

MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 9th August, 2016

The House met at 2.30 p.m.

[The Speaker (Hon. Mung'ata) in the Chair]

PRAYER

Hon. Speaker: Good afternoon, Hon. Members.

COMMUNICATION FROM THE CHAIR COMMITTEES MEMBERSHIP

Hon. Speaker: On Tuesday, 2nd August, 2016, during the debate on a report on the replacement of membership in committees tabled by Selection Committee, Hon. Members raised some issues which the Chair ruled that he will give directions on.

Hon. Ndeto sought clarification on what constitutes an Assembly Party. This is especially as regards the discharge of members from committees. He pointed out that for the last three years, a lot of business had been transacted in the House but when it comes to voting, members who were not in a coalition could not vote on party matters. When it comes to discharge of members from a committee, a member is discharged from a committee by a leader of the Assembly Party in which, according to the Standing Orders, he does not belong to.

Hon. Nganga sought clarification on which Standing Order the Committee on Selection relied on in effecting the relinquishment of committees. He noted that there were provisions for the House Business Committee and Assembly leaders to nominate members to various committees and once nominated, there is a procedure for members to be removed from those committees.

He enquired whether there was abuse of Standing Orders by having the Committee on Selection sit and remove a member from a committee without that member resigning from the committee or due process being followed. Further, Hon. Nganga questioned the procedure which was followed in allocating committees particularly in his case whereby he is the only member of his party, NARC-Kenya, when there was no communication from his party.

Hon. Kathinzi sought clarification on the discharge of a member from a committee and being returned to the same committee. He gave the examples of Hon. Matheka and Hon. Muinde who were discharged from Ward Development Fund committee and re-nominated to the same committee.

The above debate brings out the following issues:-

- a) What constitutes an Assembly Party and what is its role in nominating members to committees and how are members who do not belong to an Assembly Party including independent members, nominated to committees?

- b) Is there provision for a member relinquishing their membership in a committee?
- c) What is the procedure for discharging a member from a committee especially members who do not belong to an Assembly Party including independent members?
- d) What is the rationale of discharging a member from a committee and immediately thereafter nominating them to serve in the same committee again?

Section 14 (4) of the County Government Act No. 17 of 2012 provides that the County Assembly shall, in establishing committees, ensure that each member of the County Assembly is appointed to at least one committee.

Standing Order No. 2 (1) (a) on interpretation, paragraph three defines an Assembly Party to mean a political party or a coalition of political parties consisting of not less than five percent of the membership of the Assembly.

Standing Order No. 2 (1) (a) on interpretation, paragraph six defines coalition to mean an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar of Political Parties in accordance with Political Parties Act, 2011.

The table below gives the tabulation of proportions held by parties in the Assembly:-

S.N.	PARTY	NO. OF MEMBERS	PROPORTION	PERCENT
1.	Wiper	30	(30/59)	50.8
2.	CCU	7	(7/59)	11.9
3.	DP	6	(6/59)	10.2
4.	PICK	4	(4/59)	6.78
6.	TIP	2	(2/59)	3.39
7.	ODM	2	(2/59)	3.39
8.	TNA	2	(2/59)	3.39
9.	NARC-Kenya	1	(1/59)	1.69
10.	AGANO	1	(1/59)	1.69
12.	RCP	1	(1/59)	1.69
13.	Mazingira	1	(1/59)	1.69
14.	NPK	1	(1/59)	1.69
15.	New Democrats	1	(1/59)	1.69
	TOTAL	59		99.99

Therefore, the Assembly Parties are Wiper and ODM (which constitute the CORD coalition) and TNA, CCU and DP (which are in the Jubilee Coalition), New Democrats (by virtue of being in the Mwanachi Coalition) and PICK (which is also in Mwananachi Coalition). Therefore, TIP, NARC-Kenya, Agano, RCP, Mazingira, and NPK are not Assembly Parties within the meaning of our Standing Orders.

Standing Order No. 152 provides for committee of selection as follows: -

1. There shall be a select committee, to be designated Selection Committee, consisting the Leader of the Majority party who shall be the chairperson, the Leader of the

- Minority party, not less than seven and not more than eleven other members, who shall be nominated by Assembly parties and approved by the House.
2. The Committee on Selection shall nominate members to serve in Committees, save for the membership of the House Business Committee and Committee on Appointments.

Further, Standing Order 154 provides for the criteria for nomination to a committee as follows: -

- (1) "In nominating members to serve on a select committee, the Selection Committee shall ensure that the membership of each committee reflects the relative majorities of the seats held by each of the Assembly parties."
- (2) "Despite paragraph (1), a member belonging to a party other than an Assembly Party or independent Member may be nominated to serve in select committees and the allocation of membership of select committees shall be as nearly as practicable proportional to the number of members belonging to such parties and independent Members".

Standing Order 156 (1) provides the discharge of a member from a committee as follows:-

The Assembly party that nominated a member to a select committee may give notice, in writing, to the Speaker that the member is to be discharged from a select committee.

The responsibility of nominating a member to a committee is bestowed upon the Selection Committee. In nominating members to serve in committees, the Selection Committee takes into consideration many factors including ensuring that each member is in at least one committee as per the County Governments Act and at most three sectoral committees as per Standing Order 154 (3).

The committee also considers party strengths, interests, gender, regional balance, independent members, members who do not belong to Assembly Parties and membership in other committees. In this case the Selection Committee is guided by Standing Order 154.

The fact that the Leader of Majority Party is the chairperson of the Selection Committee and that the Leader of Minority Party is the Vice Chairperson means that the interests of their respective parties are taken into consideration when proposing membership into different committees. The Majority and Minority Whips present proposals to the Selection Committee which are then considered.

In balancing membership in these committees and in fulfilling the legal requirements, these two leaders would nominate members from small parties in the House depending on which of these parties will support them in their respective matters in the House. So long as all the MCAs are members of at least one sectoral committee and so long as no MCA is a member of more than three sectoral committees, then the Selection Committee has fulfilled its mandate.

Further, the Selection Committee, being a representation of the Assembly, its operations are for the good of the Assembly and in balancing committees to satisfy Standing Order 154, some members have to give away some committees to accommodate the discharges. This is what the committee, in my view, refers to as relinquishing of committees.

As it is stipulated in Standing Order 156 therefore, the party that nominated an MCA to a certain committee then has the right to discharge that member from that committee. On the issue of members being discharged from committees and being returned to the same committees, it is a matter of negotiation within the Selection Committee. The Selection Committee considers many aspects in detail thus opting at times to nominate members to the same committees again.

In conclusion therefore, an Assembly party is a political party or a coalition of political parties consisting of not less than five per cent of the membership of the Assembly. The Assembly Parties are represented in the Committee on Selection according to their party strengths and participate in determining the membership in different sectoral committees.

The Committee on Selection is bound by law, that is section 14 (4) of the County Governments Act, to ensure that a member of the County Assembly is a member of at least one sectoral Committee. The Committee on Selection is also bound by Standing Order No. 154 (3) which limits the number of Sectoral Committees to which an MCA can be a member to three.

In nominating members to different committees, the Committee on Selection is bound to take into consideration the small parties which do not meet the criteria of Assembly parties, independent members, issues of gender, minorities and other issues to balance membership in those committees.

The law or our Standing Orders do not make provision for relinquishing of membership in committees. Rather, it provides for discharge of members from committees. The discharge of members from committees is the preserve of the different Assembly Parties. For the parties which are not Assembly Parties, the discharge from committees is done by the Assembly Parties that nominated them to the respective Committees.

On the issue of discharging a member from a committee and re-nominating the member to the same committee, it is the discretion of the Committee on Selection while balancing the different interests.

MOTIONS

WITHDRAWAL OF COMMITTEE ON SELECTION REPORT

Majority Leader (Hon. Mwonga): Thank you, Mr. Speaker. I have carefully listened to the communication and with your permission Mr. Speaker, I would wish to withdraw the report which I tabled last week and assure this Hon. House the report will be back next week on Tuesday afternoon. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: The permission is granted. Let us proceed and hear the chairperson, Health committee. In the absence of any other matter in the Order Paper.....we have a report, sorry. Let us hear the Hon. Joseph Muli.

ESTABLISHMENT OF PASTEURIZER AND MILK CHILLERS

(Hon. Muli on 02.08.2016)

(Resumption of Debate on the Motion tabled on 23.06.2016)

Hon. Muli: Mr. Speaker, the report of Agriculture and Co-operative Development committee on establishment of milk chillers in the County. I call upon Hon. Joshua Mwonga to second the motion. Thank you, Mr. Speaker.

Majority Leader (Hon. Mwonga): Mr. Speaker, I think this was a continuation of the motion. The day it was tabled or moved, it was seconded but I do support that Members discuss this motion. Thank you.

Hon. Speaker: We can proceed with the discussion. Hon. Joseph Muli, it appears that members had discussed your report because there is nobody contributing. Maybe you can appreciate them.

Hon. Muli: Mr. Speaker, it seems that the members are contented with my good report which I have already tabled here, Mr. Speaker, because after this motion was brought in this House, every Member was very eager requesting for committee of Agriculture to go and do the research and Mr. Speaker, after we went to Murang'a County and also visited Mwala, we got the report which was supposed to be documented in this paper and Mr. Speaker, I believe according to the mood of the Members, they are very much in support of this report which we have already moved. Mr. Speaker, according to the mood of the members and your powers, I would request Mr. Speaker, you put the question. Thank you.

Hon. Speaker: Hon. Members, I am still looking around to see whether there is any member who would want to add on the matters of this motion. This is a motion that was partly debated last week and I think, before I pose the question, let us hear Hon. Nzoka.

Hon. Nzoka: Mr. Speaker, Sir, I was invited in this committee when we toured Murang'a and we learnt a lot and that is why we came up with the recommendation we have done. They are very much successful. The County Government has provided these milk chillers. They are coolers indeed and they are well-kept, so what we can wish is all that could be implemented in our County. Thank you Mr. Speaker, Sir.

Hon. Speaker: Yes, Hon. Felix Ngui.

Hon. Ngui: Mr. Speaker, thank you. I am in support of the motion but mine was just a clarification just to know, because I do think in the re-organization of departments within the County Government of Machakos, the Governor of Machakos moved the department of Co-operative Development to the department of Tourism and Culture and this report seems to have been presented by the chairman on Agriculture while the department on Co-operative Development was moved to Tourism and Culture department. So just a clarification, Mr. Speaker.

Hon. Speaker: Let me hear from the chairman. Hon. Joseph Muli, clarify that.

Hon. Muli: Mr. Speaker, this is an issue of dairy farming which directly lies in the Agriculture docket, Mr. Speaker, because it is animal production and it is within the docket of Agriculture. Therefore, I would like to correct that immediate contributor and inform him that the motion is in the right committee. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, then that question is well-handled.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, there are directions that I issued last week in relation to the doctor's strike and we were to have a report from the Health committee today for deliberation by the House. I have just been served with some pleadings that the matter has been filed at the Industrial Court. I will peruse the pleadings and I will give directions to this House tomorrow.

In the absence of any further business, then the House adjourns.

The House rose at 2.48 p.m.