

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

**Thursday, 28th March, 2013**

*Eleventh Parliament – First Sitting*

*(Convened by notification vide Legal Notice No.56 of 2013)*

*(The Senate met at 9.00 a.m. at the Kenyatta International Conference Centre (KICC), Nairobi, on Thursday, 28<sup>th</sup> March, 2013, it being the first sitting of the Senate)*

*(The proceedings were opened with a prayer read by the Clerk of the Senate (Mr. Nyegenye))*

### COMMUNICATION FROM THE CLERK OF THE SENATE

WELCOME TO HON. SENATORS AND NOTIFICATION OF PLACE  
AND TIME OF FIRST SITTING OF THE SENATE

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, it is my pleasure and privilege to welcome you to the first sitting of the Senate.

Hon. Senators, Senate Standing Order No.3 (1) (a) provides that:-

“On the first sitting of a new Senate pursuant to the President’s notification under Article 126(2) of the Constitution, the Clerk shall-

(a) read the notification of the President as published in the *Gazette*.

Hon. Senators, pursuant to this provision of the Standing Orders, I now proceed to read the notification of the President. This is:-

“LEGAL NOTICE No.56

THE CONSTITUTION OF KENYA

FIRST SITTING OF THE SENATE

I paraphrase:-

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“In EXERCISE of the powers conferred by Article 126(2) of the Constitution of Kenya, His Excellency the President and Commander-in-Chief of the Kenya Defence Forces appoint that the first sitting of the Senate shall be held at the Kenyatta International Conference Centre, Nairobi, on Thursday, 28th March, 2013, at 9.00 a.m.”

The Legal Notice is dated 21st March, 2013 and is signed by His Excellency the President.

### PAPER LAID

#### LIST OF GAZETTED SENATORS

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, Standing Order No.3(1)(b)) further requires that on the first sitting of a new Senate, pursuant to the President’s notification under Article 126(2) of the Constitution, the Clerk shall:-

“lay a list of the names of the persons elected as Senators on the Table of the Senate;”

I now proceed to lay on the Table of the Senate a list of the persons elected or nominated as Senators.

*(The Clerk of the Senate (Mr. Nyegenye) laid  
the list of Senators on the Table)*

### COMMUNICATION FROM THE CLERK OF THE SENATE

#### PROCEDURE TO BE FOLLOWED IN ADMINISTRATION OF OATH OR AFFIRMATION OF OFFICE

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, Standing Order No.3(1)(c) requires that on the first sitting of a new Senate, pursuant to the President’s notification under Article 126(2) of the Constitution, the Clerk shall administer the Oath or Affirmation of Office provided for in the Third Schedule to the Constitution to all Senators present in the Senate in the order set out in Standing Order No.3(2).

Standing Order No.3 (2) provides:-

“The Clerk shall administer the Oath or Affirmation of Office to Senators in alphabetical order using the following order of precedence-

(a) Senators with the longest cumulative period of service in the Senate;

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(b) Senators with the longest cumulative period of service in the Senate and in the National Assembly;

(c) Senators with the longest cumulative period of service in the National Assembly;

(d) all other Senators.

Hon. Senators, it is important to observe that Standing Order No.3(3) provides that:-

“Pursuant to Article 74 of the Constitution, no person shall assume or perform any functions of the office of a Senator before taking and subscribing to the Oath or Affirmation of Office provided for under paragraph (1).

Standing Order No.3(4) further provides:-

“When the Clerk is administering the Oath or Affirmation of Office to Senators and before the Clerk has administered the Oath or Affirmation of Office to the Speaker, any question arising in the Senate shall be determined by the Clerk who shall, during that period, exercise the powers of the Speaker.”

Hon. Senators, pursuant to Standing Order No.3(1)(c), I shall now proceed to administer the Oath or Affirmation of Office to all Senators here present in the order of precedence that is set out in Standing Order No.3(2). In order to facilitate this process, the name of each Senator shall be called out. When called out, the Senator shall proceed to the podium on my right and thereupon shall have the option to take the Oath or Affirmation of Office as they may choose and in accordance with their respective religious persuasion.

After taking the Oath or Affirmation of Office, the Senator shall proceed to subscribe to the Oath or Affirmation of Office at the table on my left by signing the Oath Book.

Hon. Senators, we are now ready to commence the process. I will ask that the Clerk-at-the-Table calls out the names.

### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Senators:-

Kariuki Godfrey Gitahi  
Obure Christopher Mogere  
Wako Sitswila Amos  
Chiaba Abu Mohamed Abu  
Murungi Kiraitu  
Nyong'o Peter Anyang' (Prof.)

Orengo James Aggrey Bob  
Boy Juma Boy  
Haji Mohammed Yusuf  
Kiyonga John Munyes  
Musila David  
Wetangula Moses Masika  
Keter Charles Cheruiyot  
Kilonzo Mutula  
Kuti Mohamed Abdi (Dr.)  
Machage Wilfred Kisuka (Dr.)  
Muriuki Muriuki Karue (Eng.)  
Ntutu Stephen Kanyinke  
Hassan Abdirahman Ali  
Billow Adan Kerow  
Gitura James Kembi  
Karaba Dickson Daniel  
Kittony Zipporah  
Kivuti Lenny Maxwell  
Masha Elizabeth Ongoro  
Moi Gideon Kipsielei Towett  
Muthama Johnson Nduya  
Mwakulegwa Danson Mwazo  
Adan Dullo Fatuma  
Chelule Liza  
Elachi Beatrice  
Gwendu Joy Adhiambo  
Hargura Godana  
Hassan Omar Hassan  
Kanainza Nyongesa Daisy  
Kindiki Kithure (Prof.)  
Kipchumba Harold Kimunge  
Kisasa Mshenga Mvita  
Lesan Wilfred Rottich (Prof.)  
Lesuuda Naisula  
Lonyangapuo John Krop (Prof.)  
Madzayo Stewart Mwachiru Shadrack  
Melly Isaac Kipkemboi  
Mohamud Halima Abdille  
Mositet Peter Korinko  
Mungai James Kiarie  
Murkomen Onesmus Kipchumba

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Ndiema Henry Tirole  
Njoroge Paul Kimani  
Nobwola Catherine Mukite  
Nyakeriga Linet Kemunto  
Okong'o Kennedy Mong'are  
Onchwangi Hosea  
Ong'era Janet  
Sang Stephen Kipyego  
Sijeny Judith Achieng  
Wangari Martha  
Zani Agnes Philomena (Dr.)  
Khaniri George  
Kajwang Gerald Otieno

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, in order to facilitate Sen. Leshore, we will move up to his place.

*(Sen. Leshore was facilitated to vote at his seat)*

Leshore Sammy Prisa

*(Applause)*

*(Voting by other hon. Senators continued)*

Mugo Beth Wambui  
Khalwale Boni (Dr.)  
Ntutu Stephen Kanyinke  
Mutahi Kagwe  
Kioko Mike Sonko Mbuvi  
Bule Ali Abdi

*(Ms. Getrude Emma Mbura approached the Clerk and requested that she collect her spectacles from where she was seated)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, I will allow Ms. Getrude Emma Mbura to get her spectacles then we can proceed.

*(Ms. Getrude Emma Mbura proceeded to collect her spectacles then took the Oath)*

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Gertrude Emma Mbura.

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, this is just to confirm that all Senators present have sworn and subscribed to the Oath or Affirmation of Office because the next business will require that any Senator who has not been sworn-in will not participate in the election of the Speaker. If there is any Senator present who has not been sworn-in, we will now proceed to swear them.

*(The Clerks-at-the-Table consulted)*

Hon. Senators, it has been confirmed that every Senator present has been sworn-in.

Allow me to take this opportunity to congratulate you all on your accession to the office of Senator in accordance with Article 74 of the Constitution.

### COMMUNICATION FROM THE CLERK OF THE SENATE

#### PROCEDURE TO BE FOLLOWED IN ELECTING THE SPEAKER

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, Standing Order No.4(1) provides:-

“A Speaker shall be elected when the Senate first meets after a General Election and before the Senate proceeds with the dispatch of any other business, except the administration of the Oath or Affirmation of Office to Senators present.”

Hon. Senators, this is what we have just undertaken.

Hon. Senators, pursuant to the Standing Orders, a number of activities were required for the election of the Speaker before this first sitting. I will proceed to detail each such activity and the manner in which we have complied with the Standing Orders.

Firstly, Standing Order No.5(1) requires:-

“Upon the President notifying the place and date for the first sitting of a new Senate pursuant to Articles 126(2) of the Constitution, the Clerk shall, by notice in the *Gazette*, notify that fact and invite interested persons to submit their nomination papers for election to the office of the Speaker.”

Hon. Senators, vide *Gazette* Notice No.3895 dated 22<sup>nd</sup> March, 2013, the Clerk of the Senate invited persons to submit their nomination papers for election to the office of Speaker.

Secondly, hon. Senators, Standing Order No.5(4) requires that:-

“The Clerk shall maintain a register in which shall be shown the date and time when each candidate’s nomination papers were received and shall

ascertain that every such candidate for election to the office of Speaker is qualified to be elected as such under Article 106 of the Constitution.”

I hereby confirm that a register has been maintained in accordance with the requirements of this Standing Order.

Thirdly, hon. Senators, Standing Order No.5 (5) requires that:-

“Immediately upon the close of the nomination period provided for in paragraph (2), the Clerk shall-

(a) Publicise and make available to all Senators, a list showing all qualified candidates; and

(b) make available to all Senators, copies of the curriculum vitae of the qualified candidates.

Hon. Senators, I hereby confirm that a list showing all qualified candidates was publicised and was made available to all Senators. I further confirm that I made available to all Senators copies of the curriculum vitae of the qualified candidates.

Hon. Senators, for the position of Speaker of the Senate, the following candidates were validly nominated as at the close of the nomination period:-

1. David Ekwue Ethuro
2. Farah Maalim
3. Francis Xavier Kausai ole Kaparo
4. Samuel Losuron Phogisio
5. Erick Desailly Omondi
6. Philip Kipchirchir Murgor
7. Margaret Jepkoech Kamar

Hon. Senators, pursuant to Standing Order No.(8) a candidate may withdraw his or her candidature after the close of the nomination period and before a ballot is started.

In this regard, I wish to draw the attention of hon. Senators that yesterday, Wednesday 27<sup>th</sup> March, 2013, at 6.25 p.m., the hon. Francis Xavier Kausai ole Kaparo, by notice to the Clerk, withdrew his candidature for the position of Speaker of the Senate and his name will accordingly not appear on the ballot paper. Further withdrawals have since been received from Mr. Phillip Kipchirchir Murgor, Ms. Margaret Jepkoech Kamar and Mr. Samuel Losuron Poghio. These names will also accordingly not appear on the ballot paper.

Hon. Senators, Standing Order No.6 provides that the election of the Speaker shall be by secret ballot. We shall now proceed to the ballot for the election of the Speaker. Standing Order No.6(2) says:-

“The Clerk shall, at the commencement of the each ballot, cause the ballot box, empty and unlocked, to be displayed to the Senate and shall, in the presence of the Senate, lock the box, which shall thereafter be kept in the full view of the Senate until the conclusion of the ballot.”

Hon. Senators, I now direct that the ballot box, empty and unlocked, be displayed to the Senate.

*(The ballot box was displayed to the Senators)*

I now direct that the ballot box be locked.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Clerk. You have just informed us that a number of people have withdrawn. Whereas we have no problem with that, because of the calling placed on the Senate and the seriousness that the country is viewing the Senate with, it would be important to the country to know why people who had few hours ago, lobbied us and asked some of us to propose and second them have withdrawn. Kenyans know that this Senate will not be for purposes of playing political games where people want to pull towards one region, party or ethnic community. Could we know the reasons these people withdrew their candidature before we vote?

**The Clerk of the Senate** (Mr. Nyegenye): Sen. (Dr.) Khalwale, it is the right of any qualified citizen to put in their candidature for the Office of Speaker and the Office of Deputy Speaker and to similarly, at anytime before the commencement of the ballot, to withdraw. The reason that provision has been made specifically in our Standing Orders of the Senate for withdrawal is because of the recognition of the prerogative and right of every candidate to put in their names and withdraw before the commencement of the ballot. They are not required to assign any reasons for such withdrawal. I am unable to take up your invitation to require that reasons be furnished.

We will accordingly proceed in the manner that I was detailing. I direct that the ballot box be now locked in the presence and viewing of the Senate.

**Sen. Hassan:** On a point of order, Mr. Clerk. We are also curious as to what gadget you will use for the tallying of the votes.

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Sen. Omar, you will shortly observe.

*(The ballot box was locked)*

Thank you very much.

Hon. Senators, Standing Order No.6(3) requires that the Clerk shall issue not more than one ballot paper to each Senator who comes to the Table to obtain it and each Senator who wishes to vote shall proceed to a booth or designated area provided by the Clerk for that purpose and located next to and within reasonable distance of the ballot box and shall, while there, mark the ballot paper by placing a mark in the space opposite the name of the candidate for whom the Senator wishes to vote, fold the marked ballot paper before leaving the booth or area and place the folded ballot paper in the ballot box.

The polling booths are on my left as displayed.



Pursuant to this Standing Order, I now direct that a ballot paper be issued to each Senator who comes to the Table to obtain it. To facilitate this process, the name of each Senator shall be called out, following which the Senator shall come to the Table, on my extreme left and obtain a ballot paper. Each Senator shall then proceed to either of the two polling booths which are clearly marked and while there, mark the ballot paper and fold it. The Senator will then place the marked ballot paper in the ballot box. We are now ready and shall commence the voting process.

**Sen. Muthama:** On a point of order, Mr. Clerk. I think that it would be important to have representatives of the candidates of the coalition parties in the tallying and counting of votes.

**The Clerk of the Senate** (Mr. Nyegenye): Thank you. That point is noted and acknowledged. At the appropriate time we will invite the agents or any other interested Senator who would like to view the counting and tallying to be present, but we are not yet at that point. So, we are ready to proceed in the manner that I have detailed.

*(The ballot papers were issued to the Senators and they proceeded to vote)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, Standing Order No.6 requires the Clerk to facilitate any Senator with any disability to vote by invoking such measures as may be necessary. I will, therefore, invite the Serjeant-at-Arms to carry the ballot box in the full view of the House. We will then proceed to where Senator Leshore is seated and allow him to proceed and vote. We will ensure that it is a secret ballot by retreating to permit the Senator to vote.

*(The Clerks-at-the Table assisted Sen. Leshore to vote)*

*(Sen. Leshore proceeded to vote)*

*(Hon. Senators proceeded to vote)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, again, we will facilitate Sen. Kipchumba to vote at his place. So, as soon as Sen. (Prof.) Kindiki has voted, we will proceed with the ballot box to the place where Sen. Kipchumba is seated. Again, my team and I will withdraw to facilitate the Senator to vote secretly.

*(The Clerks-at-the Table assisted Sen. Kipchumba to vote)*

*(Sen. Kipchumba proceeded to vote)*

*(Hon. Senators proceeded to vote)*

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**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, from our records, every Senator present has collected a ballot paper and voted. However, I still avail the opportunity for any Senator present who has not been called or who has not come down to collect a ballot paper and vote.

There being none, hon. Senators, Standing Order No.6(6) provides that when it appears to the Clerk that all Senators who were present and wished to vote have placed their ballot papers in the ballot box, the Clerk shall cause to be unlocked the box, examine the ballot papers and having rejected those ballot papers that are unmarked or spoilt, report the result of the ballot; and no Senator who has not already recorded his or her vote shall be entitled to do so after the Clerk has unlocked the ballot box.

Hon. Senators, pursuant to this Sanding Order, it now appears to me that all Senators who are present and who wish to vote have done so. Therefore, pursuant to Standing Order No.6 (6), I now direct that the ballot box be unlocked and that each ballot paper be examined.

Before we proceed to do that, Sen. Muthama had requested – we are happy to accede to this request - there are three candidates on the ballot namely; Ekwee David Ethuro, Maalim Farah and Omondi Erick Desailly. If there is any Senator present who wishes to be an agent for these candidates within reasonable numbers; perhaps one each, we will be happy to accede to have them present at the table when the tallying is done.

So, for Ekwee Ethuro David, I take it that it will be Sen. Kithure Kindiki, for Maalim Farah, I take it that it will be Sen. Muthama and for Omondi Erick Desailly, Sen. Hassan Omar volunteers, his human rights record coming in handy.

I will now direct that the Box be unlocked, the contents will then be emptied and there will be a clerk each to take the votes for each of the candidates. One clerk will call out and display each ballot paper prominently and say aloud the person for whom the ballot paper is marked. We will provide a microphone for that purpose so that you can be heard.

*(The Clerks-at-the-Table opened the ballot box and proceeded to count the votes)*

The Clerk announced the results of the first ballot as follows:-

NAME		VOTES
Erick Omondi Desailly	-	1
Farah Maalim	-	31
David Ethuro Ekwee	-	35

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Hon. Senators, Standing Order No.7 (1) provides that a person shall not be elected unless the person is supported in a ballot by the votes of two-thirds of all the Senators, that is, unless supported by the votes of 45 Senators.

Hon. Senators, it is apparent from this result that none of the candidates has met the threshold of 45 votes provided for under Standing Order No.7. Standing Order No.7(2) requires that if no candidate is supported by the votes of two-thirds of all the Senators as has happened, a fresh election shall be held and in that election, the only candidates shall be:-

(a) The candidate or candidates who receive the highest number of votes in the ballot referred to in paragraph 1

(b) The candidate or candidates who in that ballot received the next highest number of votes.

Hon. Senators, pursuant to Standing Order No.7 (2), we will therefore proceed to a fresh election. In that fresh election, the only candidates shall be as follows:-

1. Ethuro David Ekwee
2. Maalim Farah

We will conduct the ballot in the same manner that we did the first time around. Therefore, I will ask the Serjeant-at-Arms to display the ballot box, empty and unlocked.

*(The Serjeant-at-Arms displayed the ballot box, empty and opened)*

I will now ask that the ballot box be locked and be kept within the view of the Senate.

*(The Serjeant-at-Arms locked the ballot box)*

We are now ready to commence and the names will be called out again. You will come to the Table and proceed in the same manner as we did in the first time.

*(The ballot papers were issued to the Senators and they proceeded to vote)*

*(The Clerks-at-Table and Serjeant-at-Arms facilitated Sen. Leshore to vote at his seat)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, we have paused to facilitate voting by Sen. Kipchumba Harold Kimunge.

*(Sen. Kipchumba Harold Kimunge was facilitated to vote at his seat)*

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*(Voting by other Senators continued)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, it appears to me that all Senators present and who desired to vote have done so. Therefore, we will accordingly proceed to counting and tallying. I will invite hon. Senators who are so-minded and wish to be agents for the two candidates to come forward. I can see for Mr. Ekwee Ethuro, we have Sen. Murkomen while for Mr. Farah Maalim, we have Sen. Hassan Omar. If we are ready, I will now invite you to unlock and count the contents.

*(The Clerks-at-the-Table opened the ballot box and proceeded to count the votes)*

Hon. Senators, Standing Order No.7(4) requires in the second ballot that the candidate who receives the highest number of votes be declared to have been elected as the Speaker of the Senate. The results for the fresh election we held are as follows. The votes cast were 67. There were no spoilt votes.

NAME	VOTES
Maalim Farah	29
Ethuro David Ekwee	38

Hon. Senators, pursuant to Standing Order No.7 (4), I now declare Ethuro David Ekwee to be duly elected as the Speaker of the Senate.

*(The Clerk accordingly declared Hon. Ethuro David Ekwee elected Speaker of the Senate and directed the Serjent-at-Arms to search for the said Hon. Ethuro David Ekwee and bring him to the Chamber)*

*(Applause)*

**Sen. Mbuvi:** On a point of order, Mr. Clerk.

**The Clerk of the Senate** (Mr. Nyegenye): Yes, Sen. Mbuvi!

**Sen. Mbuvi:** Could we have the agent for Hon. Maalim execute the Form 36 so that he does not go to the Supreme Court with fabricated results?

*(Laughter)*

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators that is not a valid point of order. We shall await the advent of the Speaker-elect.

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**Sen. Hassan:** On a point of Order, Mr. Clerk. I can confirm that I signed the form. I was not quite sure whether the other agents signed that form.

**The Clerk of the Senate** (Mr. Nyegenye): Hon. Senators, the forms have been dully signed, we await the advent of the Speaker-elect. We will meanwhile prepare to Swear-in the Speaker-elect. The clerks will proceed to take their places.

*(On arrival of hon. Ethuro  
in the Chamber, he was escorted to the Chair by  
the Chief Serjent-at-Arms (Maj. Obange))*

*(On arrival at the Chair, the Clerk thereupon  
administered the Oath of Allegiance to the  
Speaker-elect, hon. Ethuro)*

*(The Speaker, hon. Ethuro, then took the Chair, and the  
Mace, which before lay under the Table,  
was placed upon the Table)*

*(Applause)*

## COMMUNICATION FROM THE CHAIR

### SUBMISSION OF THE SPEAKER TO THE WILL OF THE HOUSE

**The Speaker** (Hon. Ethuro): Hon. Senators, I feel greatly honoured and highly privileged today to have been elected to this esteemed position of the Speaker of the Senate. I am humbled by the immense confidence and the trust that you have demonstrated and bestowed on me. I also wish to salute and to thank my able opponents for upholding a high degree of democracy.

Allow me, hon. Senators, from the very beginning to convey my sincere congratulations to the entire membership of this House for your successful election. I also want to salute you, my Senators, for giving me this onerous mandate of the Office of the Speaker and for entrusting me with this task and noble duty to serve you.

As you assemble here this morning, it is important to visualize the re-establishment of the Senate with a sense of history. The first Senate existed in the immediate post-independence period from 1963 until 1966 when the Provincial Assemblies were scrapped and the Senate itself got dissolved. The Members of the Senate then were combined with those of the House of Representatives into a unicameral National Assembly. The independence Senate was conceived as a model of governance

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that would ensure balanced, equitable and just development within the various regions of Kenya.

Hon. Senators, today we have the greatest honour to have with us Members of the first Senate of the Republic of Kenya. May I take this singular privilege and honour to recognize these pioneer citizens and I would like to recognize them by name. We have the hon. Sen. Henry Malingi from Kilifi, Hon. Sen. Omar Abdi Adulahi from Wajir, Hon. Sen. Philip Toikam Lemein from Narok, Hon. Sen. Mohammed Noor Hussein from Mandera, Hon. Sen. Mohammed A. Msalaam from Lamu, the Hon. Sen. Nathan W. Munoko from Bungoma, Hon. Sen. P. N. Munyasya from Kitui, Hon. Sen. Julius Muthamia from Meru, Hon. Sen. J. M. Nthula from Machakos. Hon. Sen. William Rotich from Baringo, Hon. Sen. G.N. Kalya from Nandi, Hon. Sen. Ondiek Chillo from Central Nyanza, Hon. Sen. Lawi Nkubitu from Isiolo, Hon. Sen. Shadrack Nyaga from Embu and the Hon. Sen. Philip Chemjor from Elgeyo Marakwet.

Hon. Senators, we wish to pay great tribute to these gentlemen and to accord them our sincere gratitude as great sons of Kenya for their patriotism and foresight. For those present here who have spared their time to grace this occasion we commend them for heeding our call to grace this historic occasion of another Senate. We wish them great health and long life. We will always look upon you for inspiration, guidance and encouragement to actualize the long held dream of devolution. We also want to promise you that this time round, we will get it right.

Hon. Senators, as I take the mantle of leadership of the Senate, I am not under any illusion. The task and responsibilities ahead of me and the other leadership that will be elected to various offices are enormous and challenging. The task before us will require exceptional commitment, focus and harmony and the unity of purpose in the performance of our constitutional mandate. Given the high expectations that the Kenyan people have in the devolved system of governance, there is little or no option for us but really to succeed. Devolution is envisioned to be the onerous challenge to take power and resources to the people.

The primary mandate of the Senate as per Article 96 of the Constitution will be to represent the counties and serve and protect the interests of the counties and their governments. The Senate has therefore the constitutional mandate to ensure successful implementation of the devolution process. The Constitution also provides that the Senate will participate in law making by considering, debating and approving Bills concerning our counties. Further, the Senate has the mandate to determine the allocation of revenue among counties as provided for in Article 217 and to exercise due oversight over the national revenue allocated to county governments. In addition, the Senate will participate in the oversight of State officers by considering and determining any resolution to remove the President and the Deputy President from office in accordance with Article 145. Hon. Senators, you will therefore appreciate that for us to be able to execute the mandate that the Constitution has given to the Senate, it is important that we conduct our business in this House in a serious manner that will unlock the massive potential of

Kenyans and harness it with the various counties for the well being and welfare of the people of Kenya, for faster growth, more equitable development and of the less developed and marginalized counties of the Republic of Kenya.

We invite, therefore, the people of Kenya, all our friends and development partners to work closely with and to support the work of our nascent Senate. I want to assure them that they will find a worthy partner in the Senate leadership and Secretariat.

We are cognizant of the need to develop and nurture strong collaboration with our Government and friends of Parliament in the effort to promote development in our counties in particular and Kenya as a whole. Hon. Senators, you may also wish to recall that the Kenyan Vision 2030 which is the country's development blueprint aims at transforming Kenya into a new industrializing middle income country providing high quality of life.

We have an obligation as an institution and a duty to ensure that we make a contribution to this particular vision, especially in realizing the potential to promote growth and development at the grassroots levels and to stir rural economies.

The key challenges of development in Kenya remain poverty, unemployment and inequality. Highly developed countries like the United States of America (USA), Japan and China have been able to surmount these challenges by attaining the current levels of development mainly because they have given special attention to empowering their local entities to have increased both quality and volumes of trade especially international exports. This has been made possible by deliberate intensified and focused promotion of effective legislation, representation and oversight over revenues collected and allocated to various levels of governance. Kenyans will, therefore, expect nothing from us but the same so that our Senate can deliver on the promise of devolution.

As your Speaker, I wish to adopt and nurture collegiate leadership that will transform our Parliament by ensuring the following:-

(i) That Senators perform their constitutional mandate through work systems that are properly organized, facilitated and functional to enable them deliver timely, efficient and quality services;

(ii) We will ensure that the programmes and activities of the Senate are guided by the need to respond to the key priorities of the counties as well as the many challenges that they may face.

(iii) We will prioritize and strengthen the partnership between the Senate, Government Ministries, regional and international development partners so as to enhance the growth and development potential and abilities of the county assemblies and government.

We will strive to strengthen the capacity of the Senators and the Secretariat so that they can constantly update their skills and expertise and to acquire the requisite exposure to handle complex and new frontiers of legislative and public affairs.

Hon. Senators, in conclusion, Kenyans in particular and indeed the East African region and the entire world will be keenly watching us as a Senate. We will be expected

to engage in objective, constructive and value adding deliberations. Therefore, we have to prioritize matters of national interests especially the promotion of peace and democratic ideals as we undertake our duties. It is, therefore, important that we make credible contributions to advance the image and the overall development of our country. Therefore, as a model legislative House for the country, we will be expected to offer the requisite inspiration, guidance and confidence to them. Hence, we have a duty to conduct ourselves with decorum, consistently observe the due process and to uphold the rule of law, legality and the culture of constitutionalism.

On my part, hon. Senators, I want to promise that under my stewardship, my commitment to the people and to you, is to be a faithful servant and diligently discharge my duties. I shall respect and uphold the rule of law and nurture the culture of constitutionalism, protect and defend our Constitution and always safeguard the role of the senate. Therefore, I call for your support and co-operation and welcome all of you to work with and the entire Senate leadership for the success of our country and prosperity.

Thank you all and God Bless Kenya.

*(Applause)*

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir, allow me to congratulate you and inform you that I wish to withdraw my candidature for the election to the Office of the Deputy Speaker of the Senate before the commencement of the ballot. Will I therefore be in order to proceed and table my withdrawal letter?

**The Speaker** (Hon. Ethuro): Hon. Senators, you will just appreciate that I have just assumed office. So, we are still learning.

Sen. (Dr.) Machage, you are at liberty to do so and you may come forward to the Clerk.

*(Sen. (Dr.) Machage laid the letter on the Table)*

## COMMUNICATION FROM THE CHAIR

### PROCEDURE TO BE FOLLOWED IN ELECTING THE DEPUTY SPEAKER

**The Speaker** (Hon. Ethuro): Hon. Senators, Standing Order No.13 (1) provides that as soon as practicable after the election of a Speaker following a general election, a deputy speaker shall be elected. Standing Order No.13 (3) further provides that a procedure for electing a deputy speaker shall, with necessary modifications be the same as that prescribed for the election of the Speaker.

Hon. Senators, for the position of the Deputy Speaker, the following candidates were validly nominated as at the close of the nomination period:-

1. Wilfred Gisuka Machage, who has withdrawn his candidature;

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2. James Kembi Gitura;
3. Peter Korinko Mositet;
4. George Munyasa Khaniri.

Hon. Senators, pursuant to Standing Order No.8, a candidate may withdraw his/her candidature before a ballot is started. In this regard, I wish to bring to your attention that yesterday Wednesday, 27<sup>th</sup> March, 2013 at 6.42 p.m. Sen. Peter Korinko Mositet by notice to the Clerk withdrew his candidature for the position of Deputy Speaker of the Senate and his name will accordingly not appear on the ballot paper.

### ELECTION OF THE DEPUTY SPEAKER

Hon. Senators, Standing Order No.6 provides that the election of the Speaker shall be by secret ballot. We shall now proceed to the ballot for the election of the Deputy Speaker. Standing Order No.6(2) requires that the Clerk shall, at the commencement of each ballot cause the ballot box empty and unlocked to be displayed to the Senate and shall, in the presence of the Senate lock the box, which shall, thereafter, be kept in the full view of the Senate until the conclusion of the ballot. Pursuant to that particular Standing Order, I now direct that the ballot box, empty and unlocked, be displayed to the Senate.

*(The ballot box was displayed empty and unlocked)*

Pursuant to Standing Order No.6 (2), I further direct that the ballot box be locked in the presence of the Senators and that the ballot box be kept in the full view of the Senators.

*(The ballot box was locked)*

Standing Order No.6(3) requires that the Clerk shall issue not more than one ballot paper to each Senator who comes to the Table to obtain it and each Senator who wishes to vote shall proceed to a booth or designated area provided by the Clerk for that purpose and located next to and within reasonable distance of the ballot box and shall while there, mark the ballot paper by placing a mark in the space opposite the name of the candidate for whom the Senator wishes to vote, fold the marked ballot paper before leaving the booth and place the folded ballot paper in the ballot box. Pursuant to this Standing Order, I now direct that the ballot paper be issued to each Senator who comes to the Table to obtain it. To facilitate this process, the Clerk shall call the name of each Senator, following which the Senator shall come to the Table to obtain a ballot paper. Each Senator shall then proceed to either of the two polling booths which are clearly marked and which are located on my right and my left in order to mark and fold the ballot paper.

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The Senator shall then place the marked ballot paper in the ballot box. We shall now commence the voting process.

*(The ballot papers were distributed to the hon. Senators)*

*(The hon. Senators proceeded to vote)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators, Standing Order No.6(6) provides;

“When it appears to the Speaker that all Senators present and who wish to vote have placed their ballot papers in the ballot box, the Clerk shall unlock the box, examine the ballot papers and, having rejected those ballot papers that are unmarked or spoilt, report the results of the ballot; and no Senator who has not already recorded his or her vote shall be entitled to do so after the Clerk has unlocked the ballot box.”

Pursuant to this Standing Order, it, therefore, appears to me that the Senators who are present and who wish to vote have placed their papers in the ballot box. I now direct that the ballot box be unlocked and each ballot paper be examined.

**Sen. Muthama:** On a point of order, Mr. Speaker, Sir. You forgot to call out the representatives of the candidates at the tallying point.

**The Speaker** (Hon. Ethuro): Order, Sen. Muthama! I thought that was out of request by the Senators. So, put the request and it will be granted.

**Sen. Muthama:** Mr. Speaker, Sir, I put in my request and propose that Sen. Ongoro represents Sen. Khaniri, and Sen. Mositet will represent Sen. Kembu Getura.

*(The Clerks-at-the-Table opened the ballot box and proceeded to count the votes)*

**The Speaker** (Hon. Ethuro): Hon. Senators, pursuant to Standing Order No.6(6), I will now proceed to announce the results of the ballots as follows:-

NAME	VOTES
Sen. Khaniri George Munyasa	29
Sen. Kembu-Getura James	38
Hon. Senators, the threshold has not been met. Where the threshold has not been met---	

**Sen. (Dr.) Kuti:** On a point of order, Mr. Speaker, Sir. Since there are only two candidates, the rule of two-thirds does not apply.

**The Speaker** (Hon. Ethuro): Order, Sen. Kuti! The rule is not applicable to the number of candidates but to the number of votes you get in the first round of voting. So,

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it is required that you get a clear majority of two-thirds for you to be declared in the first round. Failure to do so, we have to go to the second round.

I, therefore, declare that we go to the second round.

*(Hon. Senators proceeded to second round of voting for the Deputy Speaker)*

**The Speaker** (Hon. Ethuro): Hon. Senators, whoever wanted to vote has voted and so we would wish to start the counting of the votes and their scrutiny but since there was an interest in the agents, maybe the agents can come and witness the counting of the ballot papers.

*(The Clerks-at-the-Table opened the ballot box and proceeded to count the votes)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! Standing Order No.7 (4) requires that:-

“The candidate who receives the highest number of votes in the fresh election shall be declared elected as Speaker.”

The results of the second round of voting are as follows:-

NAME	VOTES
Sen. Khaniri George Munyasa	29
Sen. Kembi Gitura James	38

*(Applause)*

Hon. Senators, pursuant to Standing Order No.7 (4) that I have just read, I now wish to declare Sen. Kembi Gitura James the duly elected Deputy Speaker. In accordance with our parliamentary practice and traditions, I direct the Serjeant-At-Arms to search for the said Sen. Kembi Gitura James and to bring him to the assembled Senate.

*(The Speaker accordingly declared Mr. Kembi Gitura James elected Deputy Speaker of the Senate and directed the Serjeant-at-Arms to search for the said Mr. Kembi Gitura James and bring him to the Chamber)*

*(Applause)*

*(On arrival of Mr. Kembi Gitura James in the Chamber, he was escorted by Chief Serjeant-at-Arms (Maj. Obange))*

*(On arrival, the Speaker thereupon administered the Oath of Allegiance to the Deputy Speaker-elect, Mr. Kembi Gitura James)*

*(Applause)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! We have come to the conclusion of that particular exercise, but I need to give you the requirements on the custody of ballot papers.

### COMMUNICATIONS FROM THE CHAIR

#### CUSTODY OF BALLOT PAPERS

**The Speaker** (Hon. Ethuro): Hon. Senators, Standing Order No.10 requires that:-  
“Immediately the results are declared, all the ballot papers used in the election of a Speaker shall be packed and sealed in the presence of the Senate and kept in the custody of the Clerk for a period of six months and shall thereafter be destroyed.”  
This provision also applies to the election of the Deputy Speaker.

Hon. Senators, the Clerk shall now proceed to pack and seal all the ballot papers on the election of the Speaker and the Deputy Speaker for safe custody in terms of Standing Order No.10.

*(The ballot papers were collected and sealed)*

#### NOTIFICATION OF OPENING OF PARLIAMENT

Hon. Senators, Standing Order No.21 (1) provides that the President shall address the opening of each newly elected Parliament.

Hon. Senators, the date of the opening of Parliament shall be determined after consultations between the two Speakers of Parliament and the Executive.

### ADJOURNMENT

**The Speaker** (Hon. Ethuro): Hon. Senators, there being no further business, the House now stands adjourned until such date as shall be notified as the date set for opening of Parliament.

The Senate rose at 1.55 p.m.