

**MACHAKOS COUNTY ASSEMBLY****OFFICIAL REPORT****Thursday, 9<sup>th</sup> July, 2015**

The House met at 2.33 p.m.

*[The Deputy Speaker (Mr. Nganga) in the Chair]***PRAYERS****PAPERS****ASSEMBLY PROCEDURE AND RULES COMMITTEE REPORT**

**Hon. Joseph Muli:** Thank you, Mr. Speaker. Mr. Speaker, on behalf of hon. Nathaniel Nganga, who is now in the Chair, I would like to lay the following paper; Assembly Procedure and rules committee. Mr. Speaker, Sir, I beg to lay the following paper on the floor of the house today, Thursday 9th July, 2015. Thank you, Mr. Speaker.

**NOTICE OF MOTION****ASSEMBLY PROCEDURE AND RULES COMMITTEE REPORT**

**Hon. Muli:** Mr. Speaker, Sir, I wish to give notice of the following motion that this hon house discusses and approves the report on amendments of Standing Orders and establish a new committee. Thank you, Mr. Speaker.

**MOTION****ASSEMBLY PROCEDURE AND RULES COMMITTEE REPORT**

**Hon. Muli:** Mr. Speaker, Sir, aware that the procedural matters of the assembly lies on the Standing Orders, further aware that the committee of Procedure and Rules is mandated to propose amendments to standing orders pursuant to Standing Order 187(4), further aware that section 36 of the Machakos County Ward Development Fund Act No. 2 of 2014 provides for establishment of ward development fund committee, Mr. Speaker, Sir, recognizing the fact that section 14 of the County Government Act No. 17 of 2013 provides for powers, privileges and immunities of county assemblies, noting that assembly parties can nominate members to a committee upon approval by the house pursuant to Standing Order No. 151 (1) (e).

Mr. Speaker, Sir, I wish to move the motion that this house discusses and approves the report of the committee on Procedure and Rules. Thank you Mr. Speaker, Sir. I call upon the Majority Leader to second the motion. Thank you, Mr. Speaker.

**Majority Leader (Hon. Joshua Mwonga):** Thank you Mr. Speaker. I was not aware that the mover of the motion will invite me to second and I am not a member of this committee but for the interests of the house and the county as a whole, I do stand to second. Thank you.

**Hon. Deputy Speaker:** Thank you. Proceed, hon. Muli.

**Hon. Muli:** Mr. Speaker, this is the report of Assembly Procedure and Rules committee.

### *Amendments of Standing Orders and establishment of new committees*

#### **Preamble**

Mr. Speaker, Sir, the operations of this House are governed by the relevant laws. On procedural matters, this Assembly relies on its Standing Orders. They regulate the way Members behave, how Bills are processed and how debates are organized

#### **Mandate**

Mr. Speaker, pursuant to Standing Order 187, the Committee on Procedure and Rules is mandated to:

- consider and report on all matters relating to the Standing Orders.
- propose amendments to these Standing Orders and any such amendments shall upon approval by the County Assembly, take effect at the time appointed by the County Assembly.
- propose rules for the orderly and effective conduct of committee business and any such rules, shall upon approval by the County Assembly, continue in force until amended or repealed by the County Assembly.

#### **Proposed Amendments**

Mr. Speaker, Standing Order 233 provides that this committee may at any time propose amendments. A scrutiny of the Standing Order as adopted and in consideration of the observations by members of the committee, it has been noted that there are omissions and errors. They include:

- i. **The omission of the Leader of Minority Party from the House Business Committee under Standing Order No. 151 (1) (d).**

The Leader of the Minority Party is an important member of the House Business Committee (HBC) as he represents the interests of his party-----

**Hon. Deputy Speaker:** Let the member finalize the report then you can bring on your point of order or information and all that. Proceed.

**Hon. Muli:** Thank you Mr. Speaker, for protecting me. The House Business committee is the most important Committee of the House that determines what business will be transacted in the House and at what time. In Parliament, the Leaders of the Minority Parties are members of HBC. Therefore the omission of this office in the Standing Orders is clearly an error. The amendment proposed seeks to correct this error.

ii. **The misplacement of the function of ‘refuse dumps and solid waste disposal’ in the sectoral Committees.**

In the Second Schedule where the functions of the different sectoral committees are outlined, the function of solid waste disposal is placed under the Committee on Health and Emergency Services. Upon research and consideration it has been found that function is best suited to be handled by the Committee on Environment, Energy and Natural Resources. This is also because the other aspects of pollution and other public nuisances are handled by this committee on environment. The government functions concerning solid waste disposal relate more to environment rather than health.

iii. **The omission of county planning and development from the functions of the sectoral Committee on Environment, Land, Energy and Natural Resources.**

Though issues of town planning can be inferred from the function on land survey and mapping, it is important to spell out the function of town planning as a function of the Committee in-charge of the function relating to land, thus this proposed amendment.

iv. **The omission of the word ‘economic’ from the name of the Committee on Trade, Planning and Industrialization and ‘economic planning’ from the functions of Committee.**

It is important to specify what kind of planning this sectoral committee deals with. Hitherto, it was not clear which sectoral committee was in charge of economic planning. This amendment will clear this issue.

v. **The omission of the Speaker’s Panel from the Standing Orders.**

It is important to create the Speaker’s Panel in the Standing Orders. Members of this panel preside over the Assembly whenever the Speaker or the Chairperson of Committees is unable to preside. They ensure that the business of the House does not stop just because of the unavailability of the Speaker or the Deputy Speaker. The Standing Orders of the National Assembly and Senate have this panel in existence. The proposed amendment proposes the composition of this panel, its membership and the manner in

which it functions. It also provides for the removal of a member of the Panel as described below:

- (1) There shall be a panel to be known as the Speaker's Panel which shall comprise of four members to be known respectively as the first, second, third and fourth members of the Speaker's Panel and who shall be entitled to exercise all the powers vested in the Chairperson of Committees.
- (2) If the Speaker or the Chairperson of Committees is unable to preside over the House, the Speaker shall appoint a member of the Panel to preside the House.
- (3) As soon as practicable, after the election of the Chairperson of Committees, the Speaker shall, in consultation with leaders of assembly parties, submit a list of four members for consideration by the House Business Committee.
- (4) The House Business Committee shall within seven days of receipt of the names of the nominees, table the list in the House and give notice of approval.
- (5) Whenever a motion for approval under paragraph (4) is moved in the House, no objection against the proposed membership on the Speaker's Panel of any particular member shall be permitted and objections, if any, shall be formulated and considered against the proposed membership as a whole.
- (6) In nominating the members of the Speaker's Panel, the Speaker and the House Business Committee shall have regard to the relative party majorities in the house and shall ensure so far as shall be practicable, that at least one member of the panel is from either gender.
- (7) The Speaker may, in writing, to the House Business Committee give notice that a member is to be discharged from the Panel.
- (8) Within seven days of receipt by the House Business Committee of a notice under paragraph (7) the House Business Committee shall consider the notice and give notice of motion to replace the member.
- (9) The discharge of a member of the panel shall not take effect until the House has approved the motion for replacement under paragraph (7).

*Establishment of the Machakos County Assembly select committee to oversee the implementation of the Machakos County Ward Development Fund Act, no 2 of 2014*

Section 36 of the Machakos County Ward Development Fund Act, No. 2 of 2014 establishes a Select Committee which is comprised of the Chairman and not more than ten other members of the County Assembly who shall be appointed by the County Assembly while taking into account and consideration proportional representation of the County Assembly political parties.

Among the functions of the Committee are:

- 1) Oversee the implementation of the Act.
- 2) Consider and report to the County Assembly matters that require its actions.
- 3) Oversee policy framework and legislative matters that may arise in relating to the Act.
- 4) Consider and report to the Assembly with recommendations names of persons to be approved by the Assembly under the Act.
- 5) Oversee the County Ward Development Fund Management Committee in performance of its functions.

#### *Establishment of the committee of privileges*

The County Government Act No 17 of 2012 is one of the Statute governing matters relating to devolution. Section 8 (2) of the Act provides that if the County Assembly fails to enact a given statute, then the National Law shall apply with relevant modifications to the matter in question until a County Assembly enacts that law. Section 17 of the same further provides that the National Law regulating powers and privileges of National Assembly shall with relevant modification apply to the County Assembly.

Section 10 (2) of the National Assembly Powers and Privileges Act Cap 6 established the Committee of Privileges which shall comprise of the Speaker and 10 other members of the National Assembly nominated by Selection Committee of the Assembly. Among the functions of the Committee is to inquire into alleged breach of members of assembly of code of conduct.

The Privilege Committee must table its findings to the Assembly after inquiry with recommendation upon which disciplinary actions may be taken against the concerned member. These measures including suspending the member upon where during the period of suspension, the suspended member shall be deemed a stranger in the precincts of the Assembly.

#### *Conclusion*

Mr. Speaker, Sir, the Committee on Procedure and Rules, having exercised its mandate in considering amendments to Standing Orders and in constituting committees, I therefore request this Hon. House to discuss and approve;

1. Amendments to Standing Orders
2. Establishment of the Ward Development Fund Committee
3. Establishment of Assembly Privilege Committee.

Thank you, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Thank you. The report is properly before the house and it is open for debate for members so I invite contributions. Any member with a contribution over the matter before the house. Any contribution over the same or the Chair may lead in allaying the basis on why we have the added committees. You may set the precedence.

**Hon. Muli:** thank you Mr. Speaker. As a member of this committee of Procedure and Rules, we found it wise to include the Minority Leader in the House Business Committee to be a member as a leader who is on behalf of the minority members who represents the members in minority party. Therefore, Mr. Speaker, we found it healthy and important to include the Minority Leader in the Privilege committees, Mr. Speaker.

We found there are issues whereby indiscipline is occurring within the precincts and also among our hon. members and we found also we need to have this committee to deal with issues where it happens among the members.

On issues of Ward Development committee, Mr. Speaker, you find the other day, Mr. Speaker.....protect me, Mr. Speaker. Thank you. The other day Mr. Speaker, we formed Ward Development Fund kitty and also we are anxiously waiting for the it and we need a committee which will be representing us and understanding what is procedural for the ward to be prosperous. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Yes Hon. Katela, you had something.

**Hon. Leonard Katela:** Thank you Mr. Speaker, Sir. Can the mover of the motion put this house into light on page 8 where we have Standing Orders with amendments, then Standing Order number 151(1) (d). I don't really understanding what he means when he says- delete the words the Minority Party whip and substitute with the words the Leader of Minority Party. Is it that we are whipping out the position of the Minority Party whip or....can I be put into light?

**Hon. Deputy Speaker:** Thank you. Hon. Majority Leader.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I can as well come to the rescue of the mover of the motion because I seconded this motion, Mr. Speaker. Mr. Speaker, there is nothing wrong with what has been raised by hon. member for Muthetheni. Mr. Speaker, the house business committee is created under Standing Order 151 and the composition is very clear, only that the (d) part of it instead of the Leader of Minority it reads the Minority Party Whip.

This is the suggestion that the amendment that has been brought by the Rules and Procedure committee, so the member for Muthetheni should consult his Standing Orders. There is nothing wrong with that. We are just deleting as it has been brought as an amendment by the Rules and Procedure Committee.

Mr. Speaker, I think I have stated clearly why it should be like that and the member is asking why, why, why and that is why have said, let him consult the Standing Order No. 151. Mr. Speaker, with your permission, because I am on the floor, allow me to contribute.

**Hon. Deputy Speaker:** Proceed.

**Majority Leader (Hon. Mwonga):** Thank you, Mr. Speaker. Mr. Speaker, I want to start by applauding the committee which is headed by the Speaker of the house for their research on several omissions in our Standing Orders, Mr. Speaker.

One of the omissions is that of the Leader of Minority not being in the House Business Committee. The other omission is that of the refuse being under the committee of Health. Mr. Speaker, it is true this should lie under the committee of Environment. Mr. Speaker, the other omission is that of Speaker's Panel from the Standing Orders and it cannot be said better than what has been read by the mover of this motion, who has taken this house through the report.

Finally, Mr. Speaker, mine is to urge the members of this hon. house to adopt the report as it is. Knowing that we have a committee now which is coming up which will need some members to sit in that committee and maybe will have a new chair and a vice chair of that committee for the benefit of those who are not chairs or vice chairs of the other committees.

And in this, Mr. Speaker, I don't know whether I will be in order to give an advice to the leadership of the house in coming up with this committee because I am a leader of one arm of this house, Mr. Speaker.

Allow me say this. When coming up with this committee of Ward development fund, its composition will be of 11 members. Let us have members who are active in this house to be members of this committee. Let political loyalty not play part in composition of this committee.

*(Applause)*

It is an important committee which will be looking at the welfare of the people of this county, Mr. Speaker. With that, I beg to rest my case. Thank you.

**Hon. Edrick Ngunzi:** Mr. Speaker, I am standing on the committee of the Speaker's Panel. I want to believe that it is a committee that is going to be formed. The committee, if there, I do not and my sentiments will be supported by members of this house that, if they will sit in the place of the Speaker and the Deputy Speaker in their absence, they must be people of substance.

*(Applause)*

I want to believe that we should get loyalty and sycophancy out of this. If you are to represent the Speaker and the Deputy Speaker, then you should be able to live to that capacity. If you cannot live to that capacity, then we will question the ability of the members of the Speaker's panel here. So Mr. Speaker, let me rest my case there. Thank you.

**Hon. Deputy Speaker:** Hon. Willy.

**Hon. Wilson Kasimu:** Mr. Speaker, Sir, let me make this clear to hon. Ngunzi that we have the Speaker's panel in place. We are not forming it. I think we need an explanation from the mover that it was an omission in the Standing Orders. We have the Speakers panel in place---

### POINT OF ORDER

**Hon. Deputy Speaker:** What is your point of order hon. Katela?

**Hon. Katela:** Mr. Speaker, Sir, I want to inform the immediate contributor that the motion was clearly laid on the floor and we are being guided by what is in black and white. Now when he is telling us other things, not unless he stands and tells us that he was the one who was writing it and he omitted it.

We are being guided by this and supporting hon. Ngunzi what he has said, sincerely it is only yesterday when we said that some deputy chairpersons cannot stand in for their chairmen. Then, if you see the composition of the Speaker's Panel, we are not mocking any member here, but you find that, even some members there cannot receive visitors from Machakos not even from Nakuru or Webuye. Protect me, Mr. Speaker.

*(Loud consultations)*

**Hon. Deputy Speaker:** The member is on a point of order. So what is your point of order hon. Katela?

**Hon. Katela:** Let us go by this because whoever did this and there is a hand of the Speaker. Maybe he wants the committee dissolved and re-elected. Maybe he has seen what we said yesterday and it is good the Speaker was on the Chair. This is a word of wisdom. You don't tell your mother that you are seated badly, you tell your mother that another woman is calling you so that she can come back and seat well.

*(Laughter)*

So I think this is what the Speaker has done. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Kasimu you may wind up while responding to the issues.

**Hon. Kasimu:** Mr. Speaker, Sir, I was deriving whatever I have said on page 4. The omission of the Speaker's panel from the Standing Orders and the mover has taken us through.



Mr. Speaker, I am saying we are not creating the Speaker Panel again. It is there and it is existing. It was an omission and that is my point. Thank you, Mr. Speaker.

### POINT OF INFORMATION

**Hon. Deputy Speaker:** Yes what is your point of information hon. Kamitu and maybe you clarify who you are informing.

**Hon. Alex Kamitu:** I want to clarify a point that a hon. member is also asking. If you read on Page 7, the conclusion by our mover is very clear that Mr. Speaker, that the committee of Procedure and Rules having exercised its mandate in considering amendment to Standing Orders and in constituting amendments. I therefore request this hon. house to discuss and approve amendment to Standing Orders, establishment of the Ward Development Fund committee and establishment of Assembly Privilege Committee. It is not touching the Speaker's Panel.

So Mr. Speaker, Sir, this point is very clear and other than that, we stand to be guided. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Maybe to allay the matter, hon. Majority Leader before we call the mover to respond to the issues.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I am a seconder of this motion and I wonder how a member can rise on the floor of the house, not understanding what is before this house and at the same time, say we have hon members who cannot receive visitors. Mr. Speaker, that one beats logic.

The same member cannot understand the report which is before this house. Mr. Speaker, about the Speaker's panel, what is here, it was just an omission like the omission of the Minority Leader in the standing order. We are not creating a new Speaker's panel. Unless its time expires, the committee on Rules and Procedures has not suggested we come up with a panel.

What we are doing Mr. Speaker, is inserting in the Standing Orders, the Speaker's panel and the conclusions are very clear, Mr. Speaker and if anybody thinks that the Speaker's panel should be dissolved, he or she is free to bring a motion so that we can discuss about the Speaker's panel. But we cannot sneak issues on a report which has been tabled and seconded.

### POINT OF INFORMATION

**Hon. Deputy Speaker:** What is your point of information hon. Maitha?

**Hon. Dominic Maitha:** I want to inform the Majority Leader that it is in good faith. Hon. Ngunzi has just put it no other way that I can put it. The issue of loyalty and sycophancy should not come to the floor of this house because when we are guided by that, Mr. Speaker, this house is not going to be able to execute its constitutional mandate.

My point of information is this, Mr. Speaker; what we are doing to this document is to amend. Inserting that omission which was there, it mean everything overall has changed. Mr. Speaker you can prove me right or wrong, and those people who have practiced law, if you see any word like ‘shall’ ‘may’, it really means a lot. That is why this omission was found necessary to be inserted. No one is objecting to the Speaker’s panel in totality but now when that omission is inserted, it automatically changes the whole composition.

Secondly, Mr. Speaker, this document is very clear; it says ‘after the Speaker’s panel has been nominated, it is bought before the House Business committee.’ I am a member of the House Business Committee and it has never landed there. So I believe if the Speaker wants the Speakers panel to continue the way it is, let him forward the names after the amendments to the House Business Committee, then the House Business committee will ballot it as business, it will be brought to the floor of this house for ratification. If the members are accepted by the house, well and good, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Let us hear the mover of the motion. Can you respond to the issues raised so far? Hon. Nzoka, I can see you but let us hear the mover first.

**Hon. Muli:** Thank you Mr. Speaker, for awarding me this opportunity to clarify very well to members who want to dodge or convert a well-explained issue on the issue of the Speaker’s panel. Mr. Speaker, it is very clear and it has already been indicated very well. I don’t know why a member is trying to divert proper English which is already described in this presentation.

Mr. Speaker, the omission of the Speakers panel from the Standing Orders. On the conclusion of No. 1 that is on page 7, there is the amendment of the Standing Orders and the member understands very well we have a the members of the Speakers panel and we require to be established Mr. Speaker, and what is being requested here, is establishment of the Ward Development Fund committee fund and also establishment of Privilege committee. Therefore Mr. Speaker, it is well elaborated and described what is being required. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Yes Hon. Alice.

**Hon. Alice Nzioka:** Asante sana Bw. Spika. Ningependa kusema ya kwamba Bw. Spika ni mtu ambaye anajua mwongozo na mwelekeo wa bunge kupitia njia ya sheria ambazo zinafuatwa. Kwenye hio kamati yake, wale ambao wamechaguliwa Bw. Spika mwenyewe akiangalia aone kuna mtu ambaye hawezi kazi, ataleta ripoti, sisi kama wabunge tuiangalie na mwenyewe atasema sababu hawezi kuwa kwenye Committee, kama hayuko ataangalia na itakuwa sasa,wale ambao ako na wao na anajua sheria hakuna vile atakuwa na mwongozo mzuri.

Kama kuna mmoja wao katika ile kamati ambaye hawezi kutekeleza kazi yake, Bw. Spika mwenyewe, atasema. Tena Bw. Spika, sisi ambao tuko kwenye kamati ambazo ziko katika hili bunge, mwenyekiti ambaye ako kwenye hio Kamati na mdogo wake ama naibu wake, kama kuna mmoja wa kamati ambaye hawezi tekeleza kazi, mwenyekiti wa kamati anajua na anaweza kumtoa.

Pia tuna viongozi ambao wanaongoza bunge letu ambao kuna kiongozi wa wengi kwa bunge, kiongozi wa wachache na wengine huwa wanaangalia kazi ambayo kamati zinafanya. Na kama kuna moja ambayo haifanyi kazi wako na haki ya kusema kwamba kamati Fulani, mwenyekiti na mwingine hatendi kazi ambayo inawezekana. Kwa hivyo, Bw. Spika, akiona kuna makosa kwenye kamati yake, atasema. Asante.

**Hon. Deputy Speaker:** Yes hon. Peter Nzioki.

**Hon. Peter Nzioki:** Thank you Mr. Speaker. I believe every member in this house went to school and if I got it right when I was in school, in Roman (v) page 4, that is on the omission of the Speaker's panel from the Standing Orders, when you go to the third line from below on that Roman (v), 'the proposed amendment proposes the composition of this panel.' The proposed amendment proposes the composition not that the omission is inserted in the Standing Orders.

'Its membership and the manner in which it functions, it also provides for the removal of a member of the panel as it is described below.' Mr. Speaker, unless the mover of the motion wants to tell us something different.

*(Applause)*

The English there, as I understand it, tells us that we should compose this panel. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Nzoka.

**Hon. Nzoka Munywoki:** Thank you Mr. Speaker, Sir. I want this house to go by law. I am not repeating what he has said because I was to say what I am saying plus that one. This word 'omission', it was omitted, so the appointment or nomination was an illegality. If you see, it says 'it is important to create,' it was not created. And again to create the Speaker's panel in the Standing Orders, it is clear it is not in the Standing Orders. So that was illegal.

Secondly, if you just go to page 4 No. 4, the House Business Committee shall within seven days, of which it has never happened in this house, of receiving the names of the nominees, table the list in the house and give notice of approval. That has not happened. So let us not go out of law. The law says that this has to be in Standing Orders and the procedure is the names to be tabled in the house and that has not happened.

So we cannot allow illegality. We have no problem of those who are there. Let the Speaker now start the process and nominates even if he nominates hon. Mueni. She is active. So let nobody say that there is Speakers panel, it was created illegally. Thank you.

**Hon. Benedette Mueni:** Thank you Mr. Speaker, Sir. I stand also to support the report and also the words which were said by hon. Majority, from the beginning. We have to be honest and have wisdom of getting these people, who can be able to do the work. It is very important. By now I think we know one another. We know the person who can work when the Speaker is not there. We know the person who can be a good chairman of such a committee. We know the person who cannot do. If i cannot be a chairman, I can't be a chairman and it is like that.

*(Applause)*

So, I think the Majority Leader, you have all the wisdom to go and have those people who can work in every committee. Let us not keep on fighting here for nothing. You go and put the people who can work for our people. It is very important. Thank you, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Yes, Hon. Mwonga.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I don't know why this issue has created a lot of interest because Mr. Speaker, in our Machakos County Assembly Standing Orders, there are very many omissions. Mr. Speaker, I want to say, an omission is an error. Even the committees we are having today, the select committees and the sectoral committees, were created long before when we had no Standing Orders for the Assembly. Mr. Speaker, it is under the interim Standing Orders which we were using, which created the panel which is there and here we are just talking about an omission.

We are not creating a new committee. The only new committee we are creating is the Ward Development Fund committee. This one is an omission. I want to ask the members, we had an omission of the Leader of Minority being not a member of the House Business Committee. Have we said that we elect another Leader of Minority so that he can fit in that omission?

No, this is not what we are saying. So this is an omission. What we are just doing is to include this Standing Order which creates the Speaker's panel in the existing Standing Orders. Period. To wind up, I want to say this; it is true, members are talking about sycophancy and political loyalty.

Mr. Speaker, political institutions survive and support their leaders because of sycophancy and loyalty, Mr. Speaker. This one is practiced in every parliament or Assembly.

Mr. Speaker, it is only the day before yesterday, you saw what happened when the minister for devolution Anne Waiguru, had been summoned. What happened? It is political loyalty. Members who are not members of that committee gate crashed to the committee and nothing proceeded. Why? Because of political loyalty and Mr. Speaker, saying that you will do

away with political loyalty, it is the same as doing away with impunity, Mr. Speaker.

### POINT OF ORDER

**Hon. Deputy Speaker:** What is your point of order?

**Hon. Maitha:** Mr. Speaker, my point of order is; is the Majority Leader of this house in order to say that functions and duties will be allocated based on political loyalty? Are we going to contravene the constitution because of political loyalty? I want to be guided. Is he in order when he says that even the operations of this house are guided by political loyalty and sycophancy?

That means we contravene the constitution because of political loyalty, Mr. Speaker. He should withdraw that statement because any business we are transacting here, those people who never even voted for us, we have to give them services irrespective of their loyalty and support. He should withdraw that statement and apologize to the house, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Let us take two points of information from Hon. Mutuku.

**Hon. Michael Mutuku:** Thank you Mr. Speaker, Sir. I wish to make to make my contributions. I would like to say it is true what our able Majority Leader is saying. Truly, we are not constituting other committees. The only committee which we may or we are going to constitute will be the Committee of the Ward Development Fund.

However, after going through the report, the only problem members are experiencing is about the report is written in future continuous tense instead of the past tense because they are explaining to create and all that. But as a matter of fact, we are not creating.

I wish also to say the Majority Leader has mentioned the issue of political loyalty. Actually, I would like to elaborate and say he was trying to mean 'give Caesar what belongs to Caesar' position which belongs to the Majority Party or Majority wing which should be given the majority. The same thing applies to the minority.

We cannot take what belongs to the minority so basically the fact remains already we have the panel in place and I am wondering if hon. members, you are saying we have hon. members who are not hon. members. We are all hon. members as long as you were vetted by your party and you were nominated, you were vetted by IEBC and you were actually elected by the people. All of us are equal.

You can't say a hon. member who is in the panel is not qualified that he is not worth to be there. Let us respect the other member who are actually who are serving those positions. Let me rest my case there, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Thank you. Majority Leader, you can respond to the point of order and substantiate the political loyalty, whether it is within the law or *ultra-vires*.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I don't think it is *ultra-vires* and Mr. Speaker, allow me to quote the late hon. John Michuki. He once in the National Parliament said 'losing immunity is the same as loosing virginity which you can never regain.' Unless I am told to repeat by the Speaker, I cannot.

Mr. Speaker, when I was talking of political loyalty, I said it is exercised all over the world. Mr. Speaker, there are positions which will be dictated by the political loyalty. I want to give an example. A good example is my deputy. I would not have chosen him because it was my prerogative to choose who to deputize me. Don't tell me I would have chosen a member from a Wiper Party of the CORD coalition and choose the likes of Hon. Dominic Maitha from Muthwani, who we cannot read from the same script, Mr. Speaker. No Mr. Speaker.

*(Loud consultations)*

Mr. Speaker, when we are talking of political loyalty---

**Hon. Deputy Speaker:** I will take your point of order once he has responded to that.

**Majority Leader (Hon. Mwonga):** .....as I speak now Mr. Speaker, there are positions which are given to members who are loyal to the government of the day. Will you tell me that today I will give those positions to a member like hon Member for Kola ward who right now is before the Senate committee on finance, tarnishing the good name of this government, Mr. Speaker? No, Mr. Speaker. I want to rest my case and say political loyalty will stay with the systems of the government which are there and---

**Hon. Deputy Speaker:** Can you wind up hon. Majority.

**Majority Leader (Hon. Mwonga):** Allow me Mr. Speaker.

**Hon. Deputy Speaker:** .....because we are digressing out of the matters before the House.

**Majority Leader (Hon. Mwonga):** Yes Mr. Speaker allow me to finish. So Mr. Speaker I am not saying that these positions are not going to be given to the members who are equal to the task but I just wanted to make a clarification that political loyalty will stay with us forever until the end of this world. Thank you.

**Hon. Deputy Speaker:** Order members. Let us hear hon. Nzeki, he has some wisdom.

**Hon. Oliver Nzeki:** Thank you, Mr. Speaker. I concur with the Majority Leader of this county assembly. Now the omission of the Speaker's panel from the Standing Orders, I can see we are talking of number 1 'there shall be a panel to be known as Speaker's panel which shall

comprise of four members to be known respectively as first, second, third and fourth members of the Speaker's panel and who shall be entitled to exercise all the powers vested in the chairperson of committees.'

That means, because that was not included, they were not exercising powers of chairpersons of committees. Now from this time, when that omission will have been corrected and they are in the committee, that is the first, second and third, those members will be exercising the powers vested to the chairman of committees. If it is allowances, they will be getting allowances of chairperson of committees. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Members, let us move towards getting the matter concluded. I don't know why there is a lot of interest with the Speaker's panel and there is a very important committee that is being established on Privileges, which shall take charge of your code of conduct within the house, especially when you throw eggs and bottles. I have not heard a comment about that.

**Hon. Muinde:** Mr. Speaker, it is actually funny that you had given me time to speak and just by coincidence, you just mentioned what I wanted to mention. That this is a report by the committee on Procedure and Rules and which seeks to make amendments to our own Standing Orders. Members seem now to be going for each other members' jugular.

Mr. Speaker, I am wondering why some members of this hon. house would think that they are better than other members to the extent of even saying that they are incompetent. Anybody who was elected and came to this house was found to be competent in one way or another. Anybody who was nominated by his/her political party and is a member of this house is competent enough. Anybody can chair any committee.

Mr. Speaker, our own incapacities were someone is not fully able to discharge a certain duty it is the mandate of the board to sharpen our capacities through training not for the members to admonish our own colleagues. It is not fair that we turn a report on Procedure and Rules which seek to amend our own Standing Orders to only talk about the Speaker's panel.

Mr. Speaker, in the past, two or three of the members of the panel have sat in that seat that you are sitting and have conducted business in this house. I do not even know who is being targeted here. However, that Speaker's panel was formed when we were using the Interim Standing Orders that we were using before we had our own and our own and we made omissions and these report seeks to make those amendments by inserting the omissions that are now glaring.

So I wish that we adopt the report Mr. Speaker, and move ahead to make the amendments as given by the report so that those other new committees can also be formed like the Privileges, the Ward development fund committee and then those other minor omissions can be inserted so that we are fully a house of procedure. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Let us hear hon. Matheka.

**Hon. Francis Matheka:** Thank you Mr. Speaker, Sir and the house at large. Mr. Speaker, Sir, I don't see anything wrong with the Speaker's panel so long as everything will fall and follow and the procedures are followed.

This amendment to the Standing Orders seeks to insert an omission which was left out and I verily believe once the Standing Orders are amended, the other things will follow. The names will be forwarded. The same names which are in the Speaker's panel will be forwarded to the House Business Committee and will be brought to the floor of this house for ratification so that the Standing Orders can be complete.

I have no problem with that. I think the problem with members is that we have seen two of the members of the Speaker's panel sitting there but we have not seen the rest. I sharply differ with the chairman budget. We are not diminishing anybody but we have to talk of competence because competence is what matters in everything.

Mr. Speaker, Sir, we were elected on competency of speech but you might not be competent in doing other things which requires a lot of mental work. Mr. Speaker, Sir, I think we are in the right direction but it should be followed after the inclusion of the omission, we do the necessary. The members are brought in this floor, we approve them so long as the procedures are followed, and there is no problem. I fully support the amendment.

Page 4 together read with the other inclusions of the conclusion, the amendment of the standing orders and the establishment of the committees. Mr. Speaker, Sir, I wish to state that failure by this house not to have a Privileges committee led to some members of this house even up to today, they are attending court cases. If we had this committee things would be different. So I fully support the establishment of the Assembly Privileges committee which deals with disciplinary issues.

On the establishment of the ward development fund committee, Mr. Speaker, I cannot say much about it because you know I brought the motion in this house and I will be a happy man if I see the whole process taken through, the committee established, doing its work and members doing on their wards what the fund is supposed to do.

So Mr. Speaker, Sir, I fully support the report in its totality but urge the chair to follow up and do the necessary. The names are given to the House Business Committee and brought to this house for approval. That is the Speaker's panel. Thank you, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** I want to proceed and put the question. We will hear only three members and then we close. We begin with hon. Maitha.

**Hon. Maitha:** Mr. Speaker, the document before us is clearly written unless it is written in another language, it is self explanatory. Secondly, I wish to inform the Majority Leader, at any one single day, I will never be a product of sycophancy, blackmail, elitist hypocrisy or pretense. Protect me, Mr. Speaker.

### POINT OF ORDER

**Hon. Deputy Speaker:** Point of order hon. Katela.



**Hon. Katela:** Mr. Speaker, Sir, I will start wondering like hon. Matheka. I will start helping him to wonder. My question to Hon. Maitha; were we here to discuss the conduct of the Majority Leader or we are here to correct what is wrong in this paper? He should instead be telling the hon Majority Leader to rectify and apologize for the errors so that we can move ahead with the business of the house. But we are not here to discuss peoples conduct.

**Hon. Deputy Speaker:** Thank you. Can you restrict yourself to the matters before the house?

**Hon. Maitha:** Mr. Speaker, I have been mentioned adversely and I have to mention---

**Hon. Deputy Speaker:** Hon. Maitha, you don't have to.

**Hon. Maitha:** Mr. Speaker, if I have been mentioned, I have a right to seek for an apology or further explanation---

**Hon. Deputy Speaker:** Hon. Maitha, please can you stick to the report before the house.

**Hon. Maitha:** But Mr. Speaker, I have said I have been mentioned adversely and that confirms the degree of hatred and I wish to say this; even if he happens to hear that I am dead, he should not attend my burial. Thank you.

**Hon. Deputy Speaker:** Hon. Kamitu, can you close the chapter.

**Hon. Kamitu:** Thank you very much Mr. Speaker, Sir. I just want to contribute and tell the members that we should come to the subject matter. The report which has been brought to the floor of the house is very clear because if you look at the title of this report, we are supposed to be discussing the amendment of the Standing Orders which have been read to us by the hon. Muli and establishment of the new committee.

So on a very sincere note Mr. Speaker, Sir is that, it is like we are missing the point because if you go to page 2 as what the hon. member brought to the floor of this house, is a question of inserting the omission and in page 2 we are talking about the omission of the Leader of Minority from the House Business committee under the Standing Orders and it is also clear in page 3 it is the same thing of misplacement.

So my humble request, Mr. Speaker, is that we are supposed to go straight into these amendments and tell the members, if they have seen anything in regard to those omissions, these are the sort of things that we are supposed to be discussing. If there is anything which has been left out, they should also contribute so that it may be inserted.

But rightly, this report is straight to what is supposed to be amended. So in this case, as I said, if you go to page 7 it clearly states what we are supposed to do. We are wasting a lot of

time, a lot of energy by discussing things that are not for this afternoon, because this afternoon it is clearly stated in this report what we are supposed to do.

I am standing here just to ask you give guidance as you normally do, Mr. Speaker, that we should dwell on the subject matter which is very clear as per page 1 of the title of today's report and what we are supposed to do on the conclusion on page 7 Mr. Speaker, Sir.

So I sincerely request other members to dwell on that and we go ahead, otherwise we have wasted a lot of time having not read the subject matter of today. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you hon. Kamitu. Before, I close the session let.....you have an issue? Be brief.

**Hon. Nzioki:** Thank you, Mr. Speaker. I stand to support this report fully but Mr. Speaker, there is something that I requested that before we pass this report, some English should be corrected Mr. Speaker. Whatever I had asked, Mr. Speaker, I wanted the mover of the motion to clarify if not so, I beg with your permission, that we make some deletions and inclusions of the paragraph I had read.

Mr. Speaker, I was saying that the proposed amendment proposes the 'inclusion and delete word composition of this panel into the standing orders.' Mr. Speaker, when we talk of composition, we are composing and we are not composing this panel, it is already in place. So we delete that 'composition' and we write 'inclusion.' Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Yes what is your Point of Information?

**Hon. Matheka:** I would like to inform the hon. member who was on the floor that we are not making this amendment for this Assembly only but for the future assemblies. If we change it, it will mean after this assembly, whoever will come, will have to sit down and change it. So I think the language is right. It is the composition. It is this assembly and future assemblies that we are making it for and for posterity. Not for this assembly only. Thank you.

**Hon. Deputy Speaker:** The mover of the motion, respond to the matter please, in brief.

**Hon. Muli:** Thank you, Mr. Speaker, for awarding me this opportunity to finalize the discussion which was hotly debated by the members. Mr. Speaker, for the hon. member for Muthesya, what the hon. member was requesting has already been clarified very well. That is also what I had in my mind because, Mr. Speaker, this is for other members who will be in this house.

Mr. Speaker, truly it has been elaborated well and what was required in this motion was elaborated very well, apart from some of the members who wanted to deviate from the main points but now I believe they have understood well and also I am happy everybody is content with what was presented and request the members to support the motion.

**Hon. Deputy Speaker:** Thank you. Then with that I proceed to put the question.

*(Question put and agreed)*

**Hon. Deputy Speaker:** Therefore the report is adopted and subsequent amendments will be made to the Standing Orders.

### **ADJOURNMENT**

**Hon. Deputy Speaker:** There being no other matter before the house, the house adjourns until next week. Thank you.

The House rose at 4.44 p.m.