COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Wednesday, 27th March, 2019

The Assembly met at the County Assembly chambers at 9:30 .m.

The Deputy Speaker, County Assembly of Samburu (Hon. Jonathan Lemoosa), in the chair

PRAYER

MOTION

Specially Elected MCA, (Hon. Josephine Lesilampa): Thank you Hon. Speaker. I beg to move the following Motion, **THAT**, pursuant to provisions of the Standing Order No. 17(1 2), this House debates and approves the discharge of Hon. Peter Lempei and Hon. Shardack Lesoipa as the first and the second member of the Speaker's Panel respectively. I call upon Hon. Joseph Leshipaayo to second the Motion.

(Hon. Leshipaayo bows in seconding)

The Deputy Speaker, (Hon. Jonathan Lemoosa): I now propose **THAT**, pursuant to provisions of the Standing Order No. 17(1 2), this House debates and approves the discharge of Hon. Peter Lempei and Hon. Shardack Lesoipa as the first and the second member of the Speaker's Panel respectively.

MCA Suguta Marmar Ward, (Hon. Shadrack Lesoipa): I rise to give a concern on the said Motion. The business of this House must be conducted in a manner that conforms to the rules and regulations of parliament. And Hon. Speaker, having seated to preside over a Motion that was already given a Communication from the Chair, on 20th of this month, all speaks volume of the illegality of the Motion because the Communication from the Chair is a final statement to be communicated to the Hon. House at a given time. So, when I am reading a Motion and the Communication was already given, then the House is discussing an illegality. And it is not because I am one of the Members being discussed; it is a concern that an illegality cannot be taken over as a Motion. I therefore, cannot be part of this illegal issue and so, I stand to oppose the Motion.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Members, I can read from the Standing Order No. 17 (1) that the Speaker may through the House Business Committee give a notice that a member be discharged from the panel. Clause 2 reads, within 7 days of the receipt by the House Business Committee, the Committee shall consider the notice and give the Notice of the Motion to replace the Member.

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MCA Nachola Ward, (Hon. Lawrence Lorunyei): Thank you Hon. Speaker. I know nothing comes to the floor of this House without passing through the House Business Committee. So, when it is in the Order Paper, I believe it has passed the due processes. Standing Order No. 17 (1) says that the *Speaker may through the House Business Committee give a notice that a member be discharged from the panel.* Clause 2 reads, within 7 days of the receipt by the House Business Committee, the Committee shall consider the notice and give the Notice of the Motion to replace the Member. So, is within the procedures of the House that this was done.

That is why I say that I congratulate the House Business Committee for bringing something to be discussed at the floor of this House. The leadership of this House has let us and this Honourable House down, it has demeaned the dignity of this Honourable House and made the Hon. Members vulnerable, slaves and beggars.

I wish this Motion came yesterday because this Honourable House's respect has been let down by the leadership of this Honourable House. Businesses such as meetings, forums, foreign and local trips are done without plans and programmes. Some of us do not know because we do not have the timetable, it is only close friend and who you know.

To change it to Kiswahili, hii nyumba si ya mama ya mtu ama baba ya mtu, kwa hivyo ni ya mama yetu sote, ya baba yetu sote na wale walitupigia kura. Kwa hivyo ni ya baba yetu wote na mama yetu wote Mr. Speaker. We need to restore the respect of this Honourable House, it should not be status quo as usual, if new bromes can sweep well, if it is new people who can restore respect of this Honourable House, then let it be. It has been said that an angel you know is better than a devil you do not know. But if I know this angel and demeans the respect of this Honourable House then it is right for me to seek refuge from the devil I do not know if the changes will come.

Mr. Speaker, I am happy with the House Business Committee. Many things have not come to the light of this floor, like the Auditor General's report, the PIC and PAC (Public Investment and Public Accounts Committee) reports which affects the life of our people. This has come so as to restore the respect of our people and to make us not vulnerable, that is why I say I congratulate the House Business Committee.

Shadrack is a good name, because Shadrack, Meshack and the other one were put in the fire and God protected them. Jesus made Peter the foundation of his church, he is a rock. They are role models, Shadrack, Meshack. If the question was proposed yesterday, I would have agreed with it.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Thank you Hon. Lorunyei. I think it is prudent for the Members have understood that we are not discussing on legality as guided by the Standing Orders No. 16 (1) to (6). We are within the mandate of the House and we are actually discussing the procedural Motion of removal of any Member in a panel or a committee, thank you. Hon. Zamzam

Specially Elected MCA, (Hon. Zamzam Ismail): Thank you Mr. Speaker sir, I rise to support the Motion. Hon. Speaker, the two nominees Hon. Doris Lenkirasi and Hon. Paul Leshimpiro have what it takes to sit in the Speaker's Panel. As we know, Hon. Doris Lenkirasi is a woman of substance, she is a good adviser and we all know how she has been guiding us in our page. She is full of advises and whenever there is a conflict we seek her advice... (*Interjection by the Deputy Speaker*)

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Zamzam. I want to say that our Standing Orders do guide us on anticipation of debate; it is like we are anticipating debate as per Motion 2. We are not yet there, let us first cross the bridge and then be guided right. Sorry, your inputs will be on Motion 2. Thank you for your support, Hon. Leshoomo

MCA Lodokejek Ward, (Hon. Jerias Leshoomo): Thank you Mr. Speaker, I also stand to support the Motion for the discharge of Hon. Peter Lempei and Hon. Shadrack Lesoipa as first and second Members to the Speaker's Panel. Mr Speaker I want to correct my Hon. Colleague Hon. Lesoipa that the Procedural Motion is in Order.

Mr. Speaker, I also concur with Hon. Lorunyei that the change is long overdue as this House has been in existence for the last two years and input from Hon. Members in question is minimal to make the effectiveness and functionality of the House.

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As read in the Standing Order no.17 (1) & (2), I think it's only right as Jubilee Members to make the necessary changes and give other Members a chance so that they can exercise their rights in making the Speakers Panel more vibrant and taking the mandate bestowed upon them.

Mr. Speaker, I think Hon. Lesoipa did not read the Standing Order in advance for him to misinform the House that it's in Order to debate on what the Hon. Speaker has given as Communication.

In my Opinion... (Interjected on a point of Order by Hon. Lawrence)

MCA Nachola Ward, (Hon. Lawrence Lorunyei): Mr. Speaker, Hon. Leitore seems to be talking to foreigners in this Honourable House.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Leitore, please let us consult in low tones and make sure you talk to Members of the Assembly but not foreigners. Continue Hon. Leshoomo

MCA Lodokejek Ward, (Hon. Jerias Leshoomo): Mr. Speaker, I urge the Hon. Members who are seated on the floor of this Honourable House to support the Motion to enable the new Members to take seats and assist the House to function effectively.

MCA Wamba West Ward, (Hon. Benjamin Leitore): Mr. Speaker, I wish to appreciate for this chance given although my hand has been up for long.

Mr. Speaker let it go on record that I oppose this Motion, I want to make clear to the House that I have never stood on the floor of this House and Opposed a Motion particularly one that is sponsored by the Government since I became a Member of this Honourable House it being my second term.

Mr. Speaker this is a total illegality, a reverse of the laws. Allow me to express... (*Interjection on a point of Order by Deputy Speaker*)

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Member as directed by the Chairperson who is the Speaker kindly note that we are discussing a legal matter as guided by Standing Order number 16 & 17.

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Hon. Member you are out of Order if you are debating on illegality. Hon. Member, are you giving an input or debating on a point of illegality?

MCA Wamba West Ward, (Hon. Benjamin Leitore): Mr. Speaker, please allow me to express myself as I was going straight to the Standing Orders that I wanted to quote.

Mr. Speaker may I be allowed to express myself... (Interjected by Deputy Speaker)

The Deputy Speaker, (Hon. Jonathan Lemoosa): Please take your Seat hon. Member. Hon. Adamson Lanyasunya.

MCA Loosuk Ward, (Hon. Adamson Lanyasunya): Thank you Hon. Speaker, I stand to support the Motion of discharging the two Members. I would like to point out that in any institution employees are like shepherds and roles are defined. Even in a family setting where there are those who care for the animals they are each given a role. When we discuss such matters in the Assembly it's not a fight or a matter of hatred or competition.

It's actually an objective to perpetuate the spirit of cohesiveness, unity, love and to also ensure efficient and effective service delivery to the entire institution. We have witnessed now for a year that when the lead shepherds take animals to the wolves or down a rocky path to break their legs instead leading them to greener pasture then it beats the logic of service delivery.

When we look at the Integrity Act in the Constitution, it states that a leader who holds an office should uphold the spirit of integrity and ensures that the work is done diligently and in a manner that doesn't jeopardize the vision of that institution.

It is evident that our House leadership is very vocal on Whatsapp pages and public functions in preaching hatred, disunity and also threatening of impeachment Motions. It is not a fight but rather giving other people a chance to become the shepherds. The ruling party dominate the leadership positions and there comes a time those members intervene with the help of the party constitution then it beats the logic.

Specially Elected MCA, (Hon. Elizabeth Kalapata): Thank you Hon. Speaker, I stand to support the Motion. Due to the absence of the Speakers Panel we have not been moving forward. I recall

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last week we were left (9) nine Members in the House because most of Speaker's Panel Members were involved in some other activity outside the County. Among the nine none of us could take the Assembly process on that is why I support the provision of the change of the Speakers panel.

Hon. Speaker when it comes a time for change many people resist because of their self-interests. You support when others are put in those positions. We support the change.

(Point of order by Hon. Benjamin Leitore)

MCA Wamba West Ward, (Hon. Benjamin Leitore): Mr. Speaker I want to point out Standing Order number 87 on responsibility of Statement of facts whether a Member can justify to notion that Members Support Motions on self-interests. Is that in order?

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Kalapata, Standing Order number 87 of this Assembly calls for such, please give evidence or you withdraw.

Specially Elected MCA, (Hon. Elizabeth Kalapata): Hon. Speaker I withdraw the Statement but it is because most of the Members want to be everywhere that is why I said they push their own interests and do not focus on the job given to them at the County Assembly.

(Point of order by Hon. Benjamin Leitore)

The Deputy Speaker, (Hon. Jonathan Lemoosa): Thank you Hon. Kalapata for the withdrawal. It is very hard and the burden of proof is such a tall order for a self-interest geared action, thank you.

Specially Elected MCA, (Hon. Zamzam Ismail): Thank you Mr. Speaker Sir. I rise to support the Motion. We all know that this is a procedural House where most of the time when the Speaker and the Deputy are in different parts of the County doing businesses the Members of the panel are not in the House; as I talk I have no ill motives. We have to move forward and work hard for the two Members, Hon. Shadrack Lesoipa and Hon. Peter Lempei. I do not remember hon. Peter Lempei sitting as a Speaker when the Speaker and the Deputy are not around.

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I have seen Hon. Shadrack Lesoipa only once for the two years that I have been here. We want to work and deliver services to the people. When the Members of the Speaker's panel are not there it becomes very difficult to run the House businesses, thank you Mr. Speaker Sir.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Members I think that we have dwelt so much on this matter and it is time to put the question; hon. Members I now put the question that Pursuant to the Provisions of Standing Order number 17(1) (2), this House approves the discharge of Hon. Peter Lempei and Hon. Shadrack Lesoipa as first and second Members of the Speaker's panel respectively.

(Question put and passed)

Specially Elected MCA, (Hon. Josephine Lesilampa): Hon. Speaker I beg to move the following Motion that Pursuant to the Provisions of Standing Order number 17 (4) that this House approves the following nominees to the Speaker's Panel;

- 1) Hon. Paul Leshimpiro First Chairperson.
- 2) Hon. Dorcas Lenkirasi Third Chairperson.

I call upon hon. Zamzam Ismail to second the Motion.

(Hon. Zamzam Ismail bows to second the Motion)

The Deputy Speaker, (Hon. Jonathan Lemoosa): Very well. Hon. Members I now propose that Pursuant to the Provisions of Standing Order number 17(4) that this House approves the following nominees to the Speaker's Panel;

- 1) Hon. Paul Leshimpiro First Chairperson.
- 2) Hon. Dorcas Lenkirasi Third Chairperson.

MCA Wamba West Ward, (Hon. Benjamin Leitore): Thank you Mr. Speaker. I wish to stand again and oppose the Motion. I would wish to read Standing Order number 17(4) which I urge the Members to read Standing Orders in totality and not pieces. Standing Order number 17(4) reads that upon removal of a Member from the panel, the Speaker shall forward the name of

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another Member, replace the discharged Member to the House Business Committee we shall table the Motion of approval of the nominee within seven days after the Assembly approves the removal of a Member from the Speaker's Panel.

This procedure is neither due nor followed. The names are forwarded the same day or the same minutes the approval of the names of the proposed name. Are we really following the law? I wish to request under your leadership because I believe in it that let us keenly follow the law as stated in our Standing Orders and I wish to be provided with approved minutes of the House Business Committee receiving the proposed names and subsequently receiving the names of the discharged Members and secondly receiving the names of the approved Members.

This will fail to have a hearing on this floor but there are other avenues for hearing that are actually provided under the Constitution of Kenya that under Chapter four on the Bill of Rights, the right to be heard and the right to information. Let us carry this House as a House of respect and not as a village and with decorum. I wish that you suspend this Motion based on Standing Order number 17(4) because it is un-procedural.

MCA Nachola Ward, (Hon. Lawrence Lorunyei): Mr. Speaker I do not know whether I am reading a different Standing Order from what hon. Leitore who is my friend is reading. According to the procedure and the rule of this House that is the Standing Order number 17 (1) the Speaker may in writing to the House Business Committee give a notice that a Member is to be discharged from the panel and at the same time he can propose, this is the Speaker's discretion; now that it has been approved that Members brought to this Honorable House be discharged. Number 4 reads: immediately or I can go to number 3 (17). *3 the discharge of a member of the panel shall not take effect until the House has approved the motion for replacement under paragraph 2.* Now that the House approved... (*interjection by Hon. Benjamin Leitore on a point of Order*)

MCA Wamba West Ward, (Hon. Benjamin Leitore): Point of order, Mr. Speaker.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Let him proceed.

MCA Nachola Ward, (Hon. Lawrence Lorunyei): Now we go to 17 (4)

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MCA Wamba West Ward, (Hon. Benjamin Leitore): Point of order. It is a very important point of order, Mr. Speaker.

MCA Nachola Ward, (Hon. Lawrence Lorunyei): Which says; that immediately after the approval for the removal of a member from the panel, the Speaker shall forward a name of another member to replace the discharged member to the house business committee which shall table a motion for approval of the nominee within seven days after which, I repeat, after which the assembly approves the removal of the member from the Speaker's panel. So, now, the Assembly has approved.

MCA Wamba West Ward, (Hon. Benjamin Leitore): On a Point of Order 86, Mr. Speaker.

MCA Nachola Ward, (Hon. Lawrence Lorunyei): The seven days will start with a second to seven days. A second, a minute, two days, three days you see now, within seven days. So 30 minutes is immediate. So that is why I say that

The Deputy Speaker, (Hon. Jonathan Lemoosa): What is the order?

MCA Wamba West Ward, (Hon. Benjamin Leitore): Mr. Speaker, I wish to refer this House to our Standing Order number 86; Declaration of interest. Mr. Speaker I would wish the Hon Member for Nachola declares an interest because based on his contribution which actually states that a member who wishes to speak on any matter in which the member has personal interest shall first declare interest. Mr. Speaker because I see that omitting number 17(4) ...

The Deputy Speaker, (Hon. Jonathan Lemoosa): Order! Order!

MCA Wamba West Ward, (Hon. Benjamin Leitore): As declared. Mr. Speaker, allow me to say...

The Deputy Speaker, (Hon. Jonathan Lemoosa): Order! Order! Take your seat. I guide. Take your seat, Hon. Leitore. We are not arguing in this House. We are deliberating on matters of legal process as guided by either Standing Orders or other statuaries in the constitution. I am not trying to bar you from actually expressing your mind but you are wrong under section 86 that Hon Lorunyei Lawrence has interest...

MCA Wamba West Ward, (Hon. Benjamin Leitore): But I am quoting section 86. Please lead this House as required, Mr. Speaker.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Please give me time to deliberate. Hon Benjamin, we are not arguing. I told you this is a House of regulations and we deliberate with decorum. Hon Lorunyei as per my understanding and on standing order, the issue of personal interest does not arise in this case unless he substantiates. Please take leave.

MCA Nachola Ward, (Hon. Lawrence Lorunyei): Mr. Speaker, I do not have any personal interest otherwise my name would have been there, I would have been fighting for my name. Mr. Speaker we came to this honorable house as equals; whether elected from our respective wards or nominated by political parties to represent the issues being given here; maybe women or disabilities or youth. But when it comes to this honorable house we are here as equals. We are here as honorable members and here to protect the dignity of this honorable house.

I have no personal interest Mr. Speaker. That is why I am saying that this house has become vulnerable because of the leadership of this Honorable House. That is why we need change, Hon. Speaker. Thank you.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Thank you, Hon. Lawrence. Hon. Shadrack.

MCA Suguta Ward, (Hon. Shadrack Lesoipa): Thank you, Hon. Speaker. Much as Hon. Lesoipa's name is mentioned, I am not Raisy that I should not be the Whip in the Speaker's Panel. But Hon. Speaker, I think the chair and even members seated in this House and the rules that guide the sitting and the business of this house must be observed.

Hon Speaker, I thought the Speaker must be a man of wisdom and must be fair in the running affairs of this Assembly. Why do I say that? Under the laws of natural justice and even the laws of this house no one will be condemned unheard. You should not deny a person an opportunity to express her or himself under any condition. All said and done, Hon. Speaker, I think the laws of natural justice are expressed in the constitution of Kenya, Mr. Speaker, and I will just leave a voice in this house.

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Let it be known Hon. Speaker, under my loud voice, that being the representative of the people of Suguta, Hon. Speaker, there is no point of intimidation whatsoever that would put me in any situation that I cannot stand my ground to express the interest of people of Samburu and as well as Suguta. Let that go on record. Hon. Speaker, being de-whipped from the Speaker's Panel should be done in a manner that conforms to the laws of Kenya and even the regulations of this house. Having said that, having taken the day in whichever business you want to undertake under the chairmanship of the Honorable Speaker and the members who have spoken on the interest of the purported that Hon. Speaker I sat here and listened, it is in this Hansard, the Hon. Members stood and said I have seen Hon Lesoipa presiding over this House once in two years.

That is a white lie. It is in this Hansard of this House. I will challenge that one. It is clear in these records I sat several times here presiding over the House and there is no day that I was late.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Order Honorable. I want to guide. Please take your seat as I guide. You will take leave as I guide, please. We are not discussing motion number 8 right now and I'm sure we're guided by rules and regulations. Motion number 8 was discussed and resolved. For a matter of understanding, we are now discussing motion number 9 of Hon. Paul Leshimpiro and Dorcas as guided by the business of the House. Take your leave.

MCA Suguta Ward, (Hon. Shadrack Lesoipa): Thank you for guidance. Hon. Speaker, all said, the Hon. Member who spoke here earlier that these are the rogue members. The defiant members who are not complying with the directives I do not know from where. Hon. Member, I only comply with direction from the laws of natural justice. I only comply with laws that will guide me for people to get what is rightfully theirs.

But Hon Speaker, when all is said and done here, it is a point that has been rushed just to intimidate some members so that they cannot raise their voices. Hon Speaker this is not the far end where one can seek legal redress when one feels intimidated or something but Hon. Speaker, let us run the House in a manner it is supposed to be run. I am also a member of the House Business Committee, there is no report tabled before me. There is no report that we approve for this House to carry the business Hon. Speaker, let the Motion continue. Hon. Leshoomo, just get a seat and let me finish... *(interjection by The Deputy Speaker)*

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Shadrack, you cannot directly address a Member and force a Member. Take a seat.

MCA Suguta Marmar Ward, (Hon. Shadrack Lesoipa): I apologize and withdraw for that matter. I am even finishing Hon. Speaker. Let it be in record that this is the first time I sat in this House having seen Members officiating an illegality. Thank you Hon. Speaker.

MCA Lodokejek Ward, (Hon. Jerias Leshoomo): Thank you Mr. Speaker. Mr. Speaker I want to inform my colleague Hon. Lesoipa that he was not in this House for last three weeks, how can he say that the House Business Committee did not seat yet he was out of the County for the last three weeks? It is wrong to mislead the House that there was no House Business Committee that took place within the last three weeks Mr. Speaker.

MCA Loosuk Ward, (Hon. Adamson Lanyasunya): Thank you Hon. Speaker. I would like to support the Motion and say that the procedures are well followed and we are within the law. The law requires that usually the law is not read in piece meals but in totality.

All these clauses in our Standing Orders from 17 (1), (2), (3), (4) and (5) should be read in totality. When you read 17 (1); the Speaker may write to the House Business Committee give notice, that a Member is to be discharged from the panel. (2) Within seven days of the receipt by the House Business Committee of a notice under paragraph (1), the House Business Committee shall consider the notice and give Notice of Motion to replace the Member.

So when the Speaker gives the communication, it is actually from then the replacement starts. It is not now but it was when the first notice was given. (3) *The discharge of a Member of the panel shall not take effect until the House has approved the Motion for replacement under paragraph* (2). Even though in writing the replacement has been done, the effect should take place when the House approves just like what the House has done and is discussing.

(4) Immediately after approving the removal of a Member from the panel, the Speaker shall forward a name of another Member to replace the discharged Member to the House Business Committee which shall table a Motion for approval of the nominee within seven days after the Assembly approved removal of a Member from the Speaker's panel.

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Where the Members did not understand was they did not understand the English that it is within the seven days. But if the law was saying 'after' then it is something different. 'Within' means from the first second onwards, just like Hon. Lorunyei said. But it should not be a second before the approval but it starts from that second and it should not be after the seven days, it is within. I think we are one hundred per cent within the law; I support the Motion, thank you.

The Deputy Speaker, (Hon. Jonathan Lemoosa): Hon. Members, silence means that Members are following the Motion. Actually much has been deliberated within gives us a leave to put a question. Before I put the question, I wish to guide the as follows; in this House, none of us is above the law or above another. For the purpose of record as alleged by Hon. Lesoipa, I have never heard any Member bring a point of intimidation or forcing Members to comply. I have never heard that unless my ears have not caught such.

Just to be precise, none is intimidated; none is being de-whipped by refusing to comply. What Members had brought up and especially the jubilee members is the issue of representation. Members are dissatisfied in accordance to the discussion and the interrogation of Members that they are dissatisfied of services.

We cannot stop Members from taking their deliberations and freedoms. I also know that under article 37 of the constitution of Kenya that of course each and every person has a mandate to be heard. Article 36 of the constitution of Kenya gives us a mandate of fair hearing, freedom of speech and such. This House has never closed doors and that is why we have actually given a fair hearing as directed by the procedures of the House.

I also agree that we are totally within the law because our Standing Orders number 16 and 17 with all the clauses guides on how this business of the House is being carried on. Just as said by the other Members, I think the word missing here to most of the people is 'within seven days'. If the Standing Order could have said after the elapse of seven days or maybe all that it could have given us. The two tricky words here in Standing Orders number 17 (1) and (2) is the word 'may'.

In simple English, 'may' means the Speaker may write, the Speaker may not write, this is a grey area maybe. Once the Speaker has pronounced, we say the Motion has started from that time up to today is within that Standing Order and the word 'within'. So, basing on these two words, I

give my directions towards 'may' and 'within' that gives us a grey area or some room for understanding.

(Question put and the Motion passed)

Hon. Members, the time being eighteen minutes to eleven O'clock and there being no other business, this Assembly now adjourns until Wednesday afternoon March 27th, 2019 at 2:30 Pm.