

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 31st August, 2017

Twelfth Parliament – First Sitting

(Convened by notification vide Legal Notice No.220 of 2017)

*(The Senate met at 9.00 a.m. at the Senate Chamber
Main Parliament Buildings, Nairobi, on Thursday, 31st August, 2017,
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 this first sitting of the Senate. I take this opportunity to congratulate you all on your election to the Senate.

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

“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. It is as follows:-

“LEGAL NOTICE No.220

THE CONSTITUTION OF KENYA

FIRST SITTING OF THE SENATE

I paraphrase:-

“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 appoints that the first sitting of the Senate shall be held at the Main Parliament Buildings in the Senate Chamber, Nairobi, on Thursday, 31st August, 2017, at 9.00 a.m.”

Hon. Senators, the Legal Notice is dated 23rd August, 2017, 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, I have the following Communication to make. This Communication relates to the procedure that will be followed in the administration of the oath or affirmation of office.

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 as follows:-

“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;
- (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) Senators with the longest cumulative period of service in any other legislature
- (e) all other Senators.

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

“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 the 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 or Affirmation 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:-

Wako Sitswila Amos	Busia County
Khaniri George Munyasa	Vihiga County
Orengo James	Siaya County
Mugo Beth Wambui	Nominated
Wetangula Moses Masika	Bungoma County
Haji Mohamed Yusuf	Garisaa County
Moi Gideon Kipsielei Towett	Baringo County
Adan Dullo Fatuma	Isiolo County
Hargura Godana (Eng.)	Marsabit County
Kimani Wamatangi Paul	Kiambu County
Kindiki Kithure (Prof.)	Tharaka Nithi County
Madzayo Stewart Mwachiru	Kilifi County
Murkomen Onesimus Kipchumba	Elgeyo Marakwet County
Zani Agnes Philomena (Dr.)	Nominated
Kilonzo Mutula Junior	Makueni County
Kajwang' Moses Otieno	Homa Bay County

Cheruiyot Aaron Kipkirui	Kericho County
Ongeri Samson Kegengo (Prof.)	Kisii County
Poghisio Samuel Losuron	West Pokot County
Ali Abdullahi Ibrahim (Dr.)	Wajir County
Linturi Franklin Mithika	Meru County
Mahamud Mohamed Maalim (Eng.)	Mandera County
Outa Fredrick Otieno	Kisumu County
Mwangi Paul Githiomi	Nyandarua County
Kamar Margaret Jepkoech (Prof.)	Uasin Gishu County
Kang'ata Irungu	Murang'a County
Kirinyaga Ephraim Mwangi Maina (Eng.)	Nyeri County
Mwaura Isaack Maigwa wa Njeri	Nominated
Ndwiga Peter Njeru	Embu County
Nyamunga Rose Ogendo	Nominated
Sakaja Johnson Arthur	Nairobi County
Seneta Mary Yiane	Nominated
Lelegwe Steve Ltumbesi	Samburu County
Kihika Susan Wakarura	Nakuru County
Makori Beatrice Kwamboka	Nominated
Malala Cleophas Wakhungu	Kakamega County
Pareno Judith Ramaita	Nominated
Boy Issa Juma	Kwale County
Chebeni Mercy	Nominated
Cherarkey Samson Kiprotich	Nandi County
Gona Christine Zawadi	Nominated
Haji Farhiya Ali	Nominated
Halake Abshiro Soka	Nominated
Iman Falhada Dekow	Nominated
Imana Malachy Charles Ekai (Prof)	Turkana County

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, I wish to draw your attention to the fact that under our Standing Orders, the Clerk is obligated to make necessary facilitation for Senators with disability. I would like to draw your attention to the fact that Sen. (Dr.) Inimah Getrude Musuruve has opted to go the whole hog in this manner.

(Applause)

(Sen. (Dr.) Inimah Getrude Musuruve proceeded to take the oath)

Inimah Getrude Musuruve (Dr.)	Nominated
Kabaka Boniface Mutinda	Machakos County
Kasanga Sylvia Mueni	Nominated
Kibiru Charles Reubenson	Kirinyaga County
Langat Christopher Andrew	Bomet County

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Loiptip Anuar	Lamu County
Lokorio Petronila Were	Nominated
Masitsa Naomi Shiyonga	Nominated
Mbito Michael Maling'a (Dr.)	Trans Nzoia County
Milgo Alice Chepkorir (Dr.)	Nominated
Mogeni Eric Okong'o	Nyamira County
Mpaayei Philip Salau	Kajiado County
Mwaruma Johnes Mwashushe	Taita Taveta County
Mwinyi Haji Mohamed Faki	Mombasa County
Nderitu John Kinyua	Laikipia County
Okello Ben Oluoch	Migori County
Olekina Ledama	Narok County
Omanga Millicent Nyaboke	Nominated
Prengei Victor	Nominated
Wambua Enoch Kiio	Kitui County
Waqo Naomi Jilo (Rev.)	Nominated
Wario Golich Juma	Tana River County

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, before we proceed to the next order, I would like to confirm that each Senator has taken and subscribed to the Oath and extend my congratulations to you all. In terms of Article 74 of the Constitution, you are now ready and have commenced your functions as Members of Parliament.

Let us proceed to the next Order.

COMMUNICATION FROM THE CLERK OF THE SENATE

PROCEDURE TO BE FOLLOWED IN ELECTING THE SPEAKER

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, I have a Communication to make on the procedure that shall be followed in electing the Speaker.

Hon. Senators, having undertaken the business of the Administration of Oath or Affirmation of Office to Senators we now proceed to the next business which is the election of the Speaker of the Senate.

(Several hon. Senators stood up in their places)

Hon. Senators on your feet, kindly resume your seats.

(Hon. Senators who were standing resumed their seats)

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.”

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 Article 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. 8242 dated 24th of August, 2017, the Clerk of the Senate invited persons to submit nomination papers for election the office of the Speaker.

Secondly, 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 wish to 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 wish to confirm that a list showing all qualified candidates was publicised and made available to all Senators. I further confirm that I made available to all Senators copies of the curriculum vitae of the qualified candidates. For the position of Speaker of the Senate, the following candidates were validly nominated as at the close of the nomination period:-

1. David Ekwee Ethuro
2. Farah Maalim
3. James Ondicho Gesami (Dr.)
4. Kenneth Makelo Lusaka
5. Paul Gichuke Ribathi
6. Rameshchandra Govind Gorasia
7. Wilfred Machage (Dr.)

Hon. Senators, Standing Order No.(8) states that 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 at 5.16 p.m. Dr. Wilfred Machage, by notice to the Clerk of the Senate, withdrew his candidature for the position of Speaker and his name will accordingly not appear on the ballot paper.

Hon. Senators, Standing Order No.6(1) 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) states:-

“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 Serjeant-at-Arms displayed the ballot box, empty and opened)

POINT OF ORDER

ELIGIBILITY OF CANDIDATES TO CONTEST FOR POSITION OF SPEAKER IN COMPLIANCE WITH CHAPTER SIX OF THE CONSTITUTION

Sen. Orengo: On a point of order, Mr. Clerk.

The Clerk of the Senate (Mr. Nyegenye): Yes, Sen. Orengo.

Sen. Orengo: Thank you, Mr. Clerk. I have a small house keeping matter.

Mr. Clerk and the chair of these proceedings, you are aware about the provisions relating to leadership and integrity as contained in Chapter Six of the Constitution. Was there any process undertaken to make sure that those who apply for the position of Speaker actually would not undermine the authority of the Senate? This is by ensuring that there are no pending decisions against any of the applicants or no adverse finding against any particular candidate.

Mr. Clerk, it would be terrible if at any one time the person who occupies the position of the Chair of this House has matters which were still pending or any adverse findings made by the previous Senate. That would undermine the authority of the House. I just wanted as a matter of clarity to know whether there has been compliance with the Chapter on Leadership and Integrity and that the House undertook a leadership and integrity test before putting the names before us for the process of electing the Speaker.

Thank you.

Sen. (Prof) Kindiki: Mr. Clerk, on the matter raised by Sen. Orengo I want clarification whether it is in order for him to bring up issues of Chapter Six, knowing well that the issue of election of Speaker is governed by the Constitution and is specifically provided for. Therefore, we cannot introduce general provisions of the Constitution on a matter which has specific provisions of the same Constitution. You will use general provisions, for example, Chapter Six when there are no specific provisions. Therefore, we will be starting on a wrong footing if we introduced the general provisions of Chapter Six – important as they are – when there are specific provisions on this issue.

Finally, the issues which my learned senior, Sen. Orengo has raised are issues which have been canvassed even within the Judiciary. It has been concluded clearly and specifically that when it comes to electoral processes, nobody is barred until they have

been convicted by a court of law; and not just conviction, but they must have exhausted all the judicial remedies of appeal following such a conviction.

(Sen. Mutula Kilonzo Jnr. rose up to speak)

The Clerk of the Senate (Mr. Nyegenye): Senator, we are looking at the request on the screen. Please put your request on the screen. Could we hear from Sen. Murkomen?

(Sen. Murkomen walked out of the chamber)

The Clerk of the Senate (Mr. Nyegenye): Proceed, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you Mr. Clerk. I am particularly concerned because this Senate is like the High Court, we deal with record and everything we do is on record. On the qualification of a Speaker, your duty is to ensure that the person is qualified under Article 106 and the Standing Orders. That person should also be qualified to be a Member of this House.

My concern is that this House discussed one of the candidates at great length and passed a resolution concerning that person and their work as Governor of Bungoma County. For the record, I am holding the report of the Standing Committee of Finance and Budget tabled in this House on 5th April, 2017. There are 10 recommendations in this report. I am only concerned with Recommendation No. 10 which reads as follows:

“In the event that the allegations being investigated by the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP) are substantiated, the Governor should be dismissed or otherwise be removed from office as contemplated under Article 75(2) of the Constitution.”

First, I am not aware of what the Senator for Tharaka Nithi, Sen. (Prof.) Kindiki is talking about, that there has been any sort of clearance by a court in this country. If that was the case, that document should be tabled. Alternatively, you should tell us whether that document was tabled before you at the time that you qualified Lusaka Kenneth as a candidate capable of becoming a Speaker of this House.

My concern is as follows and it is fair that you clarify. Since this was a report of April, 2017, in the event that these two bodies find that Governor Lusaka is culpable, what are we supposed to do if he is sitting on the Chair as the Speaker? It is fair that you tell this House and the nation; and under The Fair Administrative Action Act, you are under obligation to give us reasons of your decision. Sitting as a Clerk, where you are the presiding officer, you are then acting in a quasi-judicial capacity. I have not said that anybody has been adjudged guilty or not; but we are bound by our decisions as a Senate. I am not aware that if the decisions of the last Senate were passed, then they are not binding on this House. As far as I am concerned, they are binding.

Mr. Clerk, you have put us in such a position that we might have to have our Speaker step aside while we are discussing him. Alternatively, when the Committee on Implementation is implementing this Report, we will be put in the crosshairs because we do not know what we are supposed to do. So, mine is to seek clarification. I am aware of

the constitutional provisions on innocence and on appeals; but I am talking about the record of the Senate, which you are well aware of.

The Clerk of the Senate (Mr. Nyegenye): Proceed, Sen. Outa Fredrick Otieno.

Sen. Outa: Mr. Clerk, I want to follow up on what we discussed yesterday on the definition of the threshold required to elect the Speaker of the Senate. As from yesterday, you were not very clear.

The Clerk of the Senate (Mr. Nyegenye): Sen. Outa, please resume your seat. It is appropriate that we prosecute and dispose of the point of order that was canvassed by Sen. Orengo. The matter that you now put forward is a different matter and if we proceed in that manner, we will not be able to properly dispose of the business. Shall we be limited at this point to the specific matter that has been put forward and for which a determination has been sought by Sen. Orengo?

Proceed, Sen. Linturi Franklin Mithika.

Sen. Linturi: Mr. Clerk, I rise to speak on this particular matter. I would like to urge the Senators to live for the spirit and by the oath of office that we have just taken. I have listened very carefully to what Sen. Orengo has said and the replies by Sen. (Prof.) Kindiki and Sen. Mutula Kilonzo Jnr. I have also looked at what the Constitution provides for under Article 50 on matters related to fair hearing. I have also looked at what the Constitution provides for under Article 73(2) on matters related to elected state officers. I have also listened to what Sen. Mutula Kilonzo Jnr. has said regarding the report that was deliberated on by this Senate. If I understood him clearly, because I have not had the advantage of looking at the report, he says that in the event that the allegations are substantiated, then that particular state officer should have been removed from office by the application of Article 75 if my memory serves me right.

In the absence of investigations having been completed and in the absence of this gentleman having been found culpable by the due process of law, then it will be very unfair for us to condemn him before the application of due process. I plead with Senators that where a matter has not been decided--- I would want anybody to reason out, assume that we deny this gentleman an opportunity to run for Office of Speaker, then these investigations are done and he is not convicted or found to have not been culpable, what will happen? The position will have gone. Since there are options of getting a State officer from office as provided by Article 251, I would persuade my dear colleagues to find that it is only necessary, for now, to allow the Senate to conduct the election of the Speaker other than dwelling on this issue.

I understand these issues are important and mean a lot. However, until such a time that these matters are concluded in accordance with law, then we cannot continually speculate the outcome of these investigations.

Sen. Murkomen: Thank you, Mr. Clerk. First, I congratulate my colleagues for being elected and sworn in. Second, I think we are starting on the right note as Senators, being vigilant of issues that we think may hamper our performance or affect the running of this House in any way. That is forward looking and progressive.

I congratulate my learned senior, Senior Counsel, Sen. Orengo, for bringing up this matter. However, we also have fidelity to the law. Article 106 of the Constitution makes it succinctly clear that for one to qualify to be a Speaker, it must be as provided by

the Standing Orders. The qualification of a Speaker of this House is provided for in Standing Order No.6.

Now, we have a very important and privileged position because if this Senate had wanted to have their Speaker to, first, come with a clearance from the Ethics and Anti-Corruption Commission (EACC), courts and certain forms from certain institutions, nothing would have been easier than to include that in the Standing Orders. Luckily, Sen. Orenge led the process of revising these Standing Orders. He played a very important role in coming up with these Standing Orders. I want to concede that Sen. Orenge first came to Parliament when I was being born and so he is not a man of little experience. He became an advocate when I was still a minor. So, he was not wrong in leading this process and coming up with Standing Order No.6. Had he foreseen a situation where we needed this, he would have included it here and we would have passed it in this House – at least the privileged few of us who came back here. For me, in the first place, we go to the principles and provisions of the law.

Secondly, Sen. Mutula Kilonzo Jnr. is talking about a situation of conflict of interest where you find yourself in the House and a report relating to you coming in. The Standing Orders are very clear. It is not only applicable to the Speaker. You could be a chairman of a Committee and the situation is being discussed where there is a conflict of interest. In fact, the Constitution and the Standing Orders require every Member, even before debating on a matter on the Floor of the House, to first declare where he or she has an interest in a Bill or he or she does business in an area being debated on. That is not new.. Any other time that we find the Speaker in a situation of conflict of interest, the Standing Orders have made provisions for handling that. There is a Deputy Speaker and the Speaker's Panel. There is also a procedure of removing not just the Speaker but all the elected Senators.

Lastly, we are in an extremely privileged position that we are the voters. I have seen the box that has been put but I have not seen the equivalent of forms 34A and 34B. However, I believe that we are moving to that stage. My point is that we are in the most privileged position. If you think that you do not trust or believe in any of the candidates that has been provided, we have a chance to make that decision by voting. That is the privilege that we have been given.

Above all, we welcome many of the newly elected Senators. Those of us who were here before agreed that this is a very sober House. We must handle our affairs in a very sober manner and look at it as per the law. I believe that as a country, we must move forward. I ask Senators that let us not shoot ourselves. I know a few Senators here who have gone through legal processes where courts have recommended their prosecution or a Committee said so-and-so should be charged. Senior lawyer, Sen. Okong'o Omogeni, senior counsel Sen. Amos Wako, senior professor and my teacher, Sen. (Prof) Kindiki and many other lawyers who are here know that presumption of innocence is so key that it had to be in our Constitution. This was to ensure that you protect people from mob lynching and so forth.

To the best to my submission without mentioning any individual, we must carry out this issue in a very sober manner. Sen. Wetangula, I do not know why you are not senior counsel yet. You should be one because you are a senior lawyer. You can

appreciate that presumption of innocence is important and as a country, we need to move forward together.

The Clerk of the Senate (Mr. Nyegenye): We have important business ahead of us and we have four Senators who have not spoken to this matter. We will allow them and after that, we must make a determination and move forward.

Sen. Mwaura: Mr. Clerk, if you hear the submissions that have been made on the Floor of this August House, you think there is a candidate deemed to win. Nothing can be further from the truth. However, every candidate who has presented himself for this exercise stands a chance to be elected scrutiny by virtue of the votes that we will cast.

Article Seven of the Constitution on Fair Administrative Action is very clear. I would want to imagine of that same law, that it is very clear in the provisions on enabling legislation. We must exhaust all means of appeal if at all one is to be found guilty or convicted. He needs to be given explanation why, for example, some of these conclusions may be made by whatever body or committee that would make such a decision.

Mr. Clerk, the work of Parliament is not to convict. Our work is not to cast aspersions. In our parliamentary committees, we may look at each case based on its own merit. Therefore, if any candidate was to be found guilty or convicted after exhausting all forms of appeal or redress, then it is very clear that such convictions would have him found to be unfit to hold public office and he would vacate it. However, if that was not to happen and it has yet to happen, then this House cannot rely on inclusive procedures. Indeed, we are supposed to uphold the rule of the law. In fact, it is because of that same reason that Kenyans have found it fit that we be bestowed the privilege of being lawmakers.

Mr. Clerk, I urge this hon. House to go ahead and allow us to exercise our mandate of electing our Speaker who will preside over the affairs of this House for the common benefit of all Kenyans.

Sen. Cheruiyot: Thank you, Mr. Clerk, for giving me this chance. I felt the need to speak on this issue because I happen to have served in the last Session of the Senate in the Committee on Finance, Commerce and Budget that looked into this matter. We heard submissions from the governor as well as from the petitioners. When I saw the trail of thinking that was set before us, I felt the need to speak so that my colleagues Senators that are here today, whose minds may get clouded by the kind of innuendos being created about a certain candidate, may have a clear view of what may have happened and, therefore, not be unduly influenced to vote against a certain candidate.

I want to confirm from the onset the recommendations that have been read by Sen. Mutula Kilonzo Jnr.. Yes, we drafted those recommendations, but at no point did we meet as a Committee to ratify them. We were set to meet and discuss them so that we agree, but we lacked quorum. Be that as it may, we were supposed to table the report and have it properly debated.

Second and most important is that the said person whose conduct is about to be discussed right here has served this country as a Provincial Administration Officer, Permanent Secretary (PS) in a cabinet Ministry and also as a governor. To reduce his entire Curriculum Vitae (CV) and only judge him based on the misconduct of his two or three officers who served under his administration, is a serious travesty on human

conduct. I beg to urge my fellow Senators not to be clouded by the kind of innuendos that are being created by our colleagues.

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, every person speaking right now is speaking on a point of order. We have difficulties on point of orders.

Sen. Seneta: Thank you, Mr. Clerk. I stand to seek a clarification from my colleague who raised this issue. I served in the National Assembly in the Eleventh Parliament. This is a House of rules and order. We have the Standing Orders that guide every business that is transacted here. For example, Standing Order Nos.(4) and (5) on the Election of the Speaker and the Deputy Speaker stipulates the procedures to be followed. Therefore, reading these Standing Orders - and I believe the newly elected Senators who have just joined us, have also read them - there is no indication that the candidates vying for these positions needed to present clearance from those other institutions.

I also want to comment on the issue of the independent constitutional institutions in our country. If a candidate is accused of misconduct or misappropriation of funds from an institution he was serving, then the court should issue an order on how to handle him. Therefore, we should stick with our Standing Orders as they are now. If there is need for us to change the Standing Orders - which I believe we have the power to do so - then before the presentation of the nomination papers, a candidate should be asked to clear himself or herself with those other constitutional institutions.

I beg to stop here.

The Clerk of the Senate (Mr. Nyegenye): Finally, Sen. Mwangi Paul Githiomi.

Sen. Githiomi: Mr. Clerk, I do not intend to talk. The member of staff is showing me how to operate the machine.

(Laughter)

The Clerk of the Senate (Mr. Nyegenye): That is fine. You may resume your seat. Sen. Mutula Kilonzo Jnr. what is your point of order?

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Clerk. Is it in order for my friend Sen. Cheruiyot to mislead this House that the report of the Committee on Finance, Commerce and Budget was not approved whilst the correct position is that before a Paper is laid before the Senate, your office confirms first that the appropriate signatures are on that report, quorum had been attained in the Committee on Finance, Commerce and Budget, and the Speaker then seated here, would not have approved and allowed that document to be tabled here and go a step further to be discussed across the political divide where we condemned the actions of the governors of misappropriating resources?

The Clerk of the Senate (Mr. Nyegenye): I rule in your favour in that point of order because I have the report which you have referred to. It was laid on the Table of the House and the appropriate signatures had been appended. I think that disposes of that particular aspect of the matter.

Hon Senators, the business before us is of tremendous importance. The point of order raised by Sen. Orenge is one that is of critical importance; it goes to the heart of the order in which we had commenced. We have begun the process for the election the Speaker. The point of order raised by Sen. Orenge is a question of eligibility of a candidate or candidates in light of Chapter Six of the Constitution on Leadership and

Integrity. However, the question that Sen. Orengo has asked is whether the Clerk, in this case the presiding officer for the purpose of the election, is satisfied that the persons who have been put forward for elections, have been nominated and will, therefore, appear on the ballot paper, are eligible in terms of Chapter Six on Leadership and Integrity.

It is instructive to note that this Chapter applies equally to State officers. It is not different in respect of a Member of Parliament (MP), other State officers or constitutional office holders; it applies equally. That is an important point that we need to observe.

Sen. (Prof.) Kithure Kindiki, as I have it, has urged that the matter is governed by the Constitution and that because there are specific provisions of the Constitution, we need to proceed by those. A matter of eligibility or ineligibility would need to be exhausted in the judicial process and a person be held to be ineligible only on account of having been convicted and even so, exhausted the process of appeal.

Sen. Mutula Kilonzo Jnr. has drawn our attention to a report in which certain recommendations were made. I think I will spend a minute or so, on that position just to bring to the attention of this Senate the nature and significance of the report which Sen. Mutula Kilonzo Jnr. has drawn the attention of the Chair to.

This was a report of the Senate Standing Committee on Finance, Commerce and Budget on a Petition by residents of Bungoma County. The manner of disposal of a petition is provided for under our Standing Orders, specifically Standing Order No.226 which provides that every Petition presented or reported stands committed to the relevant Standing Committee which is why it was committed to them. They are required in not more than 60 days from the reading of the prayer to respond to the petitioner by way of a report addressed to the petitioner(s) and laid on the Table of the Senate, and no debate on or in relation to the report shall be allowed but the Speaker may allow comments or observations in relation to the Petition for not more than 30 minutes.

It is therefore important to understand that a report on a petition is not adopted by the House. So, the insinuation that this report was adopted by the Senate is not correct. The Senate does not adopt reports on petitions. Reports on petitions are addressed to petitioners and only observations are made thereon. So, we do not have a report adopted by the Senate in the terms that were stipulated.

Sen. Linturi referred us to Article 50; basically that there ought to be due process and that no person be condemned without having exhausted the process. We were similarly urged by Sen. Mwaura on the matter of fair administrative action.

According to Sen. Murkomen on the matter of the qualifications being stipulated and that if specific stipulations such as a requirement for certain clearances were required, nothing would have been easier than to provide so specifically and also the matter of presumption of innocence.

Sen. Seneta talked about the issue of procedure and the independent institutions.

Hon. Senators, taking one thing with another, the provisions on the election of the Speaker and the qualification thereon are set out at Article 106 of the Constitution which provides as follows:-

“(1) There shall be—

(a) a Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among persons who are qualified to be elected as members of Parliament but are not such members;”

Therefore, in determining the eligibility of a person to vie for Speaker we have recourse to eligibility to vie as a Member of Parliament (MP). There are institutions which are responsible for determining eligibility for one to vie as an MP. Therefore, in this case, the Office of the Clerk had recourse to the Independent Electoral and Boundaries Commission (IEBC) asking whether all the persons who had presented themselves for nomination were eligible to vie as MPs. The body with the infrastructure and were vital to make a determination of eligibility under our Constitution for one to vie as an MP is the IEBC. We had recourse to them, and their response in respect of each of the persons who is listed on the ballot was that they are eligible to vie as MPs. Indeed, some of them vied for the position of MP.

Every person would readily agree that it is not a requirement that prior to putting yourself forward for election for the position of Speaker or for that matter any other, that there be no allegation that has ever been made against you.

(Applause)

That allegation must rise to the point where it has been determined by legitimate bodies and that a final determination has been made. We do not find that there is such a determination in respect of any of the candidates. We are advised by the IEBC in that manner. Accordingly, I must make the determination that, and in specific answer to Sen. Orenge, we ascertained that each of these persons was eligible in term of the Constitution and the Standing Orders and, therefore, I make a determination that we will proceed.

Serjeant-at-Arms let us resume where we were at. We were at the point at which the ballot box is empty and displayed. So, please display it again. It has been out of view.

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

I now direct that the ballot box be locked. Proceed to lock the ballot box.

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

Hon. Senators, as the ballot box is being locked, I wish to draw your attention to Standing Order No.6(3) which provides 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.

Hon. Senators, so, I will call out the names, you will come to the Table, we will issue with a ballot paper, you will proceed to the booth and while there mark the ballot paper and fold it while there and proceed to the ballot box and cast your vote.

I request that any cameras do not zoom in on the candidate as they make their choice. It is a secret ballot. It would be a serious breach of the privileges of the House and the secret ballot required under the rules.

The polling booths are on either side. So, hon. Senators on the left side of the Chair will proceed to the booth nearest to them and those on the right side of the Chair will proceed to the booth nearest to them.

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 will be called out following which you will come to the table on my extreme left and obtain a ballot paper. Each Senator will then proceed to either of the two polling booths which are clearly marked. I think we have gone through that.

Sen. M. Kajwang: On a point of order, Mr. Clerk.

The Clerk of the Senate (Mr. Nyegenye): What is your point of order, Sen. Kajwang?

Sen. M. Kajwang: Mr. Clerk, with a lot of respect, you have made an order on the issue of cameras but, if you look at the positioning of the booths, they are right under the Closed Circuit Television System (CCTV) of Parliament. If you look at the booth on this side, it is right under that camera and the booth on the other side is right under the camera.

Yesterday, a Member raised an issue out of history. This is not an idle concern; in the past such things that were supposed to be secret were subjected to undue scrutiny. Could you order the re-organisation of these booths so that they are away from the focus of the two cameras in the House?

The Clerk of the Senate (Mr. Nyegenye): Sen. M. Kajwang, that is a legitimate concern. There is every intention that the ballot be in secret. Therefore, we will make such adjustments as are necessary to assure you.

(The voting booths were moved out of the range of cameras)

Where they have been moved, they are clearly out of the range of the cameras. Thank you for that concern. It was legitimate. It is a secret ballot in every sense. So, shall we begin then?

ELECTION OF THE SPEAKER

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, let us try to make this process a lot faster than the swearing in process. We commend you for your patience while we were undertaking the swearing in process. You do not need to go back to the Bar. Just walk to the booth, vote and resume your seat. The ballot has security features, serial numbers and it is stamped.

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

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, before we proceed, the rules provide that if in the course of marking the ballot a mistake is made, a substitute ballot paper may be issued, but I would need to draw attention.

Sen. Olekina Ledama requests to be issued with a substitute ballot paper. So in accordance with the rules, this is to be provided upon return of the first ballot paper. Please, return it. We should destroy it.

Order, hon. Senators. Let me direct that the ballot which is spoilt be destroyed. Please, issue another ballot paper.

(The spoilt ballot paper was returned and destroyed)

(A substitute ballot paper was issued to Sen. Olekina Ledama and he proceeded to vote)

(Hon. Senators proceeded to vote)

(Loud consultations)

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, shall we resume our seats? The last ballot has been cast. We are ready to proceed to the counting.

Hon. Senators, from our records, each and every Senator, that is 67 of you present, has collected a ballot paper and voted. Therefore, there is no occasion to avail an opportunity for any other Senator. All Senators have voted.

According to Standing Order No. 6(6), when it appears to the Clerk that all Senators who were present and who wish 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 box.

Pursuant to these Standing Orders, hon. Senators, it does appear to me that every Senator who is present and wishes to vote has done so. Therefore, pursuant to Standing Order 6(6) I direct now that the ballot box is unlocked so that each ballot paper be examined.

Before we do so, I would like to invite in respect of every candidate if there is an agent who wishes to be present to witness the counting. I will just call out the candidates and if there is an agent or Senator who is willing to be the agent please come to the front on either side and we will allow you the opportunity to witness the counting. As a matter of democratic practice, it is useful to have a Senator volunteer to witness but if there is no one, we cannot compel him or her.

Sen. (Dr.) Mbitio wishes to be the agent for David Ekwee Ethuro. Sen. Faki volunteers to be the agent for Rameshchandra Govind Goraisia; Sen. Omanga will be the agent for Lusaka Kenneth Makelo; Sen. Kabaka will be the agent for Hon. Maalim Farah; Sen. Mwaruma will be the agent for Dr. Ondicho James Gesami and Sen. Linturi will be the agent for Ribathi Paul Gichuki

I now direct that the ballot box be unlocked and the agents witness the process.

(The Clerks- at- the-Table opened the Ballot Box)

The ballot box has been opened and the ballot papers are here. We will begin counting. The papers should be displayed to all the agents and placed aside.

(The Clerks- at- the-Table proceeded to count the votes)

(Several Senators stood up on their feet)

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, unless you are an agent, please, resume your seats.

The Clerk is required to determine if the intention is clear in respective of each ballot that is marked. For the agents, is this contested?

(The Clerk of the Senate (Mr. Nyegenye) consulted the agents)

I will declare this ballot as spoilt in so far as the mark traverses two candidates.

Hon. Senators, we are now through with the counting and tallying. We are indebted to the agents who have witnessed the exercise .

I proceed now to announce the results as follows:

NAME	VOTES
David Ekwee Ethuro	- 2
Rameshchandra Govind Gorassia	- 0
Kenneth Makelo Lusaka	- 40
Farah Maalim	- 23
James Ondicho Gesami (Dr.)	- 0
Paul Gichuke Ribathi.	- 1
Spoilt Vote	- 1
Total votes cast	- 67

Hon. Senators, Standing Order No.7 (1) provides that:

“ A person shall not be elected as Speaker unless 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 clear from this result that none of the candidates met the threshold of 45 votes required under Standing Order No.7(1) to secure an outright first round win. That takes us into the remit of Standing Order No.7(2) which provides 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) in this case, Lusaka Kenneth Makelo.

b) The candidate or candidates who in that ballot received the next highest number of votes, in this case, Farah Maalim.

Before we proceed to fresh election which we will shortly, I will ask that the ballot papers for the first ballot be packed, sealed and placed in the custody of the Clerk

in terms of Standing Order No.10. Please pack them and place them in a receptacle which you shall seal.

(The ballot papers were collected and sealed)

Hon. Senators, as I have communicated, we will proceed to a second ballot. Let us try to expedite the process. Under the rules, in this second ballot as you are aware, the candidate who secures the higher number of votes will be declared to be duly elected. We will proceed in the way we did before for the second ballot. In the same manner, the box is going to be displayed.

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

May I indicate that for the avoidance of doubt, for the second ballot, the paper is pink in colour. It is different from the one used in the first ballot. Please seal the ballot box, then we will begin to call out the names.

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

Hon. Senators, the second ballot begins now.

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

The Clerk of the Senate (Mr. Nyegenye): Order Senators, there is a spoilt ballot of Sen. Ben Oluoch. I order that it be destroyed and another one issued. Please issue another ballot.

(The spoilt ballot paper was destroyed)

(Sen. Okello Ben Oluoch was issued with another ballot paper and proceeded to vote)

(Voting by other Senators continued)

The Clerk of the Senate (Mr. Nyegenye): Order, hon. Senators, the last ballot has been cast; we are ready to proceed with the counting. Sen. Omanga and Sen. Wario Juma, please resume your seats. We would like to proceed to counting.

(Sen. Omanga and Sen. Wario resumed their seats)

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, our record show that 67 Senators have voted. Each and every Senator was present and has voted. In the same manner as we did for the first ballot, we will invite agents in respect of the two candidates.

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Sen. Irungu Kang'ata is the agent for Hon. Lusaka Kenneth Makelo and Sen. Ledana Olekina is the agent for Hon. Farah Maalim.

(Sen. Kang'ata and Sen. Olekina approached the Dispatch Box)

The Clerk of the Senate (Mr. Nyegenye): Shall we then proceed to unlock the boxes and pour out the contents? Shall we commence the counting in the same manner as we did the last time?

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

The Clerk of the Senate (Mr. Nyegenye): Hon. Senators, first, let me thank the agents who have assisted us with the second ballot. I draw your attention to Standing Order No.7(4) which requires that in the second ballot, the candidate who receives the highest number of votes be declared to have been elected as the Speaker of the Senate.

(Sen. Githiomi entered the chamber.)

Sen. Githiomi, you may take your seat.

In accordance with Standing Order No.7, the results for the fresh election we held are as follows. The votes cast were 67; there were no spoilt votes.

NAME	VOTES
Kenneth Makelo Lusaka	42
Farah Maalim	25

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

(The Clerk accordingly declared Hon. Lusaka Kenneth Makelo elected Speaker of the Senate)

(Applause)

In this regard, we have come to the conclusion of the exercise of electing the Speaker. In accordance with the requirements of Standing Order No.10, we will pack and seal the ballots for safe custody.

(The ballot papers were collected and sealed)

I now direct the Serjeant-at-Arms to proceed with dispatch, search and find the said candidate, Hon. Kenneth Makelo Lusaka and bring him forthwith to the Chamber.

(The Clerk accordingly directed the Serjeant-at-Arms to search for the said

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Hon. Kenneth Makelo Lusaka and bring him to the Chamber)

*(On arrival of Hon. Lusaka
in the Chamber, he was escorted to the Chair by
Sen. (Prof) Kindiki and Sen. Murkomen)*

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

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

(Applause)

The Speaker (Hon. Lusaka): You may take your seats, hon. Senators.

(Laughter)

(Applause)

COMMUNICATION FROM THE CHAIR

SUBMISSION OF THE SPEAKER TO THE WILL OF THE HOUSE

The Speaker (Hon. Lusaka): Hon. Senators, distinguished guests, ladies and gentlemen; I am humbled and overwhelmed by the great honour and privilege you have bestowed upon me by electing me as your Speaker of the Second Senate of the Republic of Kenya under the Constitution of Kenya 2010. The immense confidence and trust that you have placed on me today profoundly humbles and makes me proud at the same time. I, therefore, accept with humility and pledge that I shall perform to my utmost ability the constitutional responsibilities and duties of the office of the Speaker of the Senate for the next five years with diligence and appropriate tact.

(Applause)

Allow me with great pleasure to congratulate and salute all of you, the new Senators of the second Senate after a well fought battle in the just ended general elections. Kenyans have now reposed their faith in your capable hands and it is doubtless that they have high expectations on you.

I also wish to recognise my worthy opponents, Rt. Hon. Ekwere Ethuro, Hon. Farah Maalim, Hon. (Dr.) James Gesame, Mr. Rameshchandra Gorasia and Mr. Paul Ribathi for the valiant, mature and well fought competition. We have ably demonstrated that we can compete democratically and without rancor in a dignified race.

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Please, feel free to consult with me and my officers at any opportune time. I also extend congratulations to our sister House, the National Assembly, and wish them every success as we begin the national duty of jointly steering our beloved country to greater heights.

I cannot forget our governors, county assembly speakers, Members of County Assemblies (MCAs); I wish them all the best. Kenyans from all walks of life deserve a huge pat on the back for demonstrating to the entire world that we have a mature and vibrant democracy following the peaceful general elections.

Fellow Senators and dear Kenyans, permit me at this juncture to pay my singular special tribute to my predecessor, the Rt. Hon. David Ekwee Ethuro. He ably presided over the resurrected Senate in perhaps the most difficult times in our country's history and, indeed, it was the first Senate under the current 2010 Constitution.

The first Senate was sailing in uncharted waters. None of the political leadership and Senators had a clear idea what their tasks entailed. They had to learn how to swim by swimming. It was trial and error at first. However, the Speaker and his leadership team, guided by unity of purpose and the will to actualise devolution, initiated work systems, spearheaded a series of retreats, workshops and seminars that rapidly crafted the framework of transacting and administering the Senate.

As the political head, he oversaw an efficient system of service delivery by the Senate officers. He served as an executive member of the International Parliamentary Union (IPU) and as the President of the Forum of the Parliaments of member states of the International Conference of the Great Lake Region. His handling of chamber proceedings will be hard to emulate.

As a renowned American writer and political commentator, Walter Lipmann, wrote, and I quote:

"The final taste of a leader is that he leaves behind in other men and women the conviction and the will to carry on."

Rt. Hon. Ethuro, we salute and honour you.

(Applause)

Lastly but not the least, I appreciate and laud the Clerk of the Senate and his team for making the appropriate preparation for this momentous occasion.

Hon Senators, historically, the first Senate was established in 1963 and functioned until 1966 when it was dissolved and its Members joined the National Assembly. Close to five decades later, the second Senate was inaugurated in March, 2013 as established in the Constitution of Kenya 2010 primarily to oversee the implementation of the devolved system of governance.

Devolution as an overall development model was meant to ensure balanced, equitable and just development in all regions of Kenya. I can submit without fear of contradiction that so far it is working, and I am talking as somebody who has come from there.

I wish to welcome and associate myself with the positive spirit exhibited and pronouncements made by the new governors to change their strategy of engagement and work more closely with the Senate, the National Assembly and the national Government.

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In addition, their pledge and commitment to intensify the fight against corruption in their respective governments is highly commendable. This will usher in a new dawn towards exercising responsible and accountable public funds management in our devolved units and in our common efforts to deepen and strengthen devolution.

Fellow hon. Senators, the critical question is: What next for our Senate? How do we expand on the achievements of the first Senate? Fundamentally, the Senate must continue to play its constitutional mandate and role more vigorously. Just to reiterate and remind ourselves, hon. Senators, the primary mandate of the Senate is to represent the counties and protect the interest of the counties and hence successful implementation of the devolution process.

Hon. Senators, what has been achieved so far is commendable, but we must not rest on our laurels. We must build on the foundation created and make it even better. We must initiate and enact more devolution compliant Bills since our predecessors have identified a number of grey areas in our devolved system of governance. The Senate is dully bound to be more sensitive to the dictates and aspirations of the ordinary *mwananchi*. We will speak on out on any subject under the sun so long as it affects Kenyans. We will adopt a proactive approach and strive to make the Senate to be a friend of all Kenyans and let the Senate be their sanctuary in times of distress. Let the Senate be a beacon of sobriety and hope for Kenyans of all ages.

On a light note, let me say that the Second Senate is no longer *nyumba ya wazee*. The second Senate under the Constitution of Kenya 2010 will strive to reach out and harmoniously work with the national Government. The so-called supremacy wars must be a thing of the past. That is how tangible and progressive milestones will be realised by our bicameral Parliament. The Holy Bible says that a divided house falls.

Fellow hon. Senators, I call upon you to adopt and nurture the bipartisan and collegial relationship approaches that will transform and invigorate the Senate to embrace the various political interests represented in the 12th Parliament and ensure they find their rightful place.

Under the new Senate leadership, we will endeavor to ensure that the Senate work strategically will be reviewed and if necessary, revised to embrace emerging trends of effective legislative work systems; that Senators perform their constitutional and leadership responsibilities through systems that are predictable and adequately facilitated to enable them deliver efficiently and quality services.

Programs and activities of the Senate are guided by the need to respond to key priorities of the counties as well as the many challenges they have to face up to. We will initiate and strengthen internal collaborative linkages, deepen existing partnerships and engagement between the Senate, national and county government departments and agencies, regional and international development partners as well as non-state actors to work closely and harmoniously with the devolution family.

We will strive to strengthen the capabilities of the Senators and their secretariats so that they constantly update their skills and expertise and ensure they acquire requisite parliamentary exposure to enable them handle complex and new frontiers of legislative and public affairs. We will also endeavor to be responsive and attune to emerging situations and reignite the manner in which traditional legislative services are offered.

Fellow Kenyans, elections come and go. Kenya must remain. It is now time to put behind our political rivalries and together focus on building the new Kenya that we will all desire. Let us jealously protect and guard devolution and our beloved country. Let us nurture in the way a parent nurtures a newborn. We do not have another Kenya to run to. Let us forge ahead and be guided by the unity of purpose. As leaders, let us be the rock upon which Kenyans find refuge and solace. I personally would not accept this seat if it was meant to polarize Kenyans.

Hon. Senators, in conclusion, on my part, I promise that under my stewardship, my pledge and commitment to the people is to be a faithful servant and diligently discharge my duties.

Finally, as one Canadian broadcaster and play writer, Lister Sinclair, once wrote:

“A frightened captain makes a frightened crew.”

I shall respect and uphold the rule of the law, legality and nurture the culture of constitutionalism. I shall protect and defend the Constitution of the Republic of Kenya and always safeguard the mandate and role of the Senate.

Thank you so much for electing me.

(Applause)

PROCEDURE TO BE FOLLOWED IN ELECTING THE DEPUTY SPEAKER

The Speaker (Hon. Lusaka): 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(4) further provides that:

“The 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 in alphabetical order were validly nominated as at the close of the nomination period:

1. Irungu Kang’ata
2. Johnson Arthur Sakaja
3. Kimani Wamatangi Paul
4. Susan Kihika

Pursuant to Standing Order No.8, a candidate may withdraw his/her candidature before a ballot is cast. In this regard, I wish to bring to your attention that on Tuesday, 29th August 2017, Johnson Arthur Sakaja, by notice to the Clerk, withdrew the candidature for the position of Deputy Speaker of the Senate. Similarly, yesterday Wednesday the 30th August 2017, the other three candidates namely, Irungu Kang’ata, Kimani Wamatangi Paul and Susan Kihika by respective notices to the Clerk, withdrew their candidature for the position of the Deputy Speaker of the Senate.

Arising from the withdrawal of candidature by all of the four candidates who had been duly nominated, we now have no candidate for the position of Deputy Speaker.

Hon. Senators, Standing Order No.13 (1), provides that:-

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“As soon as practical after the election of a Speaker following a General Election, a Deputy Speaker shall be elected.”

Accordingly, we now do not have any candidate for the position of the Deputy Speaker hence it is not practical to proceed with the election. Consequently, I shall defer the exercise to a future time when it will be practical to carry out the exercise.

I thank you.

(The election of the Deputy Speaker was deferred)

(Applause)

*(The Speaker (Hon. Lusaka) consulted with the
Clerk of the Senate (Mr. Nyegenye))*

Hon. Senators, before we adjourn, I would like to invite all Senators and their guests to refreshments outside at the tents on your right as you leave the Chamber.

NOTIFICATION OF OPENING OF PARLIAMENT

We have come to the conclusion of business today. Standing Order No.21(1) provides that:

“The President shall address the opening of the each newly elected Parliament.”

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. Lusaka): Hon. Senators, there being no other business, the Senate now stands adjourned until such a date as shall be notified as a date set opening of Parliament.

The Senate rose at 2.35 p.m.