

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 3rd February, 1998

Eighth Parliament - First Session - First Day

*(Eighth Parliament established by proclamation
Legal Notice No. 7 of 20th January, 1998)*

The National Assembly met at 2.30 p.m. at Parliament Buildings on Tuesday, 3rd February, 1998, it being the first day of the first meeting of this National Assembly.

ARRIVAL OF HIS EXCELLENCY THE PRESIDENT

(The Clerk announced the arrival of His Excellency the President, the Hon. Daniel Toroitich arap Moi, M.P.)

(His Excellency the President, the Hon. Daniel Toroitich arap Moi, M.P. took his seat on the Front Bench as the Member for Baringo Central)

(The proceedings were opened with a prayer read by the Clerk)

PAPER LAID

The following Paper was laid on the Table:-

List of hon. Members of the House.

*(By the Deputy Clerk of the National Assembly
(Mr. J.H. Tsola)*

Mr. Kibaki: On a point of order!

The Clerk of the National Assembly Mr. Masya): The Clerk does not accept and does not raise a point of order. There is no provision for that! Under your own rules---

(Loud consultations)

As the experienced Member for Othaya knows, the House or the Clerk is not in a position to answer the questions that you want to raise. I would like to request hon. Members to sit down so that we can continue with the election of the Speaker.

Hon. Members, pursuant to the powers conferred on His Excellency the President, the hon. Daniel Toroitich arap Moi, under Section 58(1) of the Constitution of Kenya---

(Several Opposition Members stood up in their places and waved placards)

Hon. Members: No more killings! No more killings!

The Assistant Minister for Transport and Communications (Mr. Nassir): No more tribalism! No more tribalism!

(Several Opposition Members broke into a song while waving placards)

Hon. Members: Oooh, KANU yavunja nchi! Oooh, Moi avunja nchi! Oooh, KANU yavunja nchi! Oooh, Moi avunja nchi!

ELECTION OF THE SPEAKER

The Clerk of the National Assembly, Japhet Kithuku Masya, Esq., explained the procedure required for the election of the Speaker pursuant to the provisions of Section 37(1) of the Constitution of Kenya and Standing Order No.4, paragraphs (4) to (9). He stated that two nomination papers had been received by him for the Office of the Speaker, those of Messrs. Kausai Francis Xavier ole Kaparo and Njehu Gatabaki.

The Clerk further explained that there would be two Clerks standing on both sides of the Table. He explained that there would be one ballot box and that the ballot papers would be issued on both sides of the Dispatch Box. He explained to the Members the side from which they would pick their ballot papers, which they would mark and insert in the ballot box. He then asked the Sergeant-At-Arms to bring the ballot box.

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

(The Clerk started calling out the names of hon. Members)

The Clerk of the National Assembly (Mr. Masya): Is there any Member who has not voted, other than Mr. Muite?

Members: No!

The Clerk of the National Assembly (Mr. Masya): Okay. Standing Order No. 4 states as follows:-

"When it appears to the Clerk that all Members who are present and who wish to vote have placed their ballot papers in their ballot box, the Clerk shall unlock the box, examine the ballot papers and, having rejected those unmarked or marked otherwise than as prescribed in paragraphs 5 and 9 of this Standing Order, report the result of the ballot; and no Member who has not already recorded his vote shall be entitled to do so after the Clerk has unlocked the ballot box".

So, from there we are proceeding to unlock the box and start counting the votes.

(The Clerk unlocked the box and proceeded to count the votes)

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

NAME	VOTES
Kausai Francis Xavier ole Kaparo	157
Njehu Gatabaki	60
Spoiled papers	4

(The Clerk accordingly declared hon. Kausai Francis Xavier ole Kaparo elected Speaker of the National Assembly and directed the Sergeant-at-Arms to search for the said ole Kaparo and bring him to the Chamber).

(Applause)

(On arrival of hon. Kausai Francis Xavier ole Kaparo in the Chamber, he was escorted to the Chair by the Minister for Planning and National Development, Prof. Saitoti, and the hon. Mwai Kibaki)

(On arrival at the Chair, the Clerk thereupon administered the Oath of Allegiance to the Speaker-elect, the hon. Kausai Francis Francis Xavier ole Kaparo)

(The Speaker, hon. Kausai Francis Xavier ole Kaparo, 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 MR. SPEAKER TO THE WILL OF THE HOUSE

Mr. Speaker: Order, hon. Members! Your Excellency and hon. Members, I take this opportunity to thank you for bestowing upon me the singular honour of being your Speaker. I am touched by the confidence you have reposed in me as a House. On my part, I will strive to the best of my ability to serve this august House. As the last Parliament in this century, and the first in the second, this Parliament, the Assembly of representatives of the people of Kenya, must face the challenges of the future with a clear vision to keep the hopes and aspirations of the Kenyan people alive. As a House, we shall be called upon to give leadership, not only on economic liberalisation, but also on political liberalisation. This House must, therefore, begin by liberalising itself.

We shall be called upon to provide leadership in the area of national unity. We should not be an example in sectarian disunity. As a House, we must provide leadership for hard work, devoid of mudslinging, malice, ill-will, rumour and personalised attacks. Our debates should target ideas and ideals. As we head towards the next century, the House must create an environment that will enable honourable Members to give their best to society. This will entail the provision of space, material and personnel to enable Members discharge their duties to the country and to their electorate. This will call for resources and goodwill from all concerned.

Parliament is about persuasion and not coercion. Members must strive to convince their colleagues by reason and not by intimidation and/or threat, to enlist support for whatever cause is being hatched. At the end of the day, it is the numbers that will count and not the language used. I urge all honourable Members to use civil language at all times in this House.

The job of the Speaker is to regulate debate in the House. To do this, the Chair has to enforce strict compliance with your own rules of procedure as set out in the Standing Orders and also as established by precedent, usage and customs of this House and related jurisdictions.

The Speaker has also to ensure that due decorum and dignity are maintained in the House at all times. In discharging my duties as Speaker, I will protect the rights and privileges of all Members. Furthermore, I will facilitate participation in the proceedings of as varied opinions as there are in the House. I will ensure that the minority will have their say, while the majority will have their way. This is the whole concept of Parliamentary democracy. This is your House and I am your servant. I therefore, do now submit myself to the will of this House.

ELECTION OF THE DEPUTY SPEAKER

The Clerk explained the procedure required for the election of the Deputy Speaker, pursuant to the provisions of Standing Order No. 4(3). He explained that a candidate who is not a member is qualified to be elected under Sections 34 and 35 of the Constitution of Kenya. He stated that he had issued five and received back four nomination papers for the Office of Deputy Speaker, those of hon. Martha Wangari Karua, hon. George Welime Kapten, hon. Dr. Mukhisa Kituyi and hon. Joab Henry Onyango Omino. He further stated that he had received a written notification in which one of the candidates, hon. George Welime Kapten, had withdrawn from the race.

(The Clerk opened the Ballot Box and displayed it to the hon. Members)

Mr. Speaker: Order! Order, hon. Members.

The Clerk started calling out the names of hon. Members after which he proceeded to explain the procedure required for the election of Speaker pursuant to Standing Order No. 4(7).

*(The Clerk unlocked the ballot box and
proceeded to count the votes)*

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

NAME VOTES

Dr. Mukhisa Kituyi-32
Ms. Martha Wangari-47
Mr. Job Henry Onyango Omino-141

The Clerk explained that pursuant to Standing Order No. 4(8) in the election of Speaker, if a candidate has not been supported by two-thirds of all the Members, a further ballot shall be held.

*(The ballot box was opened and displayed
to the hon. Members after which the
second round of voting started.)*

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members.

*(The Clerk started calling out
the names of hon. Members)*

Mr. Speaker: Order! Order, hon. Members!

*(The Clerk opened the ballot box
and proceeded to count the votes)*

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

NAME	VOTES
Joab Henry Onyango Omino	151
Martha Wangari Karua	51
Dr. Mukhisa Kituyi	20

*(The Clerk accordingly declared the
hon. Joab Henry Onyango Omino) elected
Deputy Speaker of the National Assembly)*

Mr. Speaker: Order! Hon. Members, it is now time for me to swear hon. Members in, as Members of the National Assembly. I will ask the Clerk to read again, the names of the Members in alphabetical order, one by one.

Mr. Orengo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Orengo! Until you are sworn in---Part of the procedure is that you should follow the procedure. The procedure is: Until you are sworn in, you cannot participate in any business of the House.

(Mr. Orengo stood up in his place)

Order, hon. Orengo! Order means you should sit down! The rules of the House are not made by me. They are made by the House. The rules are such that they state very clearly that unless a Member has been sworn in, that Member cannot participate in the business of the House. So, if any hon. Member wants to participate in the debate--- In fact, under ordinary circumstances - hon. Orengo has been here for a long time - except on the first day after dissolution of the House, an MP-elect, when he or she comes to the House, will sit at the back, and will be brought forward to take the oath, and then proceed to take his or her seat and participate. But nevertheless, can I hear what you have to say?

Mr. Orengo: I am very happy! I have just voted for you and you should give me this opportunity.

The oath that we are going to take is in accordance with the Constitution and the Promissory Oaths Act.

Mr. Speaker, Sir, if we read the Promissory Oaths Act, the oath that we are about to take, it is very different from oaths taken in other countries because we are going to owe allegiance to the President who has also taken an oath to protect and defend the Constitution. I am going out of my way to swear an oath to owe allegiance to the President, who is required under Section 23 of the Constitution; being the one who has the executive authority of the Government and not Parliament, to take care of the lives of the people of this country. If you read the Presidential Oath, it behoves on that office to take care of the lives and the people of this country.

(Applause)

Mr. Speaker, Sir, all I am saying is that I am going to swear allegiance to the President, but the President must also stick to his oath to take care of the families and people in this country. When an Assistant Minister, who has not taken oath, says that if hon. Kibaki's petition succeeds there will be war, he is subverting the Constitution. He is also subverting the Judiciary.

(Applause)

Mr. Speaker: Order! Order, Mr. Orengo!

Mr. Orengo: We do not want anybody to take an oath in vain!

Mr. Speaker: Order! Order, Mr. Orengo!

Mr. Orengo: I am going to take this oath, but does that stop him from being---

Mr. Speaker: Order! Order! That was not a point of order. The hon. Member wanted to make a point contrary to the rules of the House by participating in debate before he is a Member. So, can we now have Members being sworn in?

ADMINISTRATION OF OATH

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

H.E. Hon. Daniel Toroitich arap Moi

(Hon. Members sat down)

Achola George Henry Owino
Achuka Francis Ewoton
Affey Mohamed Abdi
Ali Abdullahi Ibrahim
Amin Sayid Mohamed
Anangwe Amukowa Fredrick
Angwenyi Jimmy Nuru Ondieki
Anyona George Moseti
Aringo Peter Oloo
Awiti Paul Adhu
Awori Arthur Moody
Ayoki Winston Ochoro

Badawy Abubakar Mohamed Ahmed
Biwott Kipyator Nicholas Kiprono
Chanzu Yusuf Kifuma
Choge Simeon Kiptum

(Loud consultations)

Mr. Speaker: Order! Order! Hon. Members, the swearing-in is a solemn occasion. Taking an oath is a solemn occasion. So, can we give the occasion the dignity it deserves?

(The Swearing-in continued)

Basil Criticos.

Joseph Akech Donde.

Mr. Speaker: Order! Order! I would like to advise the hon. Members who are new to House that, upon signing the book of Oath, you will proceed straight to the Bar, bow to the Chair from there and then take your seat.

An hon. Member: What does the Bar mean?

Mr. Speaker: The Bar means where you enter the House.

(Laughter)

(The Swearing-in continued)

Albert Alexander Aggrey Ekirapa.

David Ekwee Ethuro.

Gurrach Boru Galgalo.

Mohammed Abdi Galgalo.

Bonaya Adhi Godana.

Njehu Gatabaki.

Philip Gichuru Gitonga.

Fredrick Omulo Gumo.

Gitobu Imanyara

Silas M'njamiu Ita

Shakhalaga Khwa Jirongo

Peter Kyalo Kaindi

Ramadhan Seif Kajembe

Gerald Otieno Kajwang

Fredrick Mulinge Kalulu

Jackson Itirithia Kalweo

Maina Kamanda

Thirikwa Kamau

Suleiman Mwaronga Kamolleh

Felix Useru Kanyauchi

David Munene Kairu

George Welime Kaptan

Mathew Adams Karauri

James Njenga Karume

Martha Wangari Karua

Augustine Njeru Kathangu

*(Mr. Kathangu added some words
to the prescribed oath)*

(Laughter)

Mr. Speaker: Order! Order! I would like to ask hon. Members to take the oath as prescribed by law and not to add or leave out anything.

John Mutua Katuku

Mathias Benedict Keah

John Matere Keriri

Ignatius Ngenye Kariuki

Daniel Lyula Khamasi

James Kareu Kibicho

Paul Samuel Kihara

George Munyasa Khaniri

Mwai Kibaki

Jimmy Muthusi Kitonga

John Ronald Kiluta

Dickson Kihika Kimani

Jonesmus Mwanza Kikuyu

Anthony Kipkosgei Kimeto

Samuel Kalii Kiminza

Wanyiri Kihoro

Joseph Naibei Kimkung

Andrew Chepkoiywa Kiptoon

Charles Davy Kipng'etich arap Kirui

Kipruto arap Kirwa

Raphael Kiprono arap Kitur

Mukhisa Kituyi

Festus Mwangi Kiunjuri

John Munyes Kiyonga

Robert Iltaramatwa Kochalle

Tola Mugava Kofa

David Noti Kombe

Musikari Nazi Kombo

Kipkalya Kiprono Kones

Henry Kiprono Kosgy

James Cheruiyot Koske

Newton Wanjala Kulundu

Joseph Mukera Kuria

Francis Kipkoech Lagat

Peter Steve Lenges

Sammy Pirisa Leshore

Joseph Tendenei arap Leting

Christopher Motoywo Lomada

Joseph Dalldosso Merii Lotodo

Francis Pollis Loile Lotodo

Enock Nyankieya Magara

Marsden Herman Madoka

Mohamed Abdi Mahamud

Francis Njakwe Maina

Emmanuel Karisa Maitha

Jesse Kibet arap Maizs

Shadrack Rogers Mwitanga

Richard Maoka Maore

Yekoyada Francis Masakhalia

Darius Msagha Mbela

Francis Chege Mbitiru

John Kiptoo Marrirmoi

Onesmus Mutinda Mboko

John Njoroge Michuki

Simeon Mwero Mkalla
Hussein Maalim Mohamed
Charfano Guyo Mokku
Eric Toroitich Morogo
William Cheruiyot Morogo
Sheldon Washington Sakwa Muchilwa
Adolf Isaac Muchiri
Wycliffe Musalia Mudavadi
Joseph Jolly Mugalla
Paul Kamau Mugeke
Beth Wambui Mugo
John Barasa Munyasia
Moses Ng'ang'a Muihia
Patrick Kariuki Muiruri
Paul Kibugi Muite
David Wakairu Murathe
Kiraitu Murungi
David Musila
Stephen Kalonzo Musyoka
Muriuki Karue Muriuki
David Muhika Mutahi
Bernard Njoka Mutani
Paul Gikonyo Muya
Marere Mwarapayo wa Mwachai
Jembe Mwakalu
Basil Nguku Mwakiringo
Onesmus Kihara Mwangi
Paul Githiomi Mwangi
Peter Kamande Mwangi
Cicilio Murango Mwenda
David Solomon Kamau Mwenje
David Mwiraria
Shariff Taib Nassir
Stephen Ndambe Ndicho
Gideon Musyoka Ndambuki
Alfred Mwangi Nderitu
Anthony Wambua Ndilinge
Benjamin Ravel Ndubai
Peter Njeru Ndwiga
Noah Katana Ngala
Kipng'eno arap Ng'eny
Charity Kaluki Ngilu
George Odeny Ngure
Joseph Kimeu Ngutu
David Manyara Njuki
Adan Mohamed Nooru
William Rongora ole Ntimama
Stephen Kanyinke Ntutu
Simeon Nyachae
Joseph William Nthiga Nyagah
Norman Munene Gathakari King'ang'i
Nyagah
Zaphaniah Morara Nyang'wara
George Boniface Njau Nyanja
Francis Mwanzia Nyenze
Christopher Mogere Obure

Henry Onyancha Obwocha
George Ochilo Mbogo Ayako
Shem Odongo Ochuodho
Raila Amolo Odinga
Harrison Aywa Odongo
Peter Ochieng Odoyo
Joshua Orwa Ojode
Robert Ng'ong'a Molo Oburu Oginga
Chrysanthus Okemo
Herman Odhiambo Omamba
William Odongo Omamo
Joseph Kiangoi Ombasa
Joab Henry Onyango Omino
Samson Kegengo Ongeru
Tom Otieno Onyango
Zebedeo John Opore
James Aggrey Orengo
Wycliffe Osundwa
Geoffrey Paul Orwa Otita
William Oloo Otula
Geoffrey Mepukori Parpai
Samuel Losuron Poghisio
Sammy Kimutai arap Rotich
Isaac Kiprono Ruto
George Saitoti
Mohamed Hashim Salim
John Kipkorir Sambu
William Ruto Samoei
Kipkorir Marisin Sang
David Lenante Sankori
Abdi Tari Sasura
Ali Isaack Shaaban
Suleiman Rashid Shakombo
Molu Galgalo Shambaro
Mohamed Mukhtar Shidiye
Elias Bare Shill
Peter Soita Shitanda
Lawrence Simiyu Sifuna
Musa Cherutich Sirma
David Kiprono Sutter Sudi
Elijah Kipkosgei Sumbeiywo
Paul Mulwa Sumbi
Eric Gor Sungu
Julius Lekakeney ole Sunkuli
Joshua Ngugi Toro
Fahim Yasin Twaha
Athanas Misiko Wamunyinyi Wafula
Mwangi Kirika Waithaka
Abdullahi Haji Wako
Eliud Matu Wamae
Michael Christopher Kijana Wamalwa
Francis Philip Wambua
Joseph Pius Wamukoya
Raphael Bitta Sauti Wanjala
Adan Keynan Wehliye
Mohamed Dahir Werah

Sitswila Amos Wako
Mohamed Malicha Galgalo
Raphael Bitta Sauti Wanjala
Mohamed Yusuf Haji
John Joseph Kamotho
Zipporah Jepchirchir Kittony
Richard Eskirne Frere Leakey
Maryam Mohamed Matano
Grace Mueni Mwewa
Joseph Konzollo Munyao
Peter Anyang' Nyong'o
Rashid Mohamed Ali Sajjad
Tabitha Jeptoo Seii
Mark Kiptarbei Too

POINT OF ORDER

TRIBAL CLASHES IN THE RIFT VALLEY

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Now that I am properly elected and a recognised Member of Parliament, and you are properly considered as the Speaker, after thanking you and congratulating you for your election, I wish to move, under the provisions of Standing Order No. 20, that the House do adjourn to discuss a matter of

definite national importance. In this matter, there is a little complication. That, whereas the subordinate qualifications in our Standing Orders provide a two hour notice to the Speaker, prior to the raising of a Motion of adjournment under Standing Order No. 20, you noticed that it was announced before the House at the appropriate time, but there was no Speaker in this House. Therefore we are under unique circumstances, while the wisdom of those who have given such overwhelming endorsement, will seek that the Chair recognises the urgency of the matter, of the continuing genocide in parts of this country, and that whereas we have accepted that instead of mass action as a primary method of expressing outrage as elected leaders of this country, we consider that it is our responsibility, at the earliest possible moment, to sit and reason together, to find what is the most amenable method of ending this genocide, before it engulfs the whole country.

Mr. Speaker, Sir, I wish, therefore, to request the hon. Members of the House and the Chair, that this House does meet tomorrow morning, in a special session to look at how we can collectively end this madness that is engulfing our country.

Mr. Speaker: Order! Dr. Kituyi attempted to raise a Motion under Standing Order No. 20, and at the end of his submission, he also asked me to call for a special session of the House tomorrow, without stating under what Standing Order. But I will take the first Standing Order as it is. Dr. Kituyi does admit that under Standing Order No. 20, for a Motion to have a *locus standi*, it must have been handed in to Mr. Speaker, through the Clerk of the National Assembly, two hours before the sitting of the House. I appreciate that Dr. Kituyi does appreciate that there was a handicap. Number one, until the House met at 2.30 p.m., there was no House constituted. Again, when the House is prorogued, Mr. Speaker does not deal with any matter because there is no House. Therefore, it means that there was no House. All of you gathered here and you were ultimately sworn in. The fact of the matter as

it is, is that there is no Motion submitted to Mr. Speaker in writing, as stipulated under Standing Order No.20, either within two hours, or even without two hours. The fact of the matter is that there is no Motion. There being no Motion, Mr. Speaker cannot approve what there is not. In any case, even if there was such a Motion, and even if I were to agree with the sentiments expressed by Dr. Kituyi, I am handicapped in the fact that under Standing Order No.20, the Speaker has got no leeway. A Member wishing to take advantage of Standing Order No.20 must comply with all its provisions. The Speaker has no discretion as to waiving the time and accepting a Motion that is not written. As to his last request, that the House does meet tomorrow, if Dr. Kituyi looks at the Standing Orders from Nos. 17 to 23, as a matter of fact, I have no choice now, after His Excellency the President has left, but to adjourn the House until tomorrow at 9.00 a.m. I cannot do otherwise than to adjourn the House.

Meanwhile, I will ask the hon. Members to stand for His Excellency the President as he takes his leave.

DEPARTURE OF HIS EXCELLENCY

THE PRESIDENT

*(Hon. Members rose in their places while
His Excellency the President left the Chamber)*

ADJOURNMENT

Mr. Speaker: Order! Hon. Members, the House is adjourned until tomorrow, Wednesday, 4th February, 1998, at 9.00 a.m.

The House rose at 7.00 p.m.

PROROGATION OF PARLIAMENT

First Session of the eighth Parliament prorogued on 3rd February, 1998 - Legal Notice No.8 of 1998.