

Votes and Proceedings Of the Twentieth Parliament

No. 2

**First Sitting of the Second Meeting
Friday, 2nd July 2010**

10:00 a.m.

1. Hon. Aloysius Amwano M.P., Speaker of Parliament, took the Chair and read prayers.
2. **Statement from the Chair.**
The Chair informed the House of a letter addressed to him as Speaker of Parliament dated 2nd July 2010, which read as follows:-

“TO THE SPEAKER OF PARLIAMENT

Dear Sir,

We write this letter to state, in the strongest terms, our disgust at the manner in which Members of the Financial Intelligence Unit (FIU) and other persons conducted themselves when they came to our premises on Thursday morning, the 1st of July.

With very wide ranging search warrant, issued under questionable reasons, they proceeded to remove whatever documents they wanted from the Western Union office.

This has all been undertaken because, in the words of one of the FIU staff; “They have heard that large sums of money are coming onto the island through Western Union”.

The purpose of the Western Union office on Nauru is to provide a very important money transfer service to hundreds of people on the island and has always abided by the very high standards set by Western Union International. The business of Western Union is to transfer money both into and out of the country and if the people making the money transfers have correct documents and identification the transfer may proceed.

Western Union International has strict guidelines which must be met if large amounts of money are to be transferred.

To undertake what seems like a ‘witch hunt’ because some person has “.....heard something about large sums of money....” seems very dubious grounds to undertake the actions which these gentlemen undertook.

It was stated by one of the people who came, “.....We can do what we like, we can take anything we want to.....”

There was a strong attempt at intimidation and no respect for basic rights or even a willingness to listen to any personal request.

Is this what our country is being reduced to?

We have not broken the law by providing this money transfer service, available for all the people of Nauru.

This Western Union agency on Nauru is part of the largest and most respected money transfer service in the world.

Because there may be strong political tensions on Nauru at the moment don't let the basic rule of law and the principles of ethics and justice be overthrown or sacrificed for the sake of self serving political ambitions.

Signed

Krystalmaine Finch and Paul Finch”.

For Members attention and I'll leave it as that.

Now, the main matter, I wish to update the House and public that, The Chair then suspended the sitting until Tuesday 6th July, 2010 at 10 a.m.

Resume (Tuesday 6th July, 2010)

10:00 am

3:15 pm Bell rings.

3. Motion

Hon. Mathew Batsiua (Minister for Justice & Border Control) moved a motion to proceed with business of the House (Election of President).

Hon. Dr. Kieren Keke (Minister for Finance) seconded.

The Speaker informed the Members that the Chair would like to go through just a few formalities and then will move on to our business.

4. Statement from the Chair

The Speaker made the following statement to the House which read as follows;

Honorable members, I have sought advice. First of all, I wish to inform the House that I have since the last break; I have sought advice from House of Rep. Australia for my reference as Speaker of this Parliament on Parliamentary

Executive and Judicial procedures and limitations (if any) during a State of Emergency or a similar situation as Nauru is undergoing.

Secondly, I have also sought the same advice from the House of Commons in the United Kingdom. I hope to receive a reply to my queries soon and will update the House when that reply is received.

Thirdly, I have also with me, some advice, also the same advice which I sought from the Parliamentary Counsel, which all these advice I will circulate to members for your information.

Secondly, I am happy to inform the House that with concurrence from the Ministry of Foreign Affairs, I have sent the letter signed by me under Parliamentary letterhead, through the Foreign Affairs to the Forum Secretariat inquiring on the request of certain members of Parliament of Nauru, requesting forum observers to be on island during the crisis on Nauru until the country returns to normal governance. I will also advise the House in due cause when I do receive the reply. In the meantime, I thank the Ministry of Foreign Affairs and the Minister for assisting this matter.

Thirdly, when I took up the Chair of Speaker on 30th of June, I noted that there is a Parliament project about to go on or start and it involves quite a substantive amount of fund, which will be drawn down from Parliamentary budget. Having looked at the situation, I have decided to postpone this project until Executive Government is in place and the country leaves the state of emergency. Reason being that, to be fair to the company itself and to Parliament and to myself, there is still matter unresolved on the floor of the House regarding that company "Scaff Works" and I want to be fair to that company and to Parliament by postponing this project until the country comes back to normal governance and then funds can be drawn under the Parliament budget.

I have also received a request from Members on the status, Members of Parliament, on the status of the Courts, especially the Supreme Court during the state of emergency and when actions may be instituted before the Courts. I will now ask the Clerk to circulate and I will read out the advice given to me by the Parliamentary Counsel because this has become a common question to the Speaker and Honorable members and I think it is only fair that we know what we go through during state of emergency and what we should respect. While it's been circulating around the House, I shall read it out;

*Addressed to me as Speaker of Parliament
6 July 2010
The Subject is 'Supreme Court Actions'*

"Honorable Speaker,

At your request, I am writing to confirm my advice, given verbally this morning, in relation to the meaning and effect of Presidential Order 3 issued on 11 June 2010.

The Order provides that no person may institute in the Supreme Court proceedings under any provision of the Constitution of Nauru or proceedings that in any way concern an application for judicial review of administrative action. The Order will lapse when the state of emergency lapses, unless it is revoked earlier, or unless it is extended if another emergency is declared. The Order does not have the effect of suspending the Constitution; it simply means that actions of the type specified in the Order cannot be brought while the Order is in force. As soon as the Order lapses or is revoked, then such actions may be brought in the Supreme Court, even if they relate to events that occurred when the Order was in force. This means that things done during the state of emergency (whether done by the executive, the Speaker or any other person) may be challenged after the lapse or revocation of Presidential Order 3.

I hope this advice is of assistance. Please let me know if you would like to discuss this matter further, or if you require more detailed written advice.

*Sincerely,
Katy Le Roy
Parliamentary Counsel"*

So members another progress has emerged over the weekend and I have been advised by the Party rep. this afternoon that nomination and election will take place on Thursday morning and has asked me to remain in the Chair until he advises me so, I therefore, suspended the House until Thursday morning at 10a.m.

The Chair then at 3:30pm suspended the sitting until Thursday 8th July 2010 at 10:00am.

**Resume (Thursday 8th July, 2010)
10:00 a.m**

11:30 Bell rings

5. Statement from the Chair

Honourable Members, before we proceed to our business of the day, there are two serious matters that I would like to raise and these matters takes precedence over all matters.

Firstly, I would like to clarify some issues for my suspending the House was said to be illegal for some members. If you can read S.O. 50 under grave disorder, the

interjection made to the Speaker while making my statement, to me, was grave disorder.

Standing Order 50 says, “while some considered ‘illegal’, this suspension.”

“In the case of disorder arising in the House, the Speaker may, if he thinks it necessary to do so, adjourned the House without question put or suspend the sitting to a time to be named by him or take such action in relation to a Member or the House as he thinks fit.”

This is the reason why I suspended the House, I was provided under Standing Order 50 to do so.

Therefore, to proceed on with the matters that arise that day, grave disorder, I wish to inform Members that when we had the break until this morning, I requested my staff to print me the Hansard and recording by video from media. All the evidence is here including the derogatory remarks from a Member to the Speaker in this House. All on record so therefore, this will take precedence over all matters and business today.

Secondly, an interview took place outside within the Parliamentary precinct. I was interviewed as Speaker of Parliament by N.T.V., media and it appeared in the NTV news nationwide, I saw it. A Member walked past behind me in the lobby whilst being interviewed and put up a derogatory sign. This is unbecoming of a parliamentary person; this to me is disorderly and offensive, so therefore, before we proceed, I shall deal with these two important disorderly manners that took place that day in the precinct of parliament and the other in the Chamber.

I will not allow debate and will proceed with the normal. Before we proceed with business, I expect:-

- 1. The Honourable Member for Boe for his derogatory remarks towards the Chair during that meeting. I expect a letter of apology from him today before two o'clock. I will allow time for the letter; and then we will proceed.*
- 2. The Honourable Member for Meneng, I will also expect his letter of apology for his offensive manner whilst I was interviewed by NTV news. I will expect his letter of apology by 2:00 p.m. this afternoon. Then the House will proceed with its normal business, so in the meantime Honourable Members, I suspend the House until 2:00 p.m this afternoon.*

The Chair then suspended the sitting and to resume at 2:00 p.m.

Resumed (Thursday 8th July, 2010)

11:50 a.m. Bell rings

6. Deputy Speaker Hon. Landon Deireragea M.P., took the Chair and made the following Statement.

7. **Statement from the Chair**

Honorable members,

I have assumed the Chair of Parliament in accordance with clause (4) of Article 35 of the Constitution, because the office of Speaker is vacant.

The office of Speaker has become vacant under Presidential Order 13, issued by the President in exercise of his emergency powers.

Presidential Order 13 reads as follows:

**“PRESIDENTIAL ORDER 13
ARTICLE 78**

WHEREAS –

- (a) A State of Emergency has been declared under Article 77(1) of the Constitution of Nauru; and*
- (b) The Speaker of Parliament, in breach of Article 16(5) of the Constitution and Standing Order 3(g) is refusing to allow Parliament to progress to the election of President; and*
- (c) The second sitting of the 20th Parliament (which commenced on Friday 2 July 2010) has twice, in contravention of the applicable parliamentary procedure, been suspended by the Speaker without the consent of the House; and*
- (d) I am satisfied that this Order is reasonably required to safeguard the interests of the community and to prevent the Speaker from contravening the Constitution and the Standing Orders with impunity and from needlessly prolonging the political stalemate,*

By virtue of the powers vested in me under Article 78(1) of the Constitution of Nauru, I MARCUS STEPHEN, President of the Republic of Nauru hereby order –

- 1. The office of Speaker is vacant.*

2. *The sitting of Parliament (which commenced on Friday 2 July and which has twice in contravention of the applicable parliamentary procedure been suspended by the Speaker without the consent of the House) will resume when the bells ring.*
3. *The Clerk will ring the bells when requested to do so by me.
Given under my hand this Eighth day of July, 2010.*

*HON. MARCUS STEPHEN MP
PRESIDENT*

The President has advised me that it was with great reluctance that he took the step of removing the Speaker, but that under all the circumstances, he was satisfied that it was absolutely necessary to safeguard the interests of the community. It is not in the interests of the community for the political stalemate to be deliberately and needlessly prolonged by Mr. Amwano, who was acting in breach of the Constitution and in breach of the Standing Orders of Parliament.

Under Article 34(1) of the Constitution, whenever the office of Speaker is vacant Parliament shall not transact any business other than the election of a Speaker. Our first item of business must therefore be the election of a new Speaker.

Before I call for nominations, I will take the opportunity to make a brief statement outlining the improper conduct of the previous Speaker Mr. Amwano, in the hope that all Members will understand the importance of having a Speaker who is willing and able to adhere to the provisions of our supreme law and our own Standing orders, and that Members will bear this very seriously in mind when making nominations for the new Speaker, or when assuming the Chair as Speaker:

Since he took the Chair on Wednesday 30th June

- (a) Mr. Amwano breached Article 16(5) of the Constitution and Standing Order 3(g) by failing to proceed to the election of President at the second sitting of the 20th Parliament held on Friday 2 July 2010, the House having elected a Deputy Speaker and two Deputy Chairmen of Committees;*
- (b) Mr. Amwano contravened the applicable parliamentary procedure by suspending the second sitting of the 20th Parliament on Friday 2 July 2010 without the consent of the House;*

- (c) *Mr. Amwano breached Article 16(5) of the Constitution and Standing Order 3(g) a second time by failing to proceed to the election of President when the second sitting of the 20th Parliament resumed on Tuesday 6 July 2010;*
- (d) *Mr. Amwano refused to entertain a motion, moved by Hon. Mathew Batsiua, M.P., and seconded by His Excellency Hon. Marcus Stephen, M.P., at the second sitting of the 20th Parliament on Tuesday 6 July 2010, that the House proceed to the election of a President in accordance to Article 16(5) of the Constitution and Standing Order 3(g);*
- (e) *Mr. Amwano contravened the applicable parliamentary procedure a second time by suspending the second sitting of the 20th Parliament on Tuesday 6 July 2010 without the consent of the House;*
- (f) *Mr. Amwano breached Standing Order 82 by refusing, on Tuesday 6 July 2010, to entertain the dissent of Members to the further improper suspension of the second sitting of 20th Parliament, which dissent was clearly voiced from the floor of the House;*
- (g) *The former Speaker has contravened the Constitution and the Standing Orders with impunity in order to deliberately and needlessly prolong the political stalemate.*

This is a sad chapter in our parliamentary history, and one that I hope will not be repeated.

Thank you.

The Chair was then advised of “no quorum” in the House.

There being no quorum, the Chair adjourned the House to the next sitting date.

Members Present

All members were present at some time during the sitting.

**John Garabwan
Deputy Clerk of Parliament.**