

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 28th March, 2013

Eleventh Parliament – First Session – First Day

*(Eleventh Parliament convened by notification vide
Legal Notice No.55 of 21.3.2013)*

(The National Assembly Sitting resumed at 2.30 p.m.)

The Clerk of the National Assembly (Mr. Bundi): Hon. Members, at the time we suspended the business of the House, we had concluded the Administration of Oath. Just to be sure that we have cleared, is there any hon. Member who may not have taken oath because the next business will require that you would have taken oath before we proceed? If there is none, then we can move on to the next Order.

ELECTION OF THE SPEAKER

The Clerk of the National Assembly (Mr. Bundi): Hon. Members, pursuant to Article 126(2) of the Constitution, the President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces notified that the first Sitting of the National Assembly shall be held in the National Assembly Chambers at the main Parliament Buildings, Nairobi on Thursday, 28th March, 2013 starting at 9.00 a.m.

Article 106(2)(a) provides that the Office of the Speaker shall become vacant when a new House of Parliament first meets after an election. Acting under the powers conferred to me by Standing Order No.5, I notified the general public of a vacancy in the Office of the Speaker of the National Assembly. In the same gazette notice, I invited interested persons and subsequently issued nomination forms for the election of the Speaker. Completed application forms were to be returned to me at 9.00 a.m. on Tuesday, 26th March, 2013.

At the deadline for returning nomination forms, four candidates fulfilled the requirements and were validly nominated. They are as follows:-

1. Marende Kenneth Otiato
2. Muturi Justin Bedan Njoka
3. Mwangi Wangoro Harrison
4. Sirat Mahamud Mohamed

However, I have since received letters by two candidates indicating that they have withdrawn. That is Mwangi Wangoro Harrison and Sirat Mahamud Mohamed.

In accordance with Standing Order No.8, I have since crossed-out the two names off the ballot papers. Therefore, we are left with only two candidates for the election of the Speaker and that is, Marende Kenneth Otiato and Muturi Justin Bedan Njoka.

Standing Order No.6 provides as follows:-

“(1) The election of the Speaker shall be by secret ballot.

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

Each hon. Member will receive one ballot paper at a time; an hon. Member will collect one ballot paper at the Table and proceed to cast the vote. Any hon. Member who wishes to vote shall mark his or her ballot paper by placing “X” in the space provided for opposite the name of the candidate he or she wishes to vote for. A Member who, before the conclusion of a ballot has marked his paper in error may, by returning it to the Clerk, obtain another in its place. The first one shall be cancelled and destroyed. When all hon. Members present have voted, the parliamentary staff that will be under my supervision will unlock the box, examine and count the ballot papers and thereafter I will announce the results of the vote.

The other information to know is that a person shall not be elected a Speaker unless supported by votes of two-thirds of all hon. Members. If no candidate is supported by votes of two-thirds of all Members, the candidate who receive the highest number of votes in the ballot referred to above and the candidate who received in that ballot the next highest number of votes shall alone stand for election in a further ballot and the candidate who receives the highest number of votes in the further ballot shall be elected.

Hon. Members, voting is by secret ballot. We have arranged the voting points next to the Dispatch Box. There are two Dispatch Boxes on the Table. Therefore, those who will be on my right side will vote on the right side and the same case will apply to those who are on the left side. After that the hon. Member will proceed to the ballot box and slot in the paper.

Having explained that, I wish to direct my officers to open the ballot box and display it to the hon. Members.

The Member for Suba (Mr. Mbadi): On a point of order. When you read about the mark, you talked of an “X” yet when I read that Standing Order it says:-

“The Clerk shall issue not more than one ballot paper to each Member who comes to the Table to obtain it and each Member 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---”

I do not know whether a “mark” is equal to an “X” because a mark can be anything.

The Clerk of the National Assembly (Mr. Bundi): Hon. Members, even a tick is a mark, it does not have to be “X”

Hon. Members: You said an “X”!

The Clerk of the National Assembly (Mr. Bundi): An “X” is a mark and so is a tick; as long as you do not spoil so that there is distinction to show where you have marked. Can we have the box displayed to all hon. Members?

(The ballot box was displayed)

The ballot box is now sealed and will be opened after the election. We will now show you where the voting booths are; we can have two hon. Members voting at the same side on the right hand side and the left hand side. Let us now proceed to vote. The ballot papers will be issued by the three officers at the desk. We will use the same order we used in the morning; we shall have names called so that we are systematic.

(Hon. Members proceeded to vote)

Hon. Members, from our roll call, it appears we have finished voting. Is there any Member who has not voted and he is present? There is no hon. Member who has not voted. If all Members have voted, the voting process is complete. We can have one from each side. Can we have nominations start from this side and from the other side? Where are the agents? Can we have two from each side so that we have a balance? For record, let us have the agents for Coalition for Reform and Democracy (CORD) and Jubilee. Sorry, let us have the agents. Can we be sure who the agents are before we start?

Those are four! Please give me the agents, Mr. Sialai. Can we hold on until the names are announced?

Hon. Members, the agents for hon. Marende are hon. Okoth Kenneth Odhiambo and hon. Simba Paul Arati. The agents for hon. Muturi are hon. Rose Rwamba Mitaru and hon. Moses ole Sakuda. So, we have two from each side. Let the agents allow the clerks to count as they watch from afar.

(The clerks proceeded to count the votes)

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

NAME	VOTES
Marende Kenneth Otiato	144
Muturi Justin Bedan Njoka	202
Spoilt ballot papers	2

Hon. Members, the result for the election of the Speaker requires that for one to be elected Speaker he must have two-thirds of the total votes. We have not been able to get two-thirds and, therefore, we shall go to the second round. Two-thirds is 233 votes. Officers are directed to seal the ballot papers and to keep them in safe custody. The procedure when you do not attain the two-thirds is that then we go for second round. I direct the clerks to prepare for the second round.

We are now ready and I direct the clerks to show the ballot box to hon. Members. The ballot box is empty. The box is now sealed. To make it easier for counting clerks so that they do not have difficulties in determining which one is valid or invalid, hon. Members are advised to mark within the box so that we do not keep arguing on whether it is spoilt or not. We are now ready to start.

(Ballot papers were issued to Members)

(Hon. Members proceeded to vote)

Hon. Members, we are in session. Please let us stop overcrowding around the ballot boxes. Hon. Members are advised to take their seats and consult quietly so that we finish this business.

Hon. Members, we have finished calling from our list, but we want to confirm whether there is any hon. Member in the House who has not voted. The opportunity to vote is still there.

I think all hon. Members present have now voted. I do not see any hon. Member appearing anymore. I will now direct the clerks to commence the counting process. But before the clerks begin to count; do we maintain the same agents or we require different ones?

Hon. Member: We maintain same agents!

The Clerk of the National Assembly (Mr. Bundi): We use same agents. So, the agents for hon. Muturi are hon. Rose Rwamba Mitaru and hon. Moses ole Sakuda. Then we have hon. Simba Paul Arati and hon. Okoth Kenneth Odhiambo.

Make sure there is no ballot paper left in the box. Show it round.

(The clerks proceeded to count the votes)

Hon. Members, the results of the second ballot are now ready.

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

NAME	VOTES
Marende Kenneth Otiato	129
Muturi Justin Bedan Njoka	219
Spoilt ballot papers	0

(The Clerk accordingly declared hon. Muturi Justin Bedan Njoka elected Speaker of the National Assembly and directed the Serjeant-at-Arms to search for the said Muturi and bring him to the Chamber)

(Applause)

(On arrival of hon. Muturi in the Chamber, he was escorted to the Chair by Mr. Midiwo and Mr. Duale)

(On arrival at the Chair, the Clerk thereupon administered the Oath of Allegiance to the Speaker-elect, Mr. Muturi)

(The Speaker, hon. Muturi, then took the Chair, and the mace, which had been covered, was now uncovered)

(Applause)

COMMUNICATION FROM THE HOUSE

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SUBMISSION OF MR. SPEAKER TO THE WILL OF THE HOUSE

Mr. Speaker: Hon. Members, the Clerk of the National Assembly, ladies and gentlemen today is probably the greatest day of my life. When I left my house this morning, I bid farewell to my family not certain that by the time I return, elected representatives of the people of Kenya will have bestowed a privileged capacity and new responsibilities on me. They wished me well and promised to campaign for me. Since they are not politicians like me, they promised to seek a higher intervention by way of prayers. To this end, I thank my family for their invaluable support on this journey.

Dear colleagues, I would like to pass sincere tribute to all the candidates who stood in this election. I must confess that I have the highest regard for all of them. They were all worthy competitors. Each one of them had something novel that they intended to bring to the National Assembly. I have no doubt that they are great leaders and that they all mean well for our great nation. I wish to encourage them by the words of one mighty Anthony J. D'Angelo: "You do not have to hold a position in order to be a leader." You are already leaders. My victory is not for me alone but yours too. The Clerk of the National Assembly and his staff, I am humbled by the manner in which you have presided over this entire process. Hon. Members, especially those of us who have served in the House before will agree with me that over the years, Parliamentary staff have earned the trust and confidence of successful parliaments and, indeed, the nation. As the new Chairperson of the Parliamentary Service Commission, I commend you and urge you to continue facilitating hon. Members to discharge their duties with that very high degree of impartiality and efficiency.

To you, hon. Members, I thank you all for believing in me. I thank you for showing confidence in me by electing me your Speaker. From this moment and moving forward, the institution of the National Assembly and Parliament becomes my constituency. This is the greatest privilege of my professional life to occupy. I am deeply humbled. The onus is now on me to keep the promise of discharging my duties with fairness and impartiality. I will not let you down. It is my greatest aspiration to selflessly serve in my new capacity as your Speaker. It is on this very premise and conviction that I unreservedly submit to the will of this House. I am well aware of the heightened expectations of the membership of the House. The complexities of managing a process in a bicameral legislature present new but exciting challenges. I see it as a unique opportunity for us to do things in a different yet efficient manner. On my part, I also undertake to work closely with the Speaker of the Senate to facilitate smooth running of the affairs of Parliament and the Executive. This is a crucial requirement in bicameralism, more so, in the initial stages of a nascent presidential system of government.

Hon. Members, as your Speaker, I will fervently preserve the powers, privileges and immunities of this House without which optimal performance would be greatly compromised. I also propose to defend and uphold the dignity of this House and to enforce uncompromised adherence to the Constitution, our laws and Standing Orders in the management of the business of the House. There is very little time for any celebrations. We have to embark on the arduous task ahead of us as one of the Houses of Parliament immediately. The Tenth Parliament fulfilled its constitutional mandate by acting both as the Assembly and the Senate to pass the crucial constitutional legislations. Our predecessors, some of whom are present in the House today, facilitated the establishment of national institutions and requisite commissions. For this reason, I pay tribute to my predecessor, Mr. Marende for steering these processes. Most of the pieces of

legislation passed in the last Parliament can be summed up as primary governance laws. They set the foundations and establish the essential institutions for proper governance of our nation. To me, this was phase one of the implementation of our Constitution. What remains now are phases two and three. Phase two involves the passage of the balance of the governance laws. Phase three, which in my view is most crucial and urgent, is the passage of the laws that will set the pace for the sustained economic growth and development of our beloved country.

As your Speaker, I will do all what is lawfully and humanly possible to facilitate this process. That way, without doubt, plenty will be found within our borders. Hon. Members, even though the House and its rules are not new to me, I have had time to peruse through the new Standing Orders. I notice that there are myriads of new matters and procedural issues that we all need to acclimatize with, sooner rather than later. I am sure that these changes were borne out of the need to review the rules of procedure to conform to the new Constitution and Parliamentary realities of modern times.

The roles of the National Assembly have been expanded to include approval of key appointments to state and public offices. Several things have changed and some aspects have disappeared. I will personally miss the lively Question Time in the plenary or the House. For Members who also served in the Cabinet before, I urge you to swiftly adjust to the reality of actively making inquiries in committees, rather than being on the receiving end, as was the case in the past.

(Applause)

Furthermore, Parliament has since become an integral part of the budget making process. Public participation in the legislative processes is now entrenched in our rules, as it is indeed, in our Constitution. We have no choice but to adhere to them. We have to not only view the public, the media and private sector as partners, but we must also regard them as such.

As we are assigned to the committees in the coming days, I urge you to offer candid and responsible oversight on the Executive. In this regard, I urge political party leaderships in the House to move with speed to commence the processes of constituting committees. My office will be open to offer necessary guidance where it is required.

Hon. Members, I am delighted to serve in a House with a diversity represented in this first Sitting. The diversity is unmatched in the history of our Parliament. It marks a new chapter to the youth of this country, the women of Kenya and persons with disabilities, as well as ethnic and other minorities. This is truly a representative assembly, for the welfare of society and the just Government of the people of Kenya.

As your Speaker, I encourage Members to consolidate this strength in diversity to ensure that it is reflected in all our deliberations. As a House, let us exploit the distinctive opportunities presented in our differences.

Dear colleagues, before I conclude, allow me to thank the members of the public seated in the Public Gallery, Speaker's Gallery and the Speaker's Row for gracing this historic occasion. Ours will be a Parliament of the people. Our doors remain open to the public.

Finally, hon. Members, it is said, and I quote:-

“Those who know how to win are more numerous than those who know how to make proper use of their victories.”

Nominations have been made in this august House. The victory is now behind us. Of essence from now onwards is to make proper use of that victory collectively and as a House. We should put the interests of our nation before any other interest. I urge you all to embrace this ideology so that collectively, this becomes a yardstick against which the National Assembly will be judged by the citizenry. God bless Parliament of Kenya and our beloved country.

Thank you.

(Applause)

ELECTION OF THE DEPUTY SPEAKER

Mr. Speaker: Order, hon. Members! Having taken the Chair, I will oversee the process of election of the Deputy Speaker.

Pursuant to Standing Order No.13, the process of electing the Deputy Speaker will be similar to that of electing the Speaker. The Clerk of the National Assembly has informed me that the following have been nominated for the position of the Deputy Speaker. I, therefore, would wish to direct that the Clerk proceeds to announce the names of the candidates and carry out the exercise.

The Clerk of the National Assembly (Mr. Bundi): Hon. Members, the procedure of electing the Deputy Speaker is similar to the one for the Speaker. At closure of business on 26th March, 2013, at 9.00 a.m. three candidates were validly nominated. That is hon. Abdikadir Aden, MP, hon. Dr. Joyce Laboso, MP and hon. Dr. Kitonga Maanzo, MP. However, I have since received a letter from hon. Daniel Kitonga Maanzo, MP, withdrawing from the race. Therefore, the election of the Deputy Speaker will be between hon. Abdikadir, MP and hon. (Dr.) Laboso, MP.

We were not able to cancel the ballot papers because the notice was a bit short, but we advise that when you come to do the elections, then you do not tick on Daniel Kitonga Maanzo. If you tick, then we shall take it as a spoilt ballot. So, please, be guided.

The election of the Deputy Speaker will also be by secret ballot. It is just like we did for the Speaker. We shall use the same list to invite hon. Members to cast their ballots. So that we do not waste a lot of time, I want to invite the clerks to display the ballot box and begin the process of electing the Deputy Speaker.

The Member for Ruaraka (Mr. Kajwang): On a point of order, Mr. Speaker, Sir. I rise on a point of order in accordance with Standing Order No. 8. Reading the relevant part, it says:-

“A candidate may, by written notice to the Clerk, withdraw his or her name before a ballot is started and, in the event of such withdrawal, the Clerk shall cross-out the name of that candidate off any ballot papers issued for that purpose or any subsequent ballot.”

Mr. Speaker, Sir, I ask for your guidance. Reading the law as it is, it says “shall” and not “may”, giving no discretion on the part of the returning officer to cross-out the name of the candidate. We do not want to go into an election where there will be more spoilt votes than the votes cast. May I ask you to give direction so that the ballots represent the true position of the law? Thank you.

The Member for Suba (Mr. Mbadi): On a point of order, Mr. Speaker, Sir. In line with what hon. T.J. Kajwang has just said, the Clerk has no discretion at all under our laws - whether the Constitution or our Standing Orders - to come up with rules of procedure which are not

provided for in the Standing Orders. Even the Speaker, in this case, has no discretion because the Standing Order is very clear. He cannot bend it to the convenience of the House, if the Standing Order requires that you behave and conduct the procedure in a particular manner. So, I urge that you find the Clerk grossly out of order and rule that he does what he is required by the law to do.

The Member for Mbita (Mrs. Odhiambo-Mabona): Mr. Speaker, Sir, read Standing Order No.1---

Mr. Speaker: Order, hon. Members! Hon. Mille Odhiambo, as you will well appreciate, I do not require a lot of tutoring on these simple matters of procedure. That is why I wanted to find out from the Clerk the timing of that letter. It shows that it was received here at 5.20 p.m. today. Therefore, the Clerk was trying to find out whether it is possible to proceed for the convenience of the House. But if the House feels that you need the name of the candidate that has withdrawn to be crossed-out in the manner provided in Standing Order No.8, then I will direct that if the House has agreed, that we adjourn to give the Clerk time to cross-out and do other ballots with only two names---

The Member for Garissa Township (Mr. Aden Duale): On a point of order, Mr. Speaker, Sir. First and foremost, I want to congratulate you for the election victory that you have just received. The rules of the game of this House are very clear. Standing Order No.1 gives you the discretion to rule. But before I go there, it is very suspect for a candidate to withdraw at 5.20 p.m. and yet, the same candidate's co-sponsor is raising the alarm.

Mr. Speaker, Sir, there are two options to this issue. One, use Standing Order No.1 to rule or let the three candidates continue and we pick the best as a House.

Mr. Speaker: Order, hon. Members! I will make this direction. This is not a contentious matter and I even do not know why it should even excite us. The clerks will stand at the Table and as every hon. Member is called to vote, the name of the candidate who has withdrawn will be crossed-out.

So, proceed Clerk.

(The Clerk opened the ballot box and displayed it to the hon. Members)

(Ballot papers were distributed to the hon. Members)

(Hon. Members proceeded to vote)

Order, hon. Members! The hon. Members who are standing can resume their seats. Is there any Member who has not voted? If there will be such Member, they are advised to proceed with speed to the Clerk's desk. Since there is nobody that appears to be proceeding to the polling booths, I direct that the Clerk proceeds to count the ballots.

The Clerk of the National Assembly (Mr. Bundi): Hon. Members, the counting is about to begin and we want counting agents to be near the Dispatch Box. The counting agents for hon. Joyce Laboso are hon. Alice Wahome and hon. Alfred Keter. The agents for Aden Abdikadir are hon. Abdullahi Diriye and hon. Sheriff Nassir. There is a change for the agents of Aden Abdikadir. Hon. T.J. Kajwang replaces Abdullahi Diriye.

(The clerks proceeded to count the votes)

Mr. Speaker: Order, hon. Members! Could the hon. Members in the House resume their seats? The hon. Members coming in, please hasten. Hon. Members, I wish to announce the results of the elections for the position of Deputy Speaker for the National Assembly. The results are as follows:-

NAME	VOTES
Aden Abdikadir	90
Dr. Laboso Joyce Cheronno	254
Total Number of Valid Votes Cast	344
Spoilt ballot papers	Nil
Abstention	Nil

Hon. Members, as you know the requirements with regard to threshold for election to the position of Deputy Speaker of the National Assembly is similar to that of the Speaker of the National Assembly with regard to the number of votes received. For a candidate to be declared to have won the first round, he is required to score not less than 233 votes given the size of our legislature. Therefore, as clearly can be seen, hon. Dr. Joyce Cheronno Laboso, having garnered 254 votes, has scored way above the two-thirds threshold required by the Standing Orders. I direct that hon. Dr. Joyce Laboso be escorted. She does not have to be searched for since you know she is an elected Member of Parliament. So, she is in the House.

*(Hon. Joyce Cheronno Laboso was escorted
to the Chair by hon. Midiwo
and hon. Amina Abdalla)*

*(The Speaker accordingly declared
hon. Joyce Cheronno Laboso elected Deputy Speaker
of the National Assembly and administered the oath
to her accordingly)*

(Applause)

ADJOURNMENT

Mr. Speaker: Hon. Members, that concludes the business of today. The House is, therefore, adjourned to a date to be announced later.

The House rose at 7.30 p.m.