slots. The problem is that, I really, cannot divide these people. I cannot have 0.5 Member in the Committee from FORD(P) and 0.6 Member from KANU. I cannot have 0.4 or 0.6 a Member to another.

I think I will go for the nearest. However, even the nearest is also divergent here because on one of the calculators, they gave this to be 1.6 slots for FORD(P). Then, it will be two slots for them. Another one will give KANU 6.5 slots, which will be seven slots.

I have to decide on this matter because of the issue of points. Where do I go? I will not adjourn. I will round up these calculations and give one whole figure to the minority, which means KANU will have seven slots.

(Applause)

Order hon. Members!

I am sure the Government side, in their wisdom, will cater for FORD(P) in the usual manner. So that ends the matter. I want the Official Opposition to make an amendment to this Motion to include one more name.

(Loud consultations)

An hon. Member: Donations!

Mr. Speaker: Order! I do not know about the donation. I understand the donation. I think it is intra-party.

Hon. Ngilu, were you donating it to your wing? Could you, please, tell us?

(Loud consultations)

Order! Order, hon. Members! I think the question of donation--

Order! Mr. Kipchumba! *Nitawafukuza nje waheshimiwa wale!* Those hon. Members near hon. Maj. Madoka might be excluded from voting very soon. So relax.

I have already directed that instead of KANU having six slots, they will have seven. The

only thing that will enable my decision to be implemented is to make an amendment to the Motion. I think we will ask His Excellency the Vice-President and Minister for Home Affairs, who is Leader of the Government Business, to assist us so that we do not, for example, delete the name of hon. Moody Awori and substitute it with hon. Muturi. So they have to tell us their priority.

Mr. Raila: On a point of order, Mr. Speaker, Sir. Before the---

(Loud consultations)

Mr. Speaker: Order! Order!

Mr. Raila: But I am on a point of order.

Mr. Muite: On a point of order Mr. Speaker, Sir. When that amendment is moved, will you give hon. Members an opportunity to vote on it and either to agree with it or reject it? Secondly, when you were calculating the numbers for KANU, where did you place the two SAFINA Members of Parliament? Did you include them in KANU?

(Loud consultations)

Mr. Speaker: Order! Order! Would you, please, listen!

Hon. Raila, did you finish your point of order?

Mr. Raila: On a point of order, Mr. Speaker, Sir. Before the Vice-President and Minister for Home Affairs makes any contribution, in light of the spirit of tolerance which was proposed by the Minister for Justice and Constitutional Affairs and heeded to by the hon. Minister for Health, will it be in order for me to suggest that the position which hon. Ngilu has ceded also be filled in this session right now?

Hon. Members: No! No!

Mr. Speaker: Do you want us to hold it back?

Mr. Raila: No, Mr. Speaker, Sir, because she acceded to that and in order to effect it, we have to filled it now in the spirit of reconciliation.

Mr. Speaker: As you know, I am all game for reconciliation. I am just listening and waiting. I cannot force donations but I can receive them!

(Loud consultations)

Mr. Sirma: On a point of order, Mr. Speaker, Sir. Given the fact that the political parties have been unable to consult enough, could we adjourn so that they could consult and agree on the issue?

Mr. Speaker: Order! Order! I will not adjourn the House! We will continue with the debate. I have already made my ruling. It is up to KANU to move the amendments in accordance with my ruling so that it can have one more position. I was just making it possible for the Government side to decide on who to drop because it is losing one position. It is not for you to say that you do not want so and so. This is the little tolerance I was giving. Maybe, the Vice-President and Minister for Home Affairs could help me in this regard.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, the Government is happy to replace the name of hon. Charity Ngilu with that of hon. Chris Okemo, who is in the Opposition side. In fact, that will solve the problem.

(Applause)

Mr. Speaker: Order! Order!

(Loud consultations)

Could you listen? That sorts out the issue of the donation. What about my ruling?

Hon. Members: Yes! Yes!

Mr. Speaker: Order, hon. Members! I am inclined to suspend this sitting for 15 minutes. I request the Leader of the Official Opposition, the Opposition Chief Whip, the Leader of Government Business, the Deputy Leader of Government Business and the Government Chief Whip to discuss the matter and solve it within 15 minutes. So, I suspend the sitting for 15 minutes. The House is not adjourned but suspended. Where is the Serjeant-at-Arms? What is happening with these people?

(The Serjeant-at-Arms removed the Mace from its normal position)

(Mr. Speaker suspended the Business of the House for 15 minutes at 10.55 a.m.)

(The House resumed at 11.30 a.m.)

Mr. Speaker: Order! Order, hon. Members! The House resumes. We had a little break to consult, which is good. I hope you did consult. I now would like to ask the Leader of Government Business whether we have made progress. I am still amenable to whatever consultations you had. Leader of Government Business, are you ready?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, please give me one minute.

Mr. Speaker: I will do that.

Mr. Weya: On a point of order, Mr. Speaker, Sir. I thought we were given a chance to consult. What are we doing now? We have spent half a day trying to constitute a Committee. Are we not wasting time? This is taxpayers' money. We are supposed to be passing Bills in this House.

Mr. Speaker: Order! Indeed, this consultation should have taken place outside yesterday. But as you heard me clearly yesterday, I said I truly encourage consultation. Lack of consultation has been our bane as a House and nation. I think this is something we must encourage and I commend Members on the conduct of this House today. It is spectacular and good. We have been discussing and not shouting. We have been reasoning together. I have given the opportunity to honourable Members to consult and I would like to get a report. If you have not finished, I will adjourn the House.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, although we have made some consultation on the Government side, I regret that I have not received the names from the Leader of the Official Opposition.

(Mr. Muturi handed a document to the Clerk-at-the-Table)

The Assistant Minister for Co-operative Development and Marketing (Mr. Mwenje):

On a point of order, Mr. Speaker, Sir. Most of these loudspeakers are not working. May I ask that you order that they be repaired, because they are not working at all?

Mr. Speaker: Mr. Mwenje is raising a very genuine point. It is true that honourable Members find it difficult to follow proceedings because of the aged communication system. As you know, we have been trying to address the whole issue of this Chamber and I am sure Members have been following the problems we have faced along the way. I did, in fact, yesterday make a report about the current situation. But that notwithstanding, I will ask the Office of the Clerk to get engineers to assist to make it possible for honourable Members to follow proceedings, in the meantime, until we address this whole issue in totality.

Mr. Vice-President, are you ready?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I was supposed to be given seven names from the Opposition side, but I have been given eight names.

(Loud consultations)

Mr. Speaker, Sir, I beg to move:-

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

The Hon. (Dr.) Moody Awori, MP, (Chairman)

The Hon. Martha Karua, MP

The Hon. Amos Kimunya, MP

The Hon. John Michuki, MP

The Hon. Musikari Kombo, MP

The Hon. Charity Ngilu, MP

Sorry!

Mr. Speaker: Order! We must do everything in a legal way. We had a Motion brought to the House. Now, that Question was put. So, the Motion is as it appears on the Order Paper. If we have to change, the legal way to do it is through an amendment to that Motion which should be in the following terms: "THAT, the following names should be deleted and replaced with the following:-" That is how the Motion should read. So, if you are not ready, can I give you a chance until 2.30 p.m.? Are you ready?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I beg to move an amendment:-

THAT, the following names be deleted and replaced as follows:-

Mr. Speaker: First read the names to be deleted.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, the names to be deleted are:-

The Hon. Charity Ngilu, MP

The Hon. Dr. Mukhisa Kituyi, MP

The Hon. Moses Wetangula, MP

The Hon. J.J. Kamotho, MP

They will be replaced by the following names:-

The Hon. Prof. Kivutha Kibwana, MP

The Hon. Rev. Moses Akaranga, MP

The Hon. Billow Kerrow, MP

(Mr. Muturi stood up in his place)

Mr. Speaker: Order, hon. Members! We want to do these things right. It is apparent that there is a solution on the way. We were, in any case, this morning supposed to have approved these names and then they would go and prepare the business of the House. I think what I would do is to adjourn the House to 2.30 p.m. this afternoon. I hope by that time, when we come in here sufficient consultations will have taken place, and we will be able to finish that business. The Committee then created will go and meet to prepare for the business of the House, then we will proceed in the usual manner.

ADJOURNMENT

Mr. Speaker: Hon. Members, I now wish to adjourn the House to this afternoon, at 2.30 p.m.

The House rose at 11.40 a.m.