

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd September, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.073

STALLING OF WORKS ON MACHAKOS- KITUI/ MACHAKOS-KANGUNDO ROADS

Dr. Munyaka asked the Minister for Roads:-

(a) why M/s H-Young Road Contractors have abandoned works at the Machakos Town streets, Machakos-Kitui Road (8-km portion) and Machakos-Kangundo road (5-km portion); and,

(b) when the contractor will complete the works, considering the danger posed by the abandoned works to motorists and other road users.

Mr. Speaker: Mr. Minister for Roads! We will leave that Question and revert to it a little later on.

Member for Keiyo North Constituency!

Question No.205

NUMBER OF SENIOR POLICE OFFICERS PREMATURELY RETIRED SINCE 2007

Mr. Chepkitony asked the Minister of State for Provincial Administration and Internal Security:-

(a) if he could state the number of senior police officers of (or above) the rank of Deputy Commissioner of Police who have been prematurely retired or displaced since 2007, indicating their respective names and reason(s) for removal;

(b) if he could list the number and names of senior police officers of (or above) the rank of Deputy Commissioner of Police who have retired, but are still serving on contract; and,

(c) why Mr. Bernard Kimeli, a former Senior Deputy Commissioner of Police II, was retired prematurely while serving as the

Commandant at the Kenya Police College, Kiganjo?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I wish to apologize for not being able to answer Questions this morning because I came late. I had five Questions. Three of them were to be answered by my colleague who is on official duty in Arusha. The delay was caused by the fact that I was trying to establish certain facts with regard to this Question. Above all, there was also an assumption that the House was going on Recess, of course, wrongly by my officials. I do apologize. I have made internal arrangements to ensure that in future, this kind of thing does not occur.

So, Mr. Speaker, Sir, I wish to ask for your permission to continue to transact the business of the House.

Mr. Speaker: Mr. Assistant Minister, your explanation is understood because you have explained the circumstances surrounding your failure to be here this morning. Yours is a good example of how seriously Ministers should take the business of this House. Members of the Front Bench who are here should note this manner of doing things. So, the order which was proclaimed this morning by the Chair is lifted and you may proceed!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Thank you, Mr. Speaker, Sir. I beg to reply.

(a) I am not aware of any police officer above the rank of Deputy Commissioner of Police who has been prematurely retired or displaced since the year 2007.

(b) The category of officers who are serving on contract are the following officers:- No. 21622, Mr. Lawrence Mwadime, Senior Deputy Commissioner of Police, his is on contract up to 30th June, 2010; No.213247, Mr. Bakari Jambeni, Senior Deputy Commissioner 11, Commandant, Kenya Police College, he is on contract up to 10th February, 2010; No.214683, Mr. John Njue Njagi, Deputy Commissioner of Police and Provincial Police Officer (PPO) Nairobi, he is contract up to 21st September, 2009; No.212879, Mr. Anthony Kibuchy Mugo, Deputy Commissioner of Police, PPO, Nyanza, he is contract up to 30th June, 2010. The above officers who are serving on contract will continue to hold office if they so apply as per circular contained in office of the President letter, OP/CABINET/2/7 dated 20th March, 2009. I quote parts of the letter. It says:- "Employees serving on contract as at 5th March, 2005 after attaining the age of 55 years will continue to serve for the duration of these contracts. Contracts expiring before the attainment of age 60 years will be renewed in accordance with the provisions of these contracts."

(c) According to our records, Mr. Bernard Kimeli, a former Senior Deputy Commissioner of Police 11, retired after attaining the mandatory age of 55 years on 3rd March, 2008.

Mr. Chepkitony: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the answer. Although I do not have the advantage of the written reply, I would like him to tell this House under what criteria some people are allowed to work on contracts while others are not allowed.

Mr. Lesrima: Mr. Speaker, Sir, for the officers who are contract it is the officers who had applied for the extension of their contract. In this particular case, Mr. Bernard Kimeli did not apply to be retained on contract.

Mr. Chepkitony: Mr. Speaker, Sir, since he has read the names, I am satisfied

with this answer.

Mr. Speaker: You are satisfied. Very well.

Next Question by Member for Kieni Constituency!

Question No.222

NON-PAYMENT OF RETIREMENT BENEFITS
TO JOSEPH MUTURI KAGWI

Mr. Warugongo asked the Minister of State for Provincial Administration and Internal Security:-

- (a) why he has not paid service and pension benefits to Mr. Joseph Muturi Kagwi (Personal Number 371347) who retired on 1st December, 1997; and
- (b) when he will pay him.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Kagwi's retirement benefits were forwarded to the Director of Pensions on 25th November, 2008, but the claim was rejected.

(b) Prior to his retirement, Mr. Kagwi was seconded to the Kenya Airports Authority (KAA) with effect from 1st July, 1992 up to and including 30th June, 1996. In this regard, the KAA drew a cheque of Kshs34,022.10 in favour of the Permanent Secretary (PS), Ministry of Finance being pension contribution for the period he was seconded to the KAA; in other words, 27.5 per cent for the employee and 31 per cent for the employer. The Ministry of Finance has produced a copy of the miscellaneous receipt in respect of the pension contribution from the KAA in order for the Ministry to pursue the claim.

Mr. Warugongo: Mr. Speaker, Sir, that retiree has been waiting for his benefits for 12 years. He has come to Nairobi to look for the money without success. He may even have spent more than he is claiming. When is he going to receive his cheque?

Mr. Lesrima: Mr. Speaker, Sir, I had referred this Question to the Office of the Deputy Prime Minister and Ministry of Finance. This person had worked for the Government as a driver up to 1992. He was then seconded to the KAA for four years. The KAA paid the portion of its pension to the Director of Pensions. The balance of the pension from the Central Government, I am told by the Director of Pensions can only be paid on production of a receipt from the PS, Treasury acknowledging the portion the KAA had submitted to the Treasury. So, this Question, ideally, should be answered by the Treasury so that it can explain what happened to the cheque that was paid to them by the KAA. But the matter has been referred to me and I have been trying to pursue it and I have not yet been able to get a sufficient answer from the Treasury as to why they keep on asking for that receipt and yet they are the ones who received the cheque from the KAA.

Mr. Lekuton: Mr. Speaker, Sir, every nation that cares about its citizens must have a plan. When you retire, you must have a plan. Does the Government have a national management preparedness plan for the people who retire? In other words, are you given enough counseling to tell them that as soon as they get their money they should be able to plan it well?

Mr. Lesrima: Mr. Speaker, Sir, I do not think I got the question properly.

Mr. Speaker: Mr. Lekuton, can you repeat your question?

Mr. Lekuton: Mr. Speaker, Sir, my question is very simple. Do we have a national retirement preparedness policy plan for those people who retire? In other words, how are we preparing them as they go to retirement?

Mr. Lesrima: Mr. Speaker, Sir, yes, there is adequate notification for the officer to begin to prepare himself for retirement. There is also adequate notification for him to produce all the necessary requirements.

Mr. Lekuton: On a point of order, Mr. Speaker, Sir. I asked the Assistant Minister to tell us if there is any financial plan being given to people who retire.

Mr. Speaker: Order, Mr. Lekuton! That question now becomes different.

Mr. Lekuton: Does it?

Mr. Speaker: Yes! Initially, you asked: Is there any plan to prepare retirees for retirement and the Assistant Minister answered. He said, yes! Now you are changing to say: Is there any financial preparation? That is different!

Mr. Lekuton: Mr. Speaker, Sir, I thought it is not!

Mr. Speaker: Order!

Mr. Ngugi: Mr. Speaker, Sir, listening to the answer from the Assistant Minister, one is left to wonder whether common people do not matter. Here is one department of the Government talking to the other department and they cannot get an answer to pay a common man his retirement benefits. We are left wondering whether this Government cares for this person who served it so faithfully as not to sort out this matter. Does the Government really care for the people who serve it faithfully?

Mr. Lesrima: Mr. Speaker, Sir, indeed, the Government cares for the people who are under its service. But as I said, this person worked under the Public Service up to 1992 when he joined the KAA. The KAA has played its part by submitting the benefits to the Treasury. The Treasury should now take action to finalize the calculation of the rest of the pension while he was in the Public Service. This Question basically is a Treasury matter but I am willing and I have been following this particular case personally to ensure that at the end of the day, the person is assisted whether by Treasury or the Provincial Administration.

Mr. Warugongo: Mr. Speaker, Sir, I think the Assistant Minister should assure us when the cheque for this retiree will be received and whether it will also include a 12-year interest so that that beneficiary can have something. Otherwise as I said before, he may have spent over the amount---

Mr. Speaker: Order, Mr. Warugongo! You have done your part!

Mr. Lesrima: Mr. Speaker, Sir, I will continue to pursue the matter because I have managed to trace a copy of the cheque that was submitted by the KAA. What the Treasury is lacking is the receipt acknowledging that cheque. So I am following up this matter vigorously.

Question No.239

NON-SUPPLY OF RELIEF FOOD TO
NDUNGULU IDP CAMP

Ms. Chepchumba asked the Minister of State for Special Programmes:-

(a) why displaced persons at Ndungulu IDP camp have not been supplied with relief food from 19th December, 2008 and yet the Government had undertaken to feed them until the 31st of March, 2009; and

(b) when the construction of houses for them will be completed.

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Speaker, Sir, I beg to reply.

(a) The Ndungulu IDP camp was closed on 6th January, 2009 and food to the area - it is true as the hon. Member has raised - was delayed for some time but the situation has since been corrected and food has been going to the area regularly.

(b) The IDPs whose houses were burnt down have been properly compensated with Kshs25,000 each like all other IDPs in the country, and as to when they will construct their own houses is solely upon the IDPs themselves.

Ms. Chepchumba: Mr. Speaker, Sir, I am disappointed by the answer given by the Assistant Minister that there has been food being supplied to those people regularly when he very well knows that when I asked this Question, they quickly moved in to supply food for the first time after almost a year. Could he explain this?

Mr. M.M. Ali: Mr. Speaker, Sir, I said there was a delay which was noted and the people concerned were suspended. But since then, for the information of the hon. Member, food is sent to the District Commissioners so that it may be redistributed within the district to all the needy persons, including the Internally Displaced Persons (IDPs). Hon. Members are members of the committees which are in charge of redistribution of the food in the districts and they should be able to know who should be given priority. But as I have said, the delay was corrected immediately and for the larger district, food has been sent regularly. In fact, even two weeks ago, the three districts in the area got 1,000 bags each for you and the general committee to distribute to the needy in the district.

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, it is really a pity that two years down the line, we still have IDPs in camps. When is the Government intending to have these IDPs fully resettled, such that there will not be other IDPs that we will be talking about in this House?

Mr. M.M. Ali: Mr. Speaker, Sir, I think time and again, hon. Members have raised concerns that it is actually a pity to have IDPs in the camps up to now. But, in fact, as much as I acknowledge that, it is indeed a pity, in the first place to have occasioned situations to call for IDPs in the country. We must appreciate how we began this kind of problems. However, I have been explaining severally that as we embarked on the resettlement of the IDPs across the country, it was overwhelming and we ran out of finances in the latter part of last year. I confirm on the Floor of this House that, two or three weeks ago, these finances have now been availed in the Budget for this financial year and when all the finances are released, the exercise will go on smoothly. When this House passes the last batch, then we will be through with the resettlement exercise.

Thank you, Mr. Speaker, Sir.

Mr. Jamleck Kamau: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade answering the questions I have asked, because I want a commitment from the Government as to when IDPs will be fully resettled in this country?

Mr. M.M. Ali: Mr. Speaker, Sir, we have funds that cover up to the end of this financial year. So, by the end of this financial year, no single genuine IDP will be left in the camp.

Mr. Mbugua: Is it true that there are nomad IDPs who move from one camp to the other? What is the Government doing to ensure that these people are not the people who are paid?

Mr. M.M. Ali: Mr. Speaker, Sir, indeed, what the hon. Member is saying is true and I have raised this issue repeatedly; that there are some IDPs who, even after they are properly paid, they go and relocate elsewhere, pitch their tents and claim that they have not been paid. Of late, whenever we pay anybody, we recover their tents so that they will not be able to claim that they have not been paid and pretend as they have been doing. So, thank you very much for your observation and, please, other hon. Members, kindly help us to curb this kind of a scenario.

Thank you, Mr. Speaker, Sir.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has just said here that they now have money in the Government for the IDPs. I am wondering why the payment which was given last week did not also include Kshs25,000 which was meant for the second batch, if the money is there?

Mr. M.M. Ali: Mr. Speaker, Sir, I am not very clear about his question. If he does not mind, can he just clarify and can the hon. Members consult in low tones?

Mr. Speaker: Mr. Pesa, can you repeat the question quickly?

Mr. Pesa: Mr. Speaker, Sir, I remember in Migori last week, we got the first payment of Kshs10,000 for the IDPs and we still expect the Kshs25,000 to come to Migori along with other places. So, I am wondering; if they had money in the Ministry, why did they not give us Kshs35, 000 per IDP so that we complete the exercise.

Mr. M.M. Ali: Mr. Speaker, Sir, these monies are being paid systematically; you do not just wake up one day and pay everything. You know how matters to do with money are sensitive. We want to pay and clear the Kshs10, 000 first and then the Kshs25,000 will follow according to the plan which the Ministry has in place. Furthermore, if hon. Members want all the money to be paid at once, they should, first, pass the Appropriation Bill and then we will clear everything at once.

Thank you, Mr. Speaker, Sir.

Ms. Chepchumba: Mr. Speaker, Sir, I would like the Assistant Minister to tell the House when the next allocation and distribution of food will be made to the same people.

Mr. M.M. Ali: Mr. Speaker, Sir, as everyone knows and appreciates, across the country, food is being distributed to all needy areas. This food will continue being distributed also in her constituency. It is upon her to give it to those needy people in her area.

Question No.244

BREAKDOWN OF SALARIES/BENEFITS PAID

TO PERMANENT/DEPUTY SECRETARIES

Mr. Mututho asked the Minister of State for Public Service:-

- (a) if he could provide a breakdown of the respective salaries, allowances and all other benefits paid to all the Permanent Secretaries and their deputies in all Ministries; and,
- (b) if he could explain the justification for discrepancies and variance between the salaries paid to these officials is.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

- (a) I wish to lay on the Table the full breakdown of the salaries and allowances of all the 42 Permanent Secretaries, giving their names and the Ministries under which they are serving at present.

(Mr. Otieno laid the document on the Table)

Mr. Speaker, Sir, it will be noted from that list that Permanent Secretaries are deputized in different Ministries by Secretaries, Senior Deputy Secretaries, Directors and Deputy Secretaries. The Permanent Secretary's basic salary ranges from Kshs213,640 to Kshs423,280. Entertainment allowance is Kshs80,000 per month, house allowance is Kshs80,000 per month, extraneous allowance, Kshs70,000 per month, domestic staff allowance, Kshs15,600 and then there is club membership and medical benefit. Transport is provided.

The deputies have different ranges which I have given in the answer; the directors also the same. As for the senior deputy secretaries and deputy secretaries, I have given details in the answer.

(b) The variances in remuneration have their basis on the salary banding structure already approved by the Government. This is based on the scope of responsibilities, level of accountability and job complexity. In this regard, the Permanent Secretaries and Secretaries are in the same salary band with justifiable differentials in their salaries and allowances in view of the reasons above. Other reasons include the need to offer incentive pay to attract Permanent Secretaries and Secretaries who possess skills and competences regarded as essential in achieving the objectives of the Ministry. The skills and competences based pay is, in this regard, applicable mainly to officers who have been head-hunted from international organizations and the private sector. Currently, only two Permanent Secretaries have this pay level beyond the pay band that I have indicated.

The Government has already completed an actuarial study to introduce a comprehensive medical insurance scheme for all levels of public servants. This will further reduce the benefit gap between the Permanent Secretaries and their deputies when everybody will be enjoying harmonized medical services.

Mr. Mututho: Mr. Speaker, Sir, I thank the Minister for a very comprehensive answer. For the benefit of the hon. Members who have not gone through the list, the salaries range between Kshs213,000 per month to slightly over Kshs1 million depending on the Ministry.

What I find odd, Mr. Speaker, Sir, with your indulgence, is that in 14 Ministries, the house allowances are higher than the salaries for those Permanent Secretaries. What informed the decision by this Ministry to pay house allowances higher than what they have stipulated at Kshs80, 000 and constantly pay over Kshs250,000?

Mr. Otieno: Mr. Speaker, Sir, I thought that Mr. Mututho would read out these figures a little better than average. I have given him the breakdown of the allowances for Permanent Secretaries. These allowances are entertainment, house, extraneous, domestic staff, club membership and medical. That is what adds up to the figure of allowances. It is not that any allowances are higher than salaries.

Secondly, I have indicated that there are only two Permanent Secretaries whose payments are outside the range which I mentioned of Kshs213,640 to Kshs423,280. This is the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Finance and the Permanent Secretary, Ministry of Trade who were recruited, one from the Central Bank of Kenya and the other from an international organization. The two Permanent Secretaries do not make the disparities the hon. Member has attempted to indicate. All the other 40 Permanent Secretaries are within the scheme of service that I have described.

Mr. Chepkitony: Mr. Speaker, Sir, I have looked at the list the Minister has tabled but it does not contain the salary of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service. How much does he earn?

Mr. Otieno: Mr. Speaker, Sir, his total is Kshs780,000. The hon. Member had asked a question about Permanent Secretaries and not the Permanent Secretary, Secretary to the Cabinet and Head of Public Service.

Dr. Nuh: Mr. Speaker, Sir, age is one of the factors in the salary scale because the older you are, the more you earn.

Mr. Otieno: Mr. Speaker, Sir, some hon. Members are in the habit of asking questions on the side. That is what Maj-Gen. Nkaissery was doing. Could I seek your indulgence---

Mr. Speaker: Mr. Minister, could you confirm that age is a factor in determining the salary a Permanent Secretary earns? The older you are, the more you earn!

Mr. Otieno: Mr. Speaker, Sir, it is the period of service which tends to be related to age and not the age itself.

Mr. Mututho: Mr. Speaker, Sir, could the Minister inform the House why five Permanent Secretaries in other Ministries cannot earn what the Permanent Secretary, Ministry of Trade earns? The salary in question is Kshs1,050,000 while the others earn Kshs213,000. So, he earns about five times what the other Permanent Secretaries earn.

Mr. Otieno: Mr. Speaker, Sir, I have explained that. The Ministry of Trade deals with international organizations. That is the core function of the Ministry – The Department of External Trade and the Department of Internal Trade. This Permanent Secretary was recruited from an international organization for that purpose and we had to bring him in with his pay. He is the only one who is paid that amount of money.

Question No.277

ISSUANCE OF TITLE DEEDS TO RESIDENTS
OF UMOJA/KARIOBANGI/DANDORA

Mr. Waititu asked the Minister for Lands:-

- (a) why he has not issued title deeds to the plot owners at Umoja I and II estates, Kariobangi South Civil Servants Estate and the whole of Dandora I, II, III and IV; and,
- (b) when he will issue the title deeds.

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, I beg to reply.

- (a) Umoja I and II estates as well as Dandora I, II, III, and IV are trust land owned by the City Council of Nairobi. Lease documents in respect of council land are initiated and processed by respective councils. Land owners in the above-mentioned estates should liaise with the City Council of Nairobi for information on their title documents. LR.No.12562 was allocated to Kariobangi South Civil Servants Housing Company Limited in 1978. The property which falls on land belonging to the Government was allocated to the civil servants housing scheme based on a tenant purchase basis. The title document for this property was prepared by the Ministry and registered in the name of Civil Servants Housing Company Limited on 16th August, 1979.
- (b) The Ministry will register documents of ownership once they are presented by the City Council of Nairobi.

Mr. Waititu: Mr. Speaker, Sir, 90 per cent of Embakasi residents do not own any title deeds. If they had, it could have been a win-win situation for the Government and the residents because they could be paying rates to the Council and at the same time access credit in the bank using the title deeds. Considering the congestion at the Ministry of Lands, could the Minister consider opening up some offices at the district headquarter at Njiru and Embakasi to settle the mess in Embakasi and issue title deeds?

Mr. Rai: Mr. Speaker, Sir, I am yet to understand where these offices are being requested because every district has Ministry of Lands officers.

Mr. Speaker: Ask the last question, Mr. Waititu!

Mr. Waititu: Mr. Speaker, Sir, we do not have any Ministry of Lands office in Njiru and Embakasi district headquarters.

Mr. Rai: Mr. Speaker, Sir, we are in the process of posting new officers to the new districts.

Question No.329

MANAGEMENT OF SEXUAL ABUSE CASES BY MEDICAL FACILITIES

Mrs. Odhiambo-Mabona asked the Minister for Medical Services:-

- (a) to indicate what steps he has taken to ensure that all medical facilities comply with the regulations on management of sexual abuse cases; and,
- (b) to state what he is doing to ensure that each facility is equipped with enough resources to enable the medical personnel who fill the P3 Form to attend court.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

- (a) Following the gazettment of the regulations on the management of sexual abuse cases earlier this year, the Minister is now in the process of revising the national

guidelines on medical management of rape or sexual violence developed in 2004 to incorporate new areas of focus, especially collection and production of evidence in court. This exercise is expected to be completed by the end of October, this year. Once completed, the revised guidelines will be disseminated and operationalized in all health facilities. In the meantime, the Ministry has waived fees for filing of P3 forms for victims of gender abuse in public hospitals. This is meant to encourage the victims to present themselves for examination and assistance.

- (b) Attendance of court after being bonded is not a matter of option for medical personnel who fill P3 forms. Failure to attend court may result in arrest. All public hospitals receive allocation for travel expenses on a quarterly basis.

Where these funds may not be enough, hospitals have the option of making additional provisions from their cost-sharing collections. These funds are available for use by medical personnel to attend court cases where the court premises are allocated far from the hospital. Where they are near, they can use hospital vehicles or walk.

Thank you, Mr. Speaker, Sir.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I want to thank the Minister for that comprehensive response, but, given that the national guidelines that have been operational since 2004 are not even available in all the hospitals, could he tell us what steps he is taking to ensure that the revised guidelines will be available in all hospitals and other health facilities?

Prof. Anyang'-Nyon'go: Mr. Speaker, Sir, the hon. Member is right. Currently, there are a number of centres of excellence for management of cases of sexual abuse. These guidelines can mainly be available in those centres at, for example, Kenyatta National Hospital, Moi Teaching and Referral Hospital, Nairobi Women Hospital and Coast Provincial General Hospital. We are going to make sure that when these guidelines are revised, by the end of this year, and disseminated, this time round, they will be available in all health facilities rather than in the key health facilities, which currently have them. This was a mistake done in the past, of not circulating the guidelines far enough, but we feel it is necessary that they be available to all hospitals, so that when the medical personnel fill up P3 Forms, they can also be fully aware of them. The guidelines are also available to those who seek to have access to them in medical facilities.

Mr. Olago: Mr. Speaker, Sir, the P3 Form is a police document that is fundamental in evidence given before courts of law, not just in sexual cases, but also in assaults and road accidents. The practice in Government now is that every time a patient wants a P3 Form filled, he is asked to pay for it, when he is not the author of what they are asking for. Under these circumstances, what is the Ministry doing to ensure that P3 Forms are filled free of charge by medical officers?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, in my reply to the Question, I had said – and I wish to restate it for hon. Olago's attention – that in the meantime, the Ministry has waived fees for filling of P3 Forms for victims of sexual abuse in public hospitals. "Waived" means they will no longer pay.

Thank you, Mr. Speaker, Sir.

Mr. Olago: On a point of order, Mr. Speaker, Sir. I asked about filling of P3 Forms in respect of other cases, and not just for sexual offences. There are traffic and assault cases.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I will have to seek clarification on that issue, because I do not know what road traffic cases and other cases have to do with paying for filling of P3 Forms. If it was within my power, they would not pay.

Mr. Speaker: The Member of Parliament for Kitui South!

Mr. I. Muoki: Mr. Speaker, Sir, we are aware that rape cases are everywhere in the country. In some areas, you find that the distances are prohibitive. We lack qualified personnel and equipment. Could the Minister assure this House that he will make sure that we have qualified personnel and equipment throughout the country, so that testing can be done in good time?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, with respect to sexual offences, we are doing our best to make sure that people who are qualified, and who are properly prepared, deal with these cases, because sexual offences are extremely sensitive and highly emotional offences that require psychological counselling and other forms of human comfort. So, nurses and doctors, who have to deal with sexual offences, must be very carefully prepared for the work they do. It is something that the four centres of excellence we have mentioned, together with the Kenya Medical Training College (KMTC), are giving very careful attention to.

When it comes to other qualified personnel in all hospitals, I have said over and over again that the baseline survey that the Ministry has completed has revealed tremendous shortages in qualified personnel in this country. For example, we have a tremendous shortage of anaesthetists in the country. The University of Nairobi produces only 13 anaesthetists per year. That means we have several hospitals with surgeons, who do not have people who are qualified in anaesthetics to carry out surgeries.

We have very few ENT specialists in the country. In the whole of Nyanza Province, we have only two ENT specialists. The University of Nairobi, again, produces very few ENT specialists. So, we not only need to produce more personnel in the country, but we also need to make sure that they are posted to these facilities to work. As I speak, I am frightened by the shortage of both qualified personnel in our health facilities as well as modern equipment. It is a crisis that this nation should pay particular attention to.

Mr. Shakeel: Mr. Speaker, Sir, could the Minister kindly confirm that they are taking action to have a women's hospital set up in Kisumu? We have proposed the elevation of Migosi Health Centre to a women's hospital. Could he confirm that, that is happening?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, we are actually collaborating with a partner to make sure that we have a women's and children's hospital in Kisumu. We know that there is already a children's hospital under New Nyanza General Hospital, but the catchment area is so big that it cannot cope with the number of patients getting to New Nyanza General Hospital. So, we do need a women's and children's hospital in Kisumu. We are happy that we have put up a modern and reasonably big mother/child hospital in Eldoret to serve the North Rift part of the country. Other parts of the country need mother/child hospitals as much as Eldoret. In the case of Kisumu, steps are underway to ensure that a women hospital is put up.

Mr. Speaker: Hon. Odhiambo!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Minister clarify what the Government is doing to fast track the establishment of a one-stop centre at Kenyatta National Hospital (KNH)? The Government has been trying to establish one for more

than a year now. I do not understand why it is taking so long to do so. Could he also clarify why the Government cannot put in its Budget, the money for doctors to attend court? Doctors are not attending court because there is no money to meet that expense.

Mr. Speaker: Order! Minister, you will only answer the first question! Our rules and practice say that you ask one supplementary question at a time.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, again, the one-stop call at KNH that the Member of Parliament is talking about is not so much because the Ministry or KNH has failed to put it up. It is only because the specialist necessary to give full attention to this regularly, and on a continuous basis, has been a challenge. I do believe that the Director of KNH is committed to this idea. Indeed, as I speak, there are negotiations with donors, not just to ensure that that one-stop call is established fully, but is also funded to meet the demand that we are realising in terms of sexual offences. As you know, Nairobi Women's Hospital is doing its best in the private sector, but in the public sector, we do not have the equivalent of Nairobi Women's Hospital. We are paying attention to this issue. When we get resources from the donors we are negotiating with, I am quite sure that we will respond to the hon. Member's wish.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: We will now go back to Question No.073.

The Member for Machakos Town?

Question No.073

STALLING OF WORKS ON MACHAKOS-KITUI/
MACHAKOS-KANGUNDO ROADS

Dr. Munyaka asked the Minister for Roads:-

(a) why M/s H-Young Road Contractors have abandoned works at the Machakos Town streets, Machakos-Kitui Road (8-km portion) and Machakos-Kangundo Road (5-km portion) and;

(b) when the contractor will complete the works, considering the danger posed by the abandoned works to motorists and other road users.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, before I answer, I wish to beg the indulgence of the Chair. This morning my Ministry was not able to respond to a Question by the hon. Member for Eldama Ravine. As a result of that, we were barred from conducting any business in this House.

While I appreciate the importance of the House business, I wish to clearly state that the Question that was before the House this morning was a referral Question. It had been brought before the House and the Minister had undertaken to answer it for the second time and to give a comprehensive answer.

Unfortunately, the Minister was caught up in urgent personal matters and he had to travel out of the town. By the time the Question was confirmed, he was not able to answer it.

Further, there was the anticipation that the House would be adjourned yesterday and I think when that did not work, a lot of things had got a little bit messed up.

I wish to state that My Ministry takes the House business very seriously and we will ensure that this does not happen again.

Thank you.

Mr. Speaker: You may resume your seat, Mr. Kinyanjui.

Hon. Members, the explanation offered by the Assistant Minister is reasonable, except that the reason we have the Standing Orders is that we must comply with them. So, the Assistant Minister is not right to work on assumptions. That is why we have a rule which says we should not anticipate debate. We should not predict what course the business of the House shall take.

So, Ministers, again, please, note that you are learning, but learning slowly.

Mr. Kinyanjui, the order against your Ministry is lifted. You may proceed.

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you, Mr. Speaker, Sir. I beg to reply.

(a) The road works within Machakos Town, Machakos-Kitui Road is 8 kilometres and Machakos-Kangundo Road is five kilometers. The work had stalled due to exhaustion of funds provided for in the contract.

(b) The road works within Machakos Town and Machakos Town Kaseve Market is eight kilometers and it commenced on 15th June, 2009. It is expected to be completed by the end of December, 2009. The work along Machakos-Kangundo Road will be factored in the Budget after the completion of the ongoing detailed design of the entire Kangundo-Machakos -Katumani Road that is C99.

(c) The contract sum for the road, that is Machakos Town to Masii, was a total of Kshs1.14 billion that was later revised to Kshs1.31 billion and a total of Kshs1.29 has already been used. This means we do not have money under the current contract to finish the other work.

Dr. Munyaka: Mr. Speaker, Sir, I want to thank the Assistant Minister for a very good answer. I want to confirm that the road work has actually started from Machakos Town to Kaseve. However, could he tell us when the Ministry intends to finish work on the section between Kaseve to Masii because the road is in a very deplorable state?

Mr. Kinyanjui: Mr. Speaker, Sir, we appreciate that the condition of the said road is, indeed, deplorable. However, we are in the process of including it in the budget. As I speak, detailed design work has already been commissioned. As soon as that is done, we will be able to avail the funds to do that section.

Mr. Lekuton: Mr. Speaker, Sir, often when driving on those roads, we find poor Kenyans working on those roads without protective gear. That can make them sick. What is the Ministry doing to make sure that Kenyans working on those roads are protected, health wise?

Mr. Kinyanjui: Mr. Speaker, Sir, when we are issuing the contract to the people who have won it, the contract is very clear; those workers who work in those conditions must be protected. I think it is also the responsibility of the local authorities where some of these works are being carried out, together with my Ministry to ensure that that is done. I want to assure the hon. Member that we have already started a serious campaign to ensure that the members of public who are working on the roads and are exposed to dust and other dangers, are protected.

Mr. Wambugu: Mr. Speaker, Sir, the issue of incomplete roads or contracts is becoming too common in this country. We have a particular road that runs from Kenol to Maragwa, Murang'a going to Kiria-ini. The contractor went and dug potholes on the road about three months ago and the Minister was on that road a few months ago to have the

pot holes filled. When will the Assistant Minister complete that work because it is becoming very dangerous to drive on the road from Maragwa to Murang'a?

Mr. Kinyanjui: Mr. Speaker, Sir, the said road had been contracted to a company called Aberdare and notice to commence works has already been given. However, we have had a problem because the contractor has not done as specified. In other words, he has stopped work and sometimes he takes too long before he starts works. My Ministry has written a letter to him in terms of warning. If he does not respond within the given time, we will invoke the termination clause.

Mr. I. Muoki: Mr. Speaker, Sir, I normally use this road every weekend when I am going home. It is so inconveniencing because the contractor has dug deviations and no work is going on. I tend to see mischief from the Ministry concerning this part of the country. This is the only road which is being tarmacked in that region and yet it has taken so long. Could the Assistant Minister assure this House that he will take urgent steps to make sure that this road is completed immediately?

Mr. Kinyanjui: Mr. Speaker, Sir, I want to assure the House that we will do everything possible to ensure that the road is completed, as the hon. Member has requested.

Dr. Munyaka: Mr. Speaker, Sir, it is common practice that the Ministry is actually awarding tenders without having sufficient funds causing the contractors to abandon the works before they are complete. What will the Ministry do to stop this practice?

Mr. Kinyanjui: Mr. Speaker, Sir, the amounts normally allocated to a road are based on the design works that are normally done by consultants. I want to agree with the hon. Member that sometimes the difference between the estimates and the actual amount consumed is enormous. I think we have very many roads that fall under category.

The Ministry will give a certain allowable deviation to the consultants who give us this job. When the deviation is beyond a certain point, it makes our work very difficult. We also discovered that the design work and the actual requirements on the road were totally different. As a result of that, we have had to increase the allocations for this.

Mr. Speaker: Hon. Members, that brings us to the end of Question Time. Order No. 8 will have to be deferred because in any event we have just one minute to deal with it. We are supposed to proceed to the Adjournment Motion not later than 3.30 p.m. so, it will not be practical to take Order No.8. So it is deferred to tomorrow, if that happens.

BILL

Second Reading

THE MUTUAL LEGAL ASSISTANCE BILL

(Bill deferred)

Next Order!

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN THE
NEXT NORMAL SITTING DAY

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. Today is supposed to be Prime Ministers Time but looking at the Order Paper, it is not there. I am wondering what is happening.

Mr. Speaker: Order, Mr. Mbugua! We have already called Order No.8 and now we have moved to the Motion that we must transact not later than 3.30 p.m. You were caught by a rule in law; if you ask Ms. Karua if she is near you, she will tell you something called laches. You are rising too late. I can see Mr. Olago Aluoch is helping you out.

Chief Whip, please, proceed!

(Laughter)

Mr. Thuo: Mr. Speaker, Sir, I beg to move:-

THAT, this House do adjourn until Wednesday 21st October 2009, at 9.00 a.m.

Mr. Speaker, Sir, the Motion will be seconded by Prof. George Saitoti.

The Minister of State for Provincial Administration and Internal Security

(Prof. Saitoti): Mr. Speaker, Sir, I am pleased to second this Motion of Adjournment.

In support of this, I would like to say that as hon. Members are aware, we are elected by our constituents for two very fundamental dual-purposes. One of them is that we must come to represent our constituencies here in Parliament. This is first of all to make sure that the resources of this country are equitably distributed all over the country. In that respect, I believe we have done precisely that because we debated the Financial Statement and the finances effected in the line Ministries. We have deliberated on these at great length and most of them have been passed. So, to that extent, no doubt we are already aware of how much resources are going to go to our districts by virtue of what we passed. We also passed the district budgets.

Mr. Speaker, Sir, we also require this recess so that we can go and interact with those who brought us to Parliament to ensure that these resources will be utilized properly and for us to inspect the projects on the ground. The national resources now have been devolved to the constituency level. It is extremely important that we have the opportunity to go and see whether indeed the projects which have been budgeted for are being implemented properly. I say this because the implementation is the work of the officials but when something goes wrong, it is we, Members of Parliament, who are normally asked by the people on the ground to explain. It is, therefore, important that we have the recess to interact with the people, to see the substantial resources which have been devolved.

I think there is also an additional reason which I think is important. As we know, the process of the constitutional review has already started. We know that indeed the Committee of Experts has worked on a number of areas. We need to consult with our people about the Constitution. We must make sure that the end product of the review must be one that will be owned by our people. We must go and interact with our people

to ensure that when we speak during the time of discussing the draft Constitution, we shall be reflecting the views of Kenyans. The Constitution belongs to the people and not just to the leaders. Therefore, we must go there and do that.

To that extent, it is my great pleasure to second this Motion. I know there may be some Members who may say that we need not go on recess. Let us also understand that if we go on recess and come back, then we are going to address substantial business. We will do so all the way. Essentially, we should also understand that we are becoming victims of the law of diminishing returns. I have seen quite a number of Parliamentarians who are tired.

With those few remarks, I beg to second.

(Applause)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I know the hon. Prof. Saitoti is sitting down so that I am caught up with the principle of latches. However, the Minister was barred from transacting business before this House. Is he in order to be transacting business?

Mr. Speaker: Order, Ms. Odhiambo! We received an apology from the Ministry in charge of Provincial Administration and Internal Security and the order was lifted.

(Question proposed)

Mr. Abdikadir: Mr. Speaker, Sir, I oppose this Motion.

(Applause)

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, this House needs to address a matter of very urgent national importance. This is with regard to the appointment of the Director and the two Assistant Directors of the Kenya Anti-Corruption Commission (KACC). It will be unfair to the nation if this House, when it is needed most for this urgent attention, goes on recess and leaves this matter unattended.

Mr. Deputy Speaker, Sir, I would like to read the law as far as the appointment of the Director and the Deputy Directors of KACC is concerned.

With your permission, Section 8(3) and (4) of the Act says:-

“(3) The Director and Assistant Directors shall be persons recommended by the Advisory Board and approved by the National Assembly for appointment to the respective positions”

“(4) On approval of a person by the National Assembly, under sub-section (3) the President shall appoint the person concerned to the office”.

Mr. Deputy Speaker, Sir, the role of the Advisory Board is very clear as far as the schedule of that is concerned. The terms and conditions for the Director and the four Assistant Directors are to be set by the Advisory Board.

The Committee on Legal Affairs and Administration of Justice had a meeting with the Board of the KACC and the Board informed the Committee that they were not consulted and are not aware of the alleged appointment of these gentlemen and lady.

The appointment was done by this House in such a way that these offices are free of interference, both from the Executive and the National Assembly. The appointments are very clear. The Schedule, Part III, says that the terms of office of the Director and Assistant Director shall be five years. The law sets a term of five years. It is not four years, six years but five years.

That term was to expire on 9th September, provided an Assistant Director is appointed for a term of four years to avoid having the Assistant Director's term expiring at the same time as the Director's term. Further, a Director shall, unless his office becomes vacant by reason of death, continue to hold office until the reappointment. Therefore, there was no need to rush. If the President wanted this gentleman reappointed, he would still have held the office while this matter went through the legal process for re-appointment.

This House, recently, approved the names of two Assistant Directors through the same process after they were recommended by the advisory board. The names came to the Committee and the House approved them. When that was being discussed in the Board, the Board resolved that, that was the right way to go in this process.

I have been informed that a number of people are suggesting that the First Schedule is subsidiary legislation. However, before I go to the First Schedule, I would like to refer to Cap 2 of the laws of Kenya, specifically Section 51(2). There are people who are saying that the President is reappointing and that reappointment does not require Parliamentary approval. In terms of the power to appoint, the law, under Cap 2, is very clear. It talks about power to appoint, power to suspend, power to dismiss and to reappoint. The power to reappoint is clearly stated by the law as follows.

“Where the power or duty of a person under this Section is exercisable only upon recommendation or is subject to the approval or consent of another person, then the power shall, unless contrary intention appears, be exercisable only upon the recommendation or subject to that approval or consent.”

In other words, even if this was a reappointment, even if we were to go through that process, and I said that this is not a reappointment but a new contract, then the law says that since it was subject to the conditions before, it must be subject to those conditions after. In other words, that process must be followed.

I refer you to the Constitution of this country, Section 23, which talks about the power of the Executive. Section 23 states that:

“The Executive Authority of the Government of Kenya shall vest in the President and, subject to the Constitution, may be exercisable by him either directly or through subordinates to him.”

However, subsection 2 says, “Nothing in this Section shall prevent Parliament from conferring functions on persons or authorities other than the President.” Section 24 says: “Subject to this Constitution and any other law, the powers of Constituting and

abolishing offices of the Public or making appointments to any such office are those of the President” but it is subject to any other written law.”

(Applause)

Mr. Deputy Speaker: Hon. Abdikadir, you better conclude! You have already exceeded your time by about three minutes!

Mr. Abdikadir: Thank you, Mr. Deputy Speaker. The reason why we need Parliament to go on is because this afternoon, I gave notice to delete the Section dealing with Vote 24 out of the Appropriations Bill. We have also sought an appointment with the Committee of this House that deals with delegated legislation, so that the notice purporting to appoint those directors may be brought to this House and rescinded.

I oppose.

Mr. Musyimi: Mr. Deputy Speaker, Sir, I stand to oppose this Motion. I am privileged to serve in the Departmental Committee on Justice and Legal Affairs, chaired by hon. Abdikadir. When we met to look at the composition of the advisory board, we introduced nine new faces to the Board, out of 12, and requested three members to continue. The reason for this was to make sure that we have a Board that would give us a more competent Director and Assistant Directors.

The second point I would like to make is that I was privileged to be the founding chair of the Steering Committee against Corruption. This is a committee appointed by the President himself. This was the first time that the Government was putting money in what you may call civic education. Through the work of this Committee – I am glad to see that we are still, through this Committee, moving the masses; we were able to raise the levels of civic awareness and competence regarding issues of corruption. The expectations of our people with regard to the subject of corruption are extremely high. The media has played its part, the civil society has played its part; I would like to believe that religious organizations have played their part. I note that this Committee was created by the Executive fiat. Now that the expectations of our people are so high, why would we want to betray their expectations by continuing with this learned gentleman?

Thirdly, appointing Justice Ringera is merely a misappropriation of the Executive prerogative. We have an opportunity to unite our people. When this kind of appointment is done, although legally so, we end up dividing our people, creating suspicion, getting people to feel uneasy with one another, to feel as if they do not belong and that they should not be around the table with other people. This was the problem and that is why we had elections in 2002 under the NARC Government. People’s expectations were of doing business in a manner that united our people. People in every part of our country should serve this nation. It was as if certain jobs belonged to people from a certain part of the country. We must reject this position.

Corruption is one of our biggest problems. It has eaten into our very own existence. It is a national problem. It has brought us to near poverty. It has introduced conflict and brought a lot of other problems. If we do not take a position on it, we will be saying that we are happy with corruption and that we can continue with business as usual.

I oppose.

The Assistant Minister, Ministry of State for Defence (Maj.Gen Nkaisery): Mr. Deputy Speaker, Sir, I stand to support the Motion. We need to go home and see our

people. We have several problems. We are elected leaders. We are representatives of our people. Our people are suffering. This country is undergoing a famine crisis. It is the right time for hon. Members---

(Loud consultations)

Could I be heard? There is a lot of noise.

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

The Assistant Minister, Ministry of State for Defence (Maj.Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I have said I support this Motion, because hon. Members are the representatives of people and this country is under a famine crisis and an insecurity crisis. We need to go and see it for ourselves, and make sure that we bring recommendations to the Government.

Secondly, recently, the Deputy Prime Minister and Minister for Finance put across the Budget. We need something called a stimulus package. We need, as Parliamentarians, the representatives of the people, to ensure that the stimulus package is properly utilized, and make sure that the people understand it, so that the money does not go back. The amount of money that has been budgeted should not be repatriated to the Treasury.

Thirdly, the Departmental Committee on Justice and Legal Affairs needs time to scrutinize the illegality in the reappointment of Mr. Ringera. It will not stop working. This is the right time for the Committee to look critically at the law; if the law was broken by the Executive, then this House can be recalled. This House can even go further and repeal the KACC Act, if need be. Therefore, we should not be held back by the appointment of one person and make the whole country suffer.

With those few remarks, I support.

Mr. Olago: Mr. Deputy Speaker, Sir, I rise to oppose this Motion. Members of this House swore to uphold the Constitution and the laws of our country. One of the laws of this country are the Standing Orders of this House. Standing Order No.198(2) sets out the Departmental Committees of the House. One of the Committees of the House, in which I have the privilege of serving, is the Committee on Justice and Legal Affairs. One of the duties of that Committee is to scrutinize affairs relating to corruption, among others.

We cannot adjourn the House when there are serious national issues that need to be attended to. The issue that has now arisen is the reappointment of the Director of Kenya Anti-Corruption Commission (KACC) by His Excellency the President. Time has come for the Executive to understand very clearly that this House is not an appendage of the Executive. It should not be used as a rubber stamp. The appointment of Justice Ringera has nothing to do with him as a person or as a lawyer. The House must look at how he was appointed and if the law has been broken. The issue is whether this Assembly needs to go on recess before that issue is resolved. Clearly, Parliament cannot be toothless. When issues like this one arise in the country, Parliament must stand up.

Mr. Deputy Speaker, Sir, yesterday, the Minister for Justice, National Cohesion and Constitutional Affairs stood before the House and spoke about mixing dirty water and clean water, without specifying what dirty water means. I believe he was, in a way, referring to the appointment and saying that although His Excellency made a mistake, it

was not for him to say so. But I challenge the Attorney-General, who is the advisor to the Government, to tell this House in unequivocal terms whether the appointment is according to the law or not. We cannot have the Minister for Justice, National Cohesion and Constitutional Affairs and the Attorney-General keeping quiet when these matters are being discussed. What they will tell the House will have a direct bearing on the appointment.

The timing of this Motion for Adjournment is suspect. Why is the House being asked to go on adjournment at a time when that unlawful appointment has just been made? In my humble view, the purpose of the timing of this Motion for Adjournment is to ensure that the House rises and does not have a chance to discuss that issue. The House must have a chance. The Committee on Delegated Legislation and the Committee on Justice and Legal Affairs must have a chance to bring to this House a substantive Motion that will cancel the appointment by His Excellency.

Under the circumstances, I stand before the House to say that I oppose this Motion.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I appreciate and understand the outrage of the House regarding the action taken by His Excellency on the re-appointment of Justice Ringera and his team to KACC. Any citizen of conscience, even without reference to the so-called law, knows that over the last five years, KACC has not delivered on its mandate. If I was Justice Ringera and, indeed, as his friends call him a "learned person", I would, as a matter of conscience, quit the office and give the nation an opportunity to try somebody else in that position.

But much more than that, I was the Chairman of Public Investments Committee (PIC) of this august House in the mid 90s, when we investigated several cases of corruption in the nation and recommended the establishment of an economic crimes law in this country. That led to the Kombo Select Committee, in which I was a Member and a Secretary, which produced the Kenya Anti-Corruption and Economic Crimes Act. Our aim was to give an institution the responsibility of ridding this country of corruption and making sure that those who dip their hands in the public till are brought to book. Unfortunately, I stand here today a disappointed person because neither the law, nor the institution that we established, has risen up to the occasion. It is, therefore, the responsibility of this House to revisit that law and that institution in the context of our time and make a sound decision as to what to do that will stand the test of time, and that will rise to the occasion.

Mr. Deputy Speaker, Sir, I would listen to wise counsel and say that, that issue can logically be divorced from the issue of adjournment. We should look at that issue specifically and come to a sound judgment about what this House should do. I am very clear what should be done because we are, at the moment, engaged in a constitutional review process. We should think of establishing, within the Constitution, a much more sound institution for fighting economic crimes and corruption in this society. We should, as a House, revisit that institution and find out whether it is not high time that, that whole institution is, indeed, abolished to save this nation a lot of money that is being wasted for an institution that is not doing its work.

I am even aware, and I can say so in the House and outside the House, that those who are employed at KACC are more of rent seekers than anybody in this nation. So, we are putting good money chasing bad money at KACC. Even as a Government, I would

advise my Government to think critically, honestly and look at the conscience of this nation. I know that we have come to a point where, because the House and the nation are outraged, something should be done to correct the mistake. We cannot continue to bury our heads in the sand like the proverbial ostrich. Time is ripe for change. It is like a nation ripe for change; you cannot stop it. When such times come, it calls for men and women of sound minds and people who can rise up to the challenge to make sound decisions.

Mr. Deputy Speaker, Sir, I would like to appeal to the House that we must take time to examine this issue dispassionately, given the history that we have had and the reason why we established that institution. Therefore, I would like to appeal to the House that, although it is correct to express our outrage and say that this Motion has come at a wrong time, it is also true that the House Business Committee had made its calendar a long time ago. Therefore, the Motion for Adjournment that comes today is not something that is capricious. The Motion for Adjournment today comes within the context of the calendar of the House as set out by the House Business Committee. But the House's outrage against the re-appointment of Justice Ringera is correct, but that should be divorced from the time table of the House.

With those remarks, I beg to support the Motion.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, I beg to oppose the Motion of Adjournment. Parliament is always complaining about the fact that we do not have the necessary muscle. We have gone so far as amending our Standing Orders, so that we can flex our muscles and show outrage when we are outraged. This House is not outraged by the fact that the individual Justice Aron Ringera has been reappointed. But we are outraged by the Executive's impunity of breaking a law that this House passed and getting away with it.

The Executive is taking this House for granted. If the Executive was so serious, all it needed to do was to revoke the gazette notice that has suddenly disappeared from the shelves and go ahead and move the Appropriation Bill. But just to show that they are not very sincere with this House, they have withdrawn the Appropriation Bill from the Order Paper, so that they can get away with what they have done.

I am the Chairperson of the Committee on Delegated Legislation and one of the things that we wanted to make an example of is the gazette notice that has purportedly been published, so that we could demand that the Minister for Justice, National Cohesion and Constitutional Affairs on behalf of the Executive, tables it before the House, failure to which we could then ask this House to recede and have that gazette notice revoked.

We have called the Government Printer and they have declined to give us a copy of that Gazette Notice. This shows that they want us to go on this six weeks break while the process goes on.

Mr. Deputy Speaker, Sir, I urge our colleagues who are not here to vote when there are important matters but only vote on Motions for Adjournment if they are really serious, they should let us stay until tomorrow, unless the Executive rescinds that Gazette Notice. The Government side should bring the Appropriation Bill to this House tomorrow afternoon, we do what we have already given notice to do, which is to amend that Bill to delete the budget of the Kenya Anti-Corruption Commission (KACC) and then we go on recess. Why are they in a hurry to go home when they can do so tomorrow at 6.30 p.m. after they have exercised what they were brought here to do?

Mr. Deputy Speaker, Sir, I am one of the few Members in the Departmental Committee on Justice and Legal Affairs who has had Justice Aaron Ringera's challenges. We might even have been sympathetic to his candidature. By the Executive going behind the back of the law to re-appoint him has not done him any favour. I urge the Members of the Front Bench, that if they are serious, they should ask the person who advised the Executive and Head of Executive on that decision to rescind it, bring the Appropriation Bill and we pass it or amend it tomorrow if they have not acted according to our wishes. If they do that, we will go on recess and we will have nothing on our backs.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to oppose.

Mr. Ruto: Mr. Deputy Speaker, Sir, I rise to oppose the Motion. I am, indeed, aware that the calendar of this House had been pre-determined much earlier. However, we are not necessarily bound by that calendar. We have very important business before us and the Committee on Justice and Legal Affairs and the Committee on Delegated Legislation have an agenda to rectify the mess that this country has been visited with.

The Executive has continued with impunity and decided to disregard Parliament and the laws of this country. As you can see, they are busy making noise.

(Loud consultations)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. I wish to bring to your attention the fact that the Government side is disrupting the business of the House.

Mr. Deputy Speaker: Order! Order, hon. Members! There is a debate going on and there is a Member on the Floor contributing. Could we stop the other contributions that are loud? There is only one contribution that the Chair recognises and that is Mr. Ruto who has the Floor now!

Proceed Mr. Ruto!

Mr. Ruto: Mr. Deputy Speaker, Sir, we believe we should do the right thing. We also believe that we are here to represent the Kenyan people and ensure that Parliament operates. We should ensure that the law is obeyed. It is only last week when we challenged the Office of the Attorney-General to give the correct advice to this Government on what is lawful and what is not lawful. Even this afternoon, the hon. Minister for Justice, National Cohesion and Constitutional Affairs, who probably misadvised the Executive, is not even here to give us an explanation. That is contempt. They have not persuaded us in any manner that they made a mistake. They are insisting that they did the right thing. So, we think that Parliament should be here to correct the mess.

The Government has also withdrawn the Appropriation Bill, probably until October. The import of that is that Parliament will not be able to show its displeasure. We have also been denied the Gazette Notice which we have got the power to withdraw. The Government Printer is not giving us any copy. He has told us there is no such thing. If, indeed, there is no such thing, why was there an announcement? We believe that we can wait until tomorrow, bring the Appropriation Bill so that we deal with it and then we adjourn. What is the problem? Even my good friend, the hon. Secretary-General of my party, Prof. Anyang'-Nyong'o has told us to go home. What will happen and yet he is a progressive person? Is he telling us that we agree to impunity?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to impute improper motives on my part, that I did tell him to go home, when I know that he has a very comfortable home in Mau Forest?

Mr. Deputy Speaker: Order, hon. Members! Address the Chair!

Mr. Ruto: Mr. Deputy Speaker, Sir, I cannot be comfortable in my home in Mau Forest when the laws are being broken and impunity is thriving. This House is allowing impunity to continue. We will say "no" to impunity and we will do that today. We do not intend to go home. Let us sort out this problem and then go home thereafter.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I stand to oppose the Motion. I am surprised – perhaps politics is like that – that people have double motives. However, it is time we stood on principles. It is time that even if we are few today, we stood on our principles. The issue is not whether Justice Aaron Ringera is competent or not. We know he is incompetent and there is no question about it! If you want the right person to head the Kenya Anti-Corruption Commission (KACC), then you set a thief to catch a thief. I do not know why you cannot appoint even Mr. Pattni to become the head of the KACC because he knows all the tricks!

(Laughter)

So, let us not fool ourselves that impunity is not here. It is impunity in all senses. Another country in Africa did the same thing. It appears as if we are borrowing the bad practices of other countries and not the good practices. If Justice Aaron Ringera is as good as he is portrayed and the KACC has not done what it was meant to do, then we can only assume that the Attorney-General's Chambers is not good. However, we cannot start talking about going on recess when Justice Ringera's case has not been resolved. I am shocked that an Assistant Minister like Maj-Gen. Nkaiserry can say that we want to go home because we are tired and that there is a stimulus package.

We will be working in the Committees. It does not mean necessarily that we are going home. To say that we are tired--- There is a law of diminishing returns. It is to make a fool of us. We are serious legislators and we came here to do serious legislation. How can you ask me to go to Kisumu and yet, we have business here. I go to Kisumu over the weekends. There are some people who do not even go to their constituencies. I go to Kisumu every Thursday. We want to oppose this recess. I have other things to do, but I must stay in Parliament to make sure that the dignity and the authority of this House remains.

The Minister for Lands (Mr. Orenge): Mr. Deputy Speaker, Sir, I want to give my views as a Member of Parliament for Ugenya. In saying that, I think that the House has to see this as a competition between the Executive and Parliament. Parliament is the supreme law making organ in this country. If you look at the relevant legislation, Parliament is not a passenger. It is required to give approval of the appointment of the director of Kenya Anti Corruption Commission (KACC).

It is only upon the approval by Parliament. Parliament's hands are also tied. We can only give approval on the basis of the recommendations of the Advisory Board. This is not a simple issue. The Advisory Board, itself, has refused and said that, that

appointment is against the law. The Advisory Board is not acting as a busy body. They are saying it is in accordance with the statutes. They have a role to play and Parliament also has a role to play.

When you go home, you are going to be accountable for the decision that the Government has made. You are going to be accountable because the Act says you have a role to play. What am I going to say as a Member of Parliament for Ugenya? That I played a role as a Member of Parliament in making that appointment because Parliament has given me a role to play, other than being a Minister?

Whenever you see things being brought to this Parliament in a hurry, please, stand up and say no. The one party State was established in this country by Parliament being rushed in a hurry; that we must pass it now. Many laws relating to detention in this country were brought by the Executive. The same Executive brought a law legalizing detention without trial. The first people who were detained at the time, including the then Vice-President Jaramogi Oginga Odinga, stood here to move that motion. I am pleading with the Members of the Executive that an adjournment is not something that the National Assembly should really fight about. We should be able to sit down as grown-ups and say that there is a national crisis on this issue and agree on the way forward. We cannot just go home and pretend that nothing has happened. We have a role to play.

We have abandoned our responsibilities to the civil society, Law Society of Kenya and other busy bodies. Now, they are saying that we have broken the law. What is our explanation? Is going on an adjournment our explanation to give to the country on an issue like this? This is the time when Parliament should stand together. We need to sit down, look at it and find a way of resolving it as Parliament. In any case, all of us in this Parliament belong to the Government, except hon. Jirongo. The fact that we are debating this issue means that there is no position from the Government or the Opposition. We are all part of the Government.

When you see Members in the Back Bench disagreeing with your decision, there is something wrong. You cannot run away from it. I think we have gone beyond the time when Kenyans stayed back and allowed things to happen. Everything that we do every day is subject to scrutiny. There was a time when we could get away with anything. But right now, even as I sit as the Minister for Lands, I know that somebody is watching everything that I do every day. That person is justified to watch what I am doing.

Now, if members of the public have watched what we have done and said: "You have done wrong to the nation", and we, as leaders, are seriously running away from that decision, I think that would be the greatest tragedy in this country. The most powerful man in the world today----

Mr. Deputy Speaker: Order, Mr. Orengo. Your time is up.

The Minister for Lands (Mr. Orengo): With those remarks I beg to oppose. In opposing, I am using my conscience and not my stomach!

Mr. Deputy Speaker: Order! Hon. Members, whereas Members of the Government are also elected Members of Parliament, there is a cardinal rule that essentially has been both a precedence and a tradition of Parliament. It is important to uphold the traditions of Parliament. The House Business Committee (HBC) has got a majority from the Government side. This motion came through the HBC. That is a venue or an opportunity where Government Ministers can address this issue. There is the Cabinet and there is the Government. The chair is not going to be kind, morality or

conscience aside, in upholding the rules and the traditions of the House, with Ministers who come out here to oppose Government motions. I think we need to assess ourselves. We have an institution and a democracy that we need to protect on its own principles. It is not the expediency that matters.

Proceed, Mr. Murungi!

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Is it on the ruling of the Chair?

Ms. Karua: Mr. Deputy Speaker, Sir, I seek your clarification when Ministers oppose the Government. Is it not a matter for the Executive? Is there not a need to separate the institution of Parliament from the Executive? We need your direction.

(Applause)

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! What is your point of order, Mr. Ruto?

Mr. Ruto: Mr. Deputy Speaker, Sir, on the same vein, is it in order for the Chair to order MPs to vote in a given manner?

Mr. Deputy Speaker: Order! Order, hon. Ruto! You are out of order and if you want to test the resolve of the Chair, you might proceed. But I promise you the Chair will be resolute. Hon. Members, do not look at this thing based on the passions of the day. Look at this thing as the tradition and culture for our democracy. There is a separation. There is the Government and those who are supposed to hold the Government accountable. That is why we have the Government on the Front Benches here and we have the Back Benches. Let us not muddle those roles. It is a tradition and a culture not only in our country, but in all democracies. If a Minister is not happy with the policies of the Government, he or she resigns. That has been the tradition.

(Applause)

He or she then plays the role of a Member of Parliament. The Chair will not have a situation in which we have anarchy in the House. We want to see clear delineations.

Proceed, Mr. Murungi.

(Several hon. Members stood on points of order)

Order! No more points of order on the ruling of the Chair. Hon. Members, you are out of order.

Proceed, Mr. Murungi.

The Minister for Energy (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. Let me say from the outset that I stand to support this Motion. On the very reading of it, this is a Motion for the Adjournment of this House and the Question that is before the House is whether---

Mr. Ruto: On a point of order. Mr. Deputy Speaker, Sir. Now that all the Ministers must support, is there any reason for them to contribute? Why do we not put it to vote because the only reason they have is to support---

The Deputy Speaker: Order, Mr. Ruto! You are out of order. Hon. Ms. Karua knows the traditions of this House. She knows the traditions of democracy and she did it with dignity. When she did not like the policies of the Government, she resigned, became a Back Bencher and held the Government accountable.

Order, hon. Members! We have a country for generations to come and we are doing things for posterity. Let us try and protect this country more than anything else in a manner that is essentially going to have a certain order while we practice our own role of holding the Government accountable for its actions.

Proceed, Mr. Murungi!

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Deputy Speaker, Sir. I need to get some clarification because there is a veiled threat that is coming from the Chair that if I want to speak in a certain way, I must do certain things in a certain way. This is a very important issue because we must find a balance between the Constitution and my right to speak my mind in Parliament; the Constitution is supreme. By the way, I was in this House when a Member of this House was murdered and the Government was required to vote in a particular way. It is only two hon. Members in the Government who stood to speak the truth and today, we are happy that they did what they did. So, we should have little hindsight. We have come a long way and if in this day and time you are telling me that every time, before I speak, I must find out from the Attorney-General or from Prof. Saitoti what to say, then leave alone being a Member of the Government, I should not even be a Member of Parliament.

It is a serious issue for me because what you are doing to me is that you are making a veiled threat to me and I take it very seriously that if a crime is committed, then I should just stand in this House and behave as if nothing has happened. I need a clarification on that and I will never take a threat.

Mr. Deputy Speaker: Order! Mr. Orengo and other hon. Members, the presumption is that you have a forum to raise such issues. There is a House Business Committee (HBC) which has a majority of the Government Ministers and there is the Cabinet. There is what we call collective responsibility if you are in the Government. You are taking responsibility for Ministers who were before you in the Ministry of Lands, even if you did not approve of their conduct those days.

What I am pleading with you, as a matter of fact, is that let us have certain dignity and certain system. If we are going to get into both sides of the House or more so, the Government itself to be seen on the Floor of the House to be in such disunity, I think it is not good for this country. You have a collective responsibility. That is the gist of the Chair's position on this.

Proceed, Mr. Murungi!

(Several hon. Members stood up in their places)

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, could you please protect me from these frivolous points of order?

Mr. Deputy Speaker: Order! The Chair did not interrupt the contribution of the Minister and has no intention of stopping any other Cabinet Minister who wishes to oppose this or any Government Motion. The thing is that the Chair has got to put right what the tradition is and it is very clear. It is not an issue of morality or conscience. We

have all come a long way. Everybody on both sides of the House has suffered including the Chair in getting Kenya what it is right now. Nonetheless, even after we have paid a price, we want to see orderliness in some things. I think it is only fair that we know that there is a Government and there are the Back Benchers to hold the Government accountable for its actions.

Could we proceed on with the Motion of Adjournment?

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Emotions could run high but I think it is important that we remain civil. Did you hear Mr. Murungi refer to points of order being frivolous? In my view, that is derogatory and he owes the House an apology.

Mr. Deputy Speaker: The Chair did not hear that but in any case it is not for Mr. Murungi to rule whether the point of order is frivolous or otherwise.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Ms. Karua!

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: If it is on the rulings or the communication of the Chair, then you are out of order?

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Ms. Karua and Mr. Ruto you are out of order!

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. You made reference to me and it is good that the House knows that when I was a Minister, I opposed the Government position and supported the Motion of no confidence against the Minister of Agriculture. It was a matter of conscience and a hon. Member is perfectly entitled to do so in a matter of conscience. I also want to say that the sentiments of the Chair are very good; but for the Leader of Government Business.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Ruto, you made your point. Could you wait for your moment also to contribute?

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Mrs. Odhiambo-Mabona! You are out of order!

Proceed, Mr. Murungi!

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I was saying that the only Question before this House is whether the House should go on recess or not. It is right for hon. Members to give reasons in the course of this debate as to why the House should or should not go on recess. For me, I will be very happy on that day when this Parliament will have its own calendar so that we know when the House opens and when the House goes on recess because it will make these Motions, that sometimes get acrimonious, unnecessary.

The principle reason given as to why the House should not go on recess is, so that the House can remain to discuss a matter of great public importance which is defined as the legality or the illegality in the re-appointment of Justice Aaron Ringera as the Director of the Kenya Anti-Corruption Commission (KACC). I do not want to comment on the merits and the demerits of that issue. It is the right of Parliament to discuss that issue in its proper forum. Even if this House goes on recess, the Departmental Committee on Justice and Legal Affairs will not go on recess. I think it is time that this issue be discussed in a dispassionate, professional and objective manner.

Mr. Deputy Speaker, Sir, those who watched *KTN* television last night must have heard that this issue is not closed. The law itself does leave some room for argument. It does leave some doubts. The process of re-appointment of the top officers of the KACC is very clear. The positions are advertised by the Board, interviews are conducted by the Board and the names which are shortlisted by the Board are brought to Parliament, which are then discussed by the Committee on Justice and Legal Affairs and then finally brought to this House for approval. After approval, the list is then forwarded to the President for formal appointment through gazettelement.

Mr. Deputy Speaker, Sir, Justice Ringera and his team were taken through that process when the House was constituting the KACC in 2004. If you look at that Act which I have read, the process of re-appointment is not very clear that it has to go back to vote or to go back for approvals by the House before re-appointment by the President.

Lawyers could argue either way that it has to go through that longer process or the President has a right to reappoint directly because these people have been interviewed before and their names have been approved by Parliament. So, I think this is a serious issue which needs to be considered in a dispassionate manner by the Departmental Committee on Justice and Legal Affairs.

So, my plea to my colleagues is that we go on Recess. While on Recess, let the Departmental Committee on Justice and Legal Affairs look at this issue very thoroughly and make a report and recommendation to the House which we would consider when we come back.

With those few remarks, I beg to support.

Mr. Kioni: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support the Motion for Adjournment.

Mr. Deputy Speaker, Sir, one of the reasons we should adjourn is because we have been here for awhile. We have been transacting business in this House. Most times, we have done so, with very few Members in this House. The pretence that we can now have numbers and capacity to hold on, does not quite add up. When we have Ministers of this Government come to this Floor to oppose Government Motions, we see more of political mileage than really good thought in what we, as a country, should hold.

It is not only the hon. Members of Parliament who make this institution move, but we also have members of staff who also need a break. When we were discussing a Vote here on the Ministry of Livestock, we talked of issues that need to be addressed by the Minister. It was apparent to us that the Minister needs to pay a visit to some of the areas that we represent. Some of these Ministers have the perception that Ministries are tailored for some regions. We have the Ministry of Fisheries Development which also needs to initiate projects in areas that are, perhaps, unfamiliar with fish farming. They also need time to go round and familiarise themselves with other areas of this country. Without this Recess, many of these initiatives that have been put forward by the Government will end up in some regions and others will not benefit.

Issues of Justice Ringera aside, we need to go on recess. I agree that matters may not have been done the way many of us expected to have been done. I believe they can be sorted out. I belong to the school of thought that believes we should look into that issue. We can do it even when we are on recess because that can be handled by the Committee on Justice and Legal Affairs. This matter can come to this Parliament through other channels other than just opposing this Motion for Adjournment. We did it yesterday and

we sent the message home. Today, we should allow ourselves that recess, so that we can do those other things that are normally done when we are on recess.

With those few remarks, I stand to support.

Mr. Mbugua: On a point of order, Mr. Deputy Speaker, Sir. Most of the Members are being repetitive. Could we, please, put the question to vote?

Mr. Deputy Speaker: Order, hon. Members; the rules are simple. You cannot call for closure to a Motion for Adjournment. A Motion for Adjournment is premised upon that the only time when you can call the Mover to reply is, if there is no Member standing in his or her place wanting to contribute. So, until such time, the debate goes on. It has to go on for three hours.

Mr. Kambi: Asante sana, Bw. Naibu Spika. Mimi kama mhe. Mbunge wa Kaloleni ninaunga mkono Hoja hii.

Kazi kubwa ya mhe. Mbunge ni kuwakilisha watu wake hapa Bungeni na nje ya Bunge hili. Ukija hapa Bungeni, ni lazima uchukue mambo yanayoendelea hapa na kwenda kuyajadili na watu wako wakati wa likizo. Ni kutokana na majadiliano hayo ambapo tutapitisha sheria za kuwasaidia wananchi wa nchi hii. Ikiwa tutaendelea kuketi hapa bila kwenda mashinani, hapa Bungeni tutakuwa tunawakilisha akina nani? Hoja tuliyo nao hapa ni kuhusu likizo.

The Assistant Minister for Information and Communications (Mr. Khaniri): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Khaniri, you are out of order! You should say so, in Kiswahili language.

Mr. Kambi: Bw. Naibu wa Spika, Hoja ya leo ni kuhusu likizo.

The Assistant Minister for Information and Communications (Mr. Khaniri): Hoja ya nidhamu, Bw. Naibu Spika. Je, ni haki kwa mhe. Mbunge wa Kaloleni kusema hajaenda mashinani kwa muda wa miezi mitatu tangu Bunge kufunguliwa na ilhali kila wiki yeye hulipwa pesa za kutembelea watu wake mashinani?

Mr. Kambi: Bw. Naibu wa Spika, kwenda mashinani kila wiki si kusema ya kuwa unafanya majadiliano nao kuhusu mambo muhimu yanayowahusu. Hoja ya leo ni kuhusu likizo. Kama mhe. Mbunge anataka sisi tumjadili Jaji Ringera, basi alete Hoja maalum juu yake. Wakati huu tunajadili mjadala wa kwenda nyumbani.

Kwa hayo machache, ninaunga mkono Hoja hii.

Mr. Nyammo: Thank you, Mr. Deputy Speaker, Sir. I rise to oppose the Motion.

I oppose the Motion as a proud lawmaker. As lawmakers, we should not be the ones conniving to law breaking or being in the forefront breaking the law. Please, let us reflect back to January/February, 2008. We can assign all sorts of reasons as to why there was that violence. That violence was brought about by issues we have swept under the carpet. We have buried our heads in the sand. A fundamental law has been violated. It is for us to find ways and means of fighting impunity. How much longer shall we be saying So and So was given wrong advice. So and So has got wrong advisers. It is not for us to find reasons as to why one has violated the law. It is for us to fight the violation.

I am referring to the reappointment of the Director-General of the Kenya Anti-Corruption Commission (KACC). This is an appointment that circumvented the Advisory Board and overlooked this House. We should not allow the Executive to get away with this. It is time for us to put our feet down and say enough is enough with impunity. I agree that we do have a country to look after and worry about. However, we cannot

worry about this country, if we have no respect of the rule of law. That is fundamental. When they are broken one after the other, then we are giving away the country to impunity.

With those few remarks, I beg to oppose.

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. The last speaker has actually read my mind. One of the core things I wanted to say after yesterday somebody; a member of the public sent me a message and said the last time there were wrong appointments in this country, we saw bloodshed. We lost thousands of Kenyans! This is not a question of mere appointment. This is a question of preserving the rule of law. Recently, I was in a very small country called Botswana where a member of the party has taken the President to court and you can see because they respect the rule of law that country is progressing. I was ashamed at that point at what is going on in this country. We must rise up as leaders and save this country. It is through things that look small like a mere appointment of a director through which we can restore the dignity and pride of the country called Kenya. We are losing this country and we are taking this country for a ride. Kenyans are tired of the things that we do in this country as leaders. We must, therefore, rise up to the occasion. If the Executive is wrong, as legislators, we must tell them: No, and we say so categorically. I know there are hon. members who are saying that we must go on Recess because we need to go on leave. There is nobody who needs to go on leave much more than I need. I am married, my husband lives out of this country and I have natural duties to my husband but I am willing to postpone them because of an urgent matter. I know there are hon. Members who are offering to help but this is not the time to help!

(Laughter)

Mr. Deputy Speaker, Sir, having listened to hon. Members and especially the Mover of this Motion who spoke louder than anyone through his silence, I have also listened to Prof. Anyang'-Nyong'o and through his words, I am convinced that we must vehemently oppose going on Recess. Why? Only two or three days will not change and speaking as a lawyer, if we go on Recess, it makes all the difference. Mr. Ringera will take up his appointment by Tuesday and we will come back here and say our hands are tied legally. I do not want my hands to be tied.

With those few remarks, I beg to oppose.

The Minister of State for Defence (Mr. Haji): Bw. Naibu Spika, nasimama kuunga mkono Hoja hii kwa sababu naona ni sawa na ni haki yangu kama Mbunge kuuliza tupewe ruhusa ya kwenda kuwa pamoja na wale watu walituchagua.

(Loud consultations)

Kila mtu ana kazi yake. Could we have order, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: Order, hon. Members! Mr. Haji will be heard in silence. Proceed!

The Minister of State for Defence (Mr. Haji): Bw. Naibu Spika, kazi ya mkulima ni kwenda kulima shamba lake. Mchungaji pia anaenda kuchunga ng'ombe na

ngamia wake. Sisi tumechaguliwa kuja hapa kutengeneza sheria na pia kupata nafasi ya kuweza kuungana na watu wetu, kukaa pamoja nao, kujua shida zao na kuwasaidia katika matatizo yale ambayo wananchi waliotuleta wamechungulia. Hatukuja hapa kukaa Nairobi kula raha na maji mazuri; kutembea kwa barabara nzuri au kwenda hospitali nzuri peke yake. Hiyo siyo kazi ambayo tumechaguliwa kuja kufanya. Isitoshe, ninaona ya kwamba Bunge leo linataka kuwa mshtaki na pia mahakama ya kuhukumu hiyo kesi. Kama kuna chochote ambacho kimeenda kombo, tuseme kama uteuzi wa Bw. Ringera kwa mara ya pili yamekuwa makosa, nafikiri kuna nafasi ya wale ambao wanafikiria kuna makosa yamefanyika kuchukua hatua inayofaa kisheria kuliko kuchukua Bunge mateka kwa sababu ninaona ya kwamba Bunge linachukuliwa mateka kwa sababu ya jambo linalohusu mtu mmoja. Kwa hivyo, ninataka kuomba ndugu zangu hapa ya kwamba ni vizuri tuangalie maslahi ya wananchi wengi wa Kenya. Leo watu wanakufa kwa sababu ya njaa; sio kwa makosa ya binadamu lakini kwa Mwenyezi Mungu anatupa adabu kwa kukosa njia ambayo inafaa kwa viongozi kufanya katika kutekeleza wajibu wao kwa wale ambao wamewachagua. Nafikiri tukiitoka hapa tuende sehemu za uwakilishi Bungeni na tufanye mipango ya kuomba mvua, Mwenyezi Mungu ataona kwamba hata viongozi wako na wananchi wanaomba Mungu na kwa hivyo mvua huenda ikaja na watu wakatoka kwa taabu.

Pia, itakuwa ni shida kwa nchi hii kama vile Bw. Spika alivyosema, lazima tufikirie mambo ya baadaye. Hata kama makosa yamefanyika, si sawa kufunga Serikali mkono kutofanya kazi vile ambavyo inatarajiwa kufanya. Kuna nafasi! Hii likizo tukienda hatuendi hadi milele; tutaenda na tutarudi na kama kuna makosa, yatarekebishwa. Kwa hivyo, ninaunga mkono mjadala huu na nashukuru Wabunge kwa kunisikiza sana. Naona wanataka kwenda kuomba mvua!

Kwa hayo machache, ninaunga mkono.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Deputy Speaker, Sir, when the people of Turkana South elected me last year to come to this House, they sent me with one message: "Go represent us with your conscience, do not break the law and whether you serve in the Government, make sure that it follows the law as it should."

(Applause)

I want to go on record as a member of the Executive to oppose this adjournment Motion. I oppose it because of my conscience and until the Executive can give us a guarantee that they are going to withdraw that illegality of appointing Mr. Ringera and his two assistant directors, I still stand on the fact that I am opposed to this Adjournment until we resolve that matter.

(Applause)

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Deputy Speaker, Sir, I stand here to ask a question. I do not see the issue of Mr. Ringera in the Order Paper. Could I be having the wrong Order Paper? Why are we debating something that has been done? He had been appointed and this is about reappointment and there is space for reappointment or not and the President has decided

to reappoint him. We are here to debate the Motion for adjournment. If people do not have issues in their constituencies--- Some of us come from constituencies where there is hunger and we need to go and check. We know that the Provincial Administration may not take care of those hungry people. We do not want issues where people are dying.

(Applause)

You find that hon. Members are the people who are the doctors, Mother Teresa of everything in our constituencies and we really need this Adjournment to go and assess issues. A weekend is not enough! Those are just two days. Do you go to church on a Sunday, attend fundraising or other things? This Adjournment is to give us time to go round our constituencies and see the problems.

With those few remarks, I beg to support.

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. I stand to be corrected. I thought in an adjournment Motion like this, we discuss the issues that have taken place in Parliament during the session and what we are going to do. What has happened in this session is that Ringera's issue is part of the issues that have happened when we are here!

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Deputy Speaker, Sir, he has taken my time and he had no point of order!

Mr. Deputy Speaker, Sir, I beg to support this Motion for Adjournment.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I take this opportunity also to contribute just like other hon. Members in this House. I stand very strongly to support the Adjournment.

(Applause)

Mr. Deputy Speaker, Sir, I support this Motion because as we are speaking right now, there are areas in this nation that are starving and thirsty. They need to be provided with these facilities. There are some other areas in this country where jiggers have invaded our homes and attacked our families! We need to go to those areas to fight the jiggers and even to visit the Ministers concerned and tell them to direct all the missiles to those jiggers.

Mr. Deputy Speaker, Sir, I, therefore, feel it is important that we adjourn so that we can also visit our people, provide water, boreholes and even other amenities that are required by our people. Let us go back to the rural areas and stay with our people, comfort them and console them.

With those few remarks, Mr. Deputy Speaker, Sir, I fully support the adjournment.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to strongly oppose this Motion.

(Applause)

Mr. Deputy Speaker, Sir, as hon. Members and as a Parliament, we are the august House because we correct where there is a problem. As we speak now, there is one serious problem in this country. We know that corruption in this country has become runaway. As a House, we must stand firm to ensure that the Kenya Anti-Corruption Commission is strengthened so that it does the job that it is supposed to do. There is an outcry and as a Parliament, we provide the oversight role. We should be given time to ventilate on this.

Mr. Deputy Speaker, Sir, listening to my colleagues, the perception created here is that nothing goes on in our constituencies when Parliament is in session. We cannot allow activities in our constituencies to come to a standstill when we are in Parliament. Ministries must be able to act and perform at all times.

Mr. Deputy Speaker, Sir, I want to plead with my colleagues that one major Bill that we must pass before we go for recess is the Appropriation Bill.

(Applause)

Mr. Deputy Speaker, Sir, the purpose of going for recess is to allow the Deputy Prime Minister and Minister for Finance to roll out the programs that he promised Kenyans. The economic stimulus package, and I stand here as the Chairman of the Departmental Committee on Education, Research and Technology to state that the people in our constituencies are eagerly waiting for the Kshs30 million for centres of excellence and Kshs7 million for the two primary schools in our constituencies. Delaying this to October is denying Kenyans what they were promised.

Mr. Deputy Speaker, Sir, I want to plead with my colleagues, because after listening to them, all these issues could be handled. We could have gone for recess yesterday, we can still go today but we have tomorrow – one more day to pass the Appropriation Bill – and we go home waiting for this money to ensure that every part of this nation gets what we were promised.

With that, Mr. Deputy Speaker, Sir, I strongly oppose.

(Applause)

Dr. Nuh: Mr. Deputy Speaker, Sir, if there is anybody who needs a recess for reasons quite the opposite of those Ms. Milly Odhiambo, it is me. But I beg to oppose this Motion.

(Applause)

Mr. Deputy Speaker, Sir, there is an outcry; I come from a constituency where, now, we are tankering water to more than seven villages lacking most of the basic amenities and the lifeline of the livelihoods of people of northern Kenya.

But, Mr. Deputy Speaker, Sir, if I was to go on recess, what will I have to take to my people? As Mr. Haji said, we have to go back to our constituencies to go and pray with the people for rain to come. I was there last weekend praying for rain and praying for justice in this House as well. If we are supposed to go on recess until October, you will find this Government again coming with the Appropriation Bill here and saying that

they are in a crisis because they lack money to operate. Currently, we approved 50 per cent; you will come in October and you do not know what will happen in this country – you might have Motions and Bills that are even more important and which will supersede the Appropriation Bill. We will then have the Deputy Prime Minister and Minister for Finance here saying that he would want to pass the Appropriation Bill in a record 20 minutes because the Government is in a crisis; because the Government cannot operate and because the Government has not got any coin to run it.

So, Mr. Deputy Speaker, Sir, if it is doing justice to the people of this country; if it is providing water and medicine and every other amenity that the people of this country require, it is to pass the Appropriation Bill not even tomorrow, but today. If we have to pass this Appropriation Bill, it is not on the Order Paper today. It has to appear on the Order Paper tomorrow for us to pass it with the necessary amendments, if it so required. With or without the Ringera issue, let this House debate the Appropriation Bill and then we would be able to go on recess to go and serve the people of Bura and every other people.

Mr. Deputy Speaker, Sir, for those reasons, I beg to oppose this Motion.

Ms. Karua: Mr. Deputy Speaker, Sir, I stand to oppose the Motion and the greatest reasons why we should not go on adjournment is that we need to correct the illegality committed by the Executive. The Departmental Committee on Justice and Legal Affairs cannot correct this without Parliament. Committees of Parliament have to be sanctioned by this House when they deliver their reports. Therefore, the debate on adjournment is firmly connected to the impunity by the Executive.

Mr. Deputy Speaker, Sir, from the contributions, there is confusion amongst hon. Members as to the mode of reappointment. But this is coming because of dishonest pronouncements on the position of the law. Section 8(3) of the Anti-Corruption and Economic Crimes Act clearly stipulates that for the President to appoint either the Director or Assistant Director, the recommendation has to come from the Advisory Board and there has to be parliamentary approval. I am aware that the appointment is not expressly provided for, but the Interpretation and General Provisions Act Cap.2 Section 51(1) clearly states that when a process of appointment is provided for, reappointment, dismissal and any other thing follows the same process of appointment.

(Applause)

It is, therefore---

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir.

Ms. Karua: Mr. Deputy Speaker, Sir, I will read it.

Mr. Deputy Speaker: Yes, what is your point of order, Mr. Wako?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, is it in order for the hon. Member to quote the Interpretation and General Provisions Act when that Act provides for a situation which is not specifically provided for under a specific Act? In other words, if there had been no specific provision under the Anti-Corruption and Economic Crimes Act for reappointment, then one relies on that Interpretation and General Provisions Act for general application. Therefore, to the extent that we have a

specific provision in the Anti-Corruption and Economic Crimes Act for reappointment, that is the section to follow and not the Interpretation and General Provisions Act.

(Applause)

Ms. Karua: Mr. Deputy Speaker, Sir, I do not need Mr. Wako's advice. He is on record as giving the Government dishonest advice severally.

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Deputy Speaker, Sir. Earlier on, you were very strict even on me on the issue of points of order. Are you satisfied that what the Attorney-General raised a point of order? Why is the Chair quiet about it? This is because interpretations can go---

Mr. Deputy Speaker: Order, Mr. Orengo! The merits and demerits of the point of order itself is a matter for all of us to look at. Nevertheless, Mr. Wako has said that Ms. Karua is misleading the House by going for the general provisions when, indeed, there is a specific law. That is basically his position.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to say clearly that---

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to accuse the hon. Attorney-General of dishonesty?

Ms. Karua: Mr. Deputy Speaker, Sir, if I am pressed, I can substantiate, but I will proceed.

Mr. Deputy Speaker: Order, Ms. Karua! You cannot proceed! You cannot call an hon. Member dishonest. You will have to withdraw that statement. You cannot impute an improper motive on another hon. Member without a substantive Motion. So, withdraw and apologise!

Ms. Karua: Mr. Deputy Speaker, Sir, I said that he has given dishonest advice. I did not call him dishonest and that is a fact.

Mr. Deputy Speaker: Proceed!

Ms. Karua: Mr. Deputy Speaker, Sir, dishonest interpretation is now being given to this law by several people who would like hon. Members to be confused. Hon. Members will realise the dishonesty members of the cartels giving that interpretation. With the indulgence of the House, I would like to read Section 51. If you look at Section 8(3) of the Kenya Anti-Corruption and Economic Crimes Act, you will find that it does not say how re-appointment will be done. It says how appointment should be done. Therefore, Section 51 of Cap. 2 reads as follows:-

“Whereby or under a written law a power or duty is conferred or imposed upon a person to make an appointment or to constitute or establish a board, commission, committee or similar body, then unless a contrary intention appears, the person having that power or duty shall also have the power to remove, suspend, dismiss, revoke, re-appoint---“

So, it is clear that the re-appointment process is similar to the appointment process. The Government is feigning ignorance today, but when it wanted the investigations direct or Mr. Mutonyi and the Financial Director, Mr. Sholei re-appointed, it brought the matter to the parliamentary Committee. It also waited for the Advisory Committee to recommend. The Government did the right thing. For reasons unknown to Kenyans, they have now re-appointed the Director-General, one Justice Aaron Ringera

by passing these processes. Is there something we do not know or which the Executive does not want us to know? Who has appraised the performance of Judge Ringera? This is because it is only the advisory body that can do that. If the President has appraised on his own, what is that he found that we do not know? Hon. Members should refuse to listen to dishonest advice. Let us not go on recess. Let us wait for next week so that we can reverse this process. We need to put an end to impunity and it is embarrassing for the Head of State to be joined in the ranks of law breakers. He has broken the law. Let us open all the jails and let people go home if we are leading by example.

I beg to oppose the Motion.

Mr. Ogindo: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I rise to oppose this Motion. As Members of Parliament, we have three cardinal responsibilities. We have a responsibility to this nation. We also have a responsibility, maybe, to the parties. However, above all, we have responsibility to our conscience. We all swore here to uphold the rule of law. Being Members of the Legislature, it is incumbent upon us to ensure that the same laws we pass here are obeyed.

The Government is constituted in its three arms. It is very important that we have mutual respect amongst the three arms of the Government. When the Head of State, who heads the Executive enters this House, Members of Parliament always rise up. That is an indication that we respect the Executive. By the same token, we expect the Executive to extend the same respect to this House.

This House has a role to play in the nomination process of the Directors of the KACC. Those laws were created by this House and it is our duty to defend them. We should not lie down under the pretext that it is time to go home so that we sleep on our job as we see willful, persistent and notoriety on the practice of impunity in this country. You will recollect that some time back, this House expressed its displeasure and passed a censure Motion against the former Minister for Finance, Mr. Amos Kimunya. Out of the blues, this House was disregarded and the same person was re-appointed. You also remember that when we were struggling with the Fiscal Management Bill which was to improve the accountability in this country--- Contrary to public mood, we see willful and persistent engagement in impunity and in total disregard to this House. It is important for this House to stand up and be counted so that we know on which side this House stands. The public is expectant out there. They want to know the position of the House on the re-appointment of Justice Ringera. The position of the House is that it does not approve of it because it is un-procedural. To that extent, we must engage the mechanisms of reversing that whole process. Whether he will be re-appointed is a different matter.

Mr. Deputy Speaker, Sir, it is also unreasonable to say here that this House needs to go on recess so that we can go home. Hon. Members are at home with their constituents four days in a week. We cannot run away when we are faced with an issue of great national importance. We should not go and bury ourselves at home under the guise that it is time for recess. I have also noticed with concern that the Executive wing of the Government is notorious for creating crises and they thrive better when there is a crisis. They are notorious in rushing things. I do not see why the Government has to delay the Appropriation Bill which will mature tomorrow. We want to pass that Bill. If in the minds of the Executive, this House does not have business, then it can as well dissolve it!

With those few remarks, I beg to oppose this Motion.

Mr. Muthama: Ahsante sana Bw. Naibu Spika kwa kunipa nafasi hii ili nichangie Hoja hii. Kati ya waliozungumza mbele yangu, hakuna aliyesema kwamba uteuzi wa Jaji Ringera unafaa. Hata hivyo, jambo muhimu ni kwamba Hoja iliyo mbele yetu inahusu likizo yetu baada ya kuketi hapa Bungeni kwa muda wa siku kadhaa. Sasa, tunatakiwa kuchukua likizo twende nyumbani ili tuweze kuwatumikia wananchi.

Bw. Naibu wa Spika, maombi yangu ni kwamba tusije tukayachanganya mambo hayo mawili. Ni dhahiri kwamba Bunge hili liliweza kupitisha Hoja ya kutokuwa na imani na watu fulani, au jambo fulani. Kwa hivyo, ninachangia kwa kusema kwamba kama Bunge linaonelea kwamba uteuzi huu haufai, basi tuulete mjadala huu Bungeni kwa njia ya kipekee ili tuweze kupiga kura ya kutokuwa na imani na Bw. Ringera.

Huu ni wakati wa kurudi kule tulikochaguliwa ili tuweze kuchangia yale mambo ambayo wananchi wanataka tuwafanyie. Sasa tunataka kuchukua pesa za CDF zilizotolewa twende tukajenge shule, tuwatafutie watu maji na kuwapatia kila kitu ambacho wanataka. Kukaa hapa na kuzungumza tu hakutabadilisha cho chote. Hata tukizungumza, tutakachotoa ni kura ya kutokuwa na imani. Haimaanishi kwamba tukiitoe leo kura hiyo, au jana, itabadilisha cho chote. Tunaweza kusema kwamba hatumtaki mtu fulani---

Mr. Ogindo: Jambo la nidhamu, Bw. Naibu wa Spika. Je, Mbunge mwenzangu anayezungumza anazingatia kanuni zetu akisema kwamba tunaongea hapa lakini hakuna kitu tutabadilisha?

Mr. Muthama: Bw. Naibu wa Spika, nimesema kwamba hata tukipitisha kura ya kutokuwa na imani leo, au jana, bado itakuwa tumepitisha tu hiyo kura. Ninasema kwamba tuchukue likizo twende tukawafanyie kazi watu waliotuchagua, na tuangalie shida zao. Tumezungumza hapa. Sasa ni wakati wa kwenda mashinani na kuwafanyia wanachi kazi. Tukirudi hapa, tulete Hoja ya kutokuwa ba imani na Bw. Ringera, tuichangie na kuipitisha.

Bw. Naibu wa Spika, hata hivyo, kazi ya Bw. Ringera imewekewa vikwazo na viongozi wenyewe. Hakuna mwizi anayekamatwa katika nchi hii ukose kuona wawakilishi wa watu katika Bunge hili katika stesheni za polisi wakijaribu kumtoa. Kama hawamtoi mwizi kupitia muungano wa kisiasa, wanamtoa kupitia misingi ya kikabila, wakisema: "Huyu ni mtu wetu. Hapaswi kulaumiwa."

Kama Bw. Ringera angekuwa anafanya kazi katika nchi ambayo inampa uhuru wa kufanya hivyo, na viongozi wanaoamini kwamba wezi ni lazima wakamatwe, hangekuwa na shida. Lakini mwizi akimatwa, viongozi fulani husema: "Tunatoa mwito Kamishna wa Polisi afutwe na waliokuweco mbeleni wafutwe." Hii ni kwa sababu sisi wenyewe hatutaki kutii sheria lakini tunataka kumuandama mtu mmoja kwa misingi ya kikabila.

Ni wezi wangapi walioko katika Serikali na ambao hawajazungumziwa? Haifai kuleta jina la Mkenya hapa na kulikandakanda kwa maneno machafu kwa sababu amepata nafasi ya ajira. Kama ni hivyo, tuangalie nyuma na kuwatoa wezi wote Serikalini kwa sababu tunawafahamu, na wako kwenye madaraka. Waliotoka wameiba na mali yao inajulikana. Wanatembea nayo na hakuna mtu anayewahusisha na uhalifu. Leo hii, hakuna mtu anayetaka kubanduka kutoka kwa Msitu wa Mau. Tumeweka siasa za kikabila na kila kitu.

Bw. Naibu wa Spika, nchi hii haina sheria ya mnyonge. Bw. Ringera hawezi kuja hapa kujitetea. Wale wanaopinga uteuzi wake zaidi, wakipewa nafasi hiyo, watatumikia na kusema: "Hewala!" Tuchukueni likizo twende nyumbani.

Kwa hayo machache, ninaiunga mkono Hoja hii kwa nguvu zangu zote.

The Assistant Minister for Nairobi Metropolitan Development (Ms. Ongoro): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

As a leader in this nation, I find myself wearing different coats at different times. I want to speak, wearing one of the coats, with colour red, which is the colour of authority. As a Member of the Executive in this House, as an Assistant Minister, I am required to bear the burden of collective responsibility but I refuse to bear a burden that gives more burden to my conscience.

Mr. Deputy Speaker, Sir, as a leader, I was elected by the people of Kasarani Constituency to represent them for five years. They want effective representation. Having listened to all the sentiments arising from the Floor of the House, and having consulted my constituents and the people of Nairobi Metropolitan, I believe that this House should not go on recess.

(Applause)

I believe that we must learn to sacrifice our time. We sacrifice our time to be with our families. We took up the responsibility, knowing that we had what it takes to sacrifice even more. Bearing in mind what we need to discuss, having lost four months last year, because of the post-election violence, and with the issues at hand, honestly speaking, I beg my colleagues to agree with me that we need to oppose this Motion of Adjournment.

Secondly, I believe and I agree that we have other issues at hand. We have issues of hunger and all that but going to our constituencies without anything, really, does not help. If we stay here, legislate and formulate policies that will get us out of this crisis, I am fully convinced without any doubt in my mind that the decision I am taking right now is the right one for this country.

Lastly, we are going through very critical times - times that need this country to unite. Any issue that seems to bring disunity in this House will, of course, be reflected out there. I am convinced that we need to sit and debate all the issues at hand, including the one that has been adversely mentioned by almost every hon. Member of this House. These are the representatives of Kenya. Therefore, Kenya is speaking in this House.

So, if Kenyans are uncomfortable with any decision that has been taken by the Executive wing of the Government, I being part of it, then we should give it time to be debated and arrive at an amicable solution that will not disunite this nation but that which will bring peace and unity.

With those few remarks, I beg to oppose the Motion.

Mr. Deputy Speaker: Order! Order, hon. Members! The Chair would want to draw your attention to Section 17 of the Constitution of Kenya. The Chair has a cardinal responsibility – that of respecting the statute books. This is not a country of men or women. This is a country of laws. We are a nation of laws. Section 17(1) says:

“There shall be a Cabinet consisting of the President, the Vice-President and other Ministers. The functions of the Cabinet shall be to advise the President in the Government of Kenya---“

(3)The Cabinet shall be collectively responsible to the National Assembly for all things done by or under the authority of the President or the Vice-President or any other Minister in the execution of his office.”

Then it proceeds on and goes to the Provison. So, when the Chair says that there are certain things that we need to respect, the Chair is not talking from whims. He is talking from traditions and from the statute books.

Nonetheless, you have made your point. That will be a matter for the Executive to deal with.

So, let us proceed, hon. Sofia Abdi!

Mrs. Noor: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. From the outset I want to oppose the Motion for Adjournment.

National leaders, women and men are counted where they stand at the moment of crisis. Today, we will be counted as national leaders depending on our stand on this issue. We have a national crisis. Corruption is a culture in this country.

Mr. Deputy Speaker, Sir, we, as national leaders, cannot stand here and support issues that deal with corruption because it is serious. Giving a job to a person is not something that we can stop. What we can stop is the method of doing so. The methodology and the process are wrong. We, as Members of this House, are opposing the method that has been used and that is a national crisis.

We, as leaders of this country, do not want to see a repeat of variation of rules that we create in this House. It is wrong for us to support a wrong method. We, as Members of this House, just want to be given three more days so that we can solve the problems that exist. Even if we give the same person the job, it should be done in the right way.

Mr. Deputy Speaker, Sir, we cannot just rubberstamp a decision that has been made elsewhere. We, as leaders, have a responsibility to look into that and see the process pass through this House.

Mr. Deputy Speaker, Sir, I am a Member of the Committee on Justice and Legal Affairs. Our Committee met with the Advisory Committee which felt that their responsibility has been taken from them. As a committee, we felt it was wrong for a mandate or responsibility given to a certain group of Kenyans to be denied from them.

The KACC is supposed to set its standards. If they are the ones who are setting standards, checking and looking into all manner of misconduct in this country; looking into public affairs in this country, it is only right for the people who will implement those investigations to be appointed in the right manner.

With those few remarks, I beg to oppose the Motion for Adjournment.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Thank you, Mr. Deputy Speaker, Sir, I stand to support the Motion. I would like to urge hon. Members---

Mr. Koech: On a point of order, Mr. Deputy Speaker. Based on your ruling, I seek your indulgence on this. Cabinet takes collective responsibility through Cabinet meetings. This is a Motion of Adjournment. At what stage, is it taken to the Cabinet for the Ministers to have that collective responsibility? I seek your indulgence.

Mr. Deputy Speaker: Order, Mr. Koech! Acquaint yourself with the provisions of the Constitution. Look at Section 17(1)(2) and (3) then you will not need to arise on a point of order.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, I stand here to support the Motion. I want to urge fellow Members of this august House to separate the two issues. I can see the anger and I understand it. However, I do believe there are other ways of solving this issue. We have major emergencies in this country such as water crisis, drought and others. We have not interrupted the Business of the House because of them.

In my view, the Committee on Justice and Legal Affairs should take up that issue, come up with recommendations and we will support them in the House. I think we should separate the issue of adjournment from the issue of the KACC. There is a major drought in this country. We need to move out there and carry out programmes that will assist our people. Programmes have been launched and we want to go and implement them. There are many other reasons. I do believe these two issues are different.

I would urge hon. Members, let us vote together. Let the committee take up the issue. Let them investigate. After that, they should bring the recommendations and we will support them on the Floor of the House.

Thank you, Mr. Deputy Speaker, Sir.

The Assistant Minister for Public Works (Mr. Wathika): Thank you, Mr. Deputy Speaker, Sir. I stand to support the Motion for Adjournment.

I do not know who has the barometer to measure the conscience of people. Some people are saying they are opposing because their conscience is clear. I do not think there is any hon. Member here whose conscience is clearer than mine.

I support this Motion because the Budget was read in this House. We are yet to form structures to respond to the Budget so that we can be effective in our constituencies. We need to know how to utilize the Kshs30 million for secondary schools. We need to know how to utilize the Kshs10 million for markets. We need to know how to utilize the Kshs7 million for the upgrading of primary schools.

The work for us to form structures on the ground is immense. Therefore, I am supporting the Motion for Adjournment because we have work to do to be able to respond to the needs and requirements of our constituents.

Mr. Deputy Speaker, Sir, now they say that lawyers are an ass.

(Laughter)

Since they say so I think it is a matter of argument as to---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say lawyers are an ass? That is not parliamentary language. The law is not lawyers.

Mr. Deputy Speaker: I think the hon. Member meant the "law". I want to presume he meant the "law".

The Assistant Minister for Public Works (Mr. Wathika): No, Mr. Deputy Speaker, Sir, I did not mean the "law". I meant "lawyers" because---

(Laughter)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir!

The Assistant Minister for Public Works (Mr. Wathika): Let me substantiate, Mr. Deputy Speaker, Sir. A while ago in this House the remarks of the Attorney-General were ruled to have been dishonest---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has actually clarified that he meant “lawyers”. I do not even want to repeat the word he used because even when I speak I decode them; I do not put them that bluntly. Is he in order to use such unparliamentary language?

Mr. Deputy Speaker: You are out of order, Mr. Wathika. You cannot say that lawyers are---

(Laughter)

The Assistant Minister for Public Works (Mr. Wathika): Mr. Deputy Speaker, Sir, I beg for your indulgence because a while ago an hon. Member here said that the Attorney-General gave his honest advice and you did not ask that hon. Member to withdraw his remarks about the Attorney-General being dishonest.

Mr. Deputy Speaker: Order, Mr. Wathika. You are out of order. Do not push the patience of the Chair to the limit.

The Assistant Minister for Public Works (Mr. Wathika): Mr. Speaker, Sir, I withdraw those remarks. I now seek your indulgence because we have heard arguments here about the re-appointment of Mr. Ringera as a reason the House should not adjourn. I have explained why we should adjourn because of the many responsibilities that we have.

Now I would like to address the issue of the re-appointment of Mr. Ringera. With your indulgence, I wish to refer hon. Members to the Anti-Corruption Crime---

Mr. Deputy Speaker: Order, hon. Members!

The Assistant Minister for Public Works (Mr. Wathika): Mr. Deputy Speaker, Sir, I would like to refer Members to the Anti-Corruption and Crimes Act, Section 3(2). With your indulgence I want to read:-

“A person who has held office as Director or Assistant Director may be re-appointed but may not serve as a Director for more than two terms or an Assistant Director for more than two terms”.

The process of re-appointing is vested in the authority that appointed.

(Applause)

I am not a lawyer but this is an argument that lawyers will advance and that is why it is an ass.

When Members of Parliament want to go for re-election, we are not subjected to the proficiency test again because we had done it, went through the process and qualified. Therefore, if Justice Ringera had qualified and nothing has been demonstrated to show that he has failed as a Director, then I think the President is in order.

Secondly, ---

Mr. Deputy Speaker: Order, Mr. Wathika! Your time is up!

The Assistant Minister for Public Works (Mr. Wathika): With those few remarks, I beg to support.

Mr. ole Lankas: Mr. Deputy Speaker, Sir, I stand to oppose this Motion. As has been said by colleagues, it is the integrity and dignity of this House that is at stake.

The reasons being advanced as to why we must stay and finish business so that we discuss the re-appointment of the Director of KACC. It is true that this is a very contentious issue. However, I also want to add to the list, the reasons why we should stay and finish the business of this House. We are all aware that there are burning issues in this House. One of them is the issue of the Mau Forest. This is an issue that has been with us for far too long. It has been a year now. It is a very sensitive issue of national importance. We are talking of famine and hunger.

I think the Mau Forest issue is more important than even the re-appointment of the Director of KACC. The Task Force Report on the Mau Forest Complex should be tabled before this House. We should then discuss it exhaustively before we proceed on recess.

With those few remarks, I beg to oppose.

(Applause)

Mr. Mbadi: Mr. Deputy Speaker, Sir, this is not a Motion to be supported. So, I would not even belabor supporting it. In fact, I wonder why Mr. Wathika was supporting this Motion. He has just come from recess. He has not been in this House for so long. I am wondering why he wants to go back home.

Anyway---

The Assistant Minister for Public Works (Mr. Wathika): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to impute improper motive on my character; that I have been on recess, whereas I have been away on sick off with the permission of the Speaker? The hon. Member should withdraw his remarks because I have not been on recess.

Mr. Mbadi: Mr. Deputy Speaker, Sir, if the Member has been sick, I withdraw and apologise. However, the vigor with which he was talking, I could not imagine that he was sick.

Mr. Deputy Speaker: He was sick! It is not that he is sick now.

Mr. Mbadi: Mr. Deputy Speaker, Sir, we thank God for his quick recovery because he has fully recovered.

Having said that, I want to vigorously oppose this Motion. I think a lot has been said about the re-appointment of Mr. Ringera. I want to say that for any hon. Member of this House who wants the Executive to respect this House and wants not to see a rogue Executive the way we are seeing, we must sort out the issue of Ringera before we go on recess. This is my main reason for opposing this Motion.

A lot has been said about what we are going to do at home. Every time we debate on going for recess, Members stand here and lecture us on how we need to be in our constituencies to monitor development. For sure, during recess, Members are even busier in Nairobi than at home. This is when we have committee meetings. I think this is an excuse rather than a reason to adjourn this House.

Mr. Deputy Speaker, Sir, I would appeal to Members of this House to vigorously oppose this Motion, including the Front Bench. If the Mover of this Motion was honorable enough, he would withdraw it so that we continue and sort out the issues that we want sorted out. Otherwise, we will still have war with the Executive. We do not want to engage in war with the Executive.

Yesterday, the main reason that the Government wanted us to reduce the publication period for the Appropriations Bill from seven days to five days was that the Motion was very critical and that we needed the money. Today, I do not see the same argument from the Government. We have been generous enough to give the Government more time to bring that Appropriations Bill when it matures. I would now ask the Government that instead of wasting time here trying to support a Motion that we will defeat, to go back and bring us the Appropriations Bill. Let them put it on the Order Paper tomorrow so that we debate it.

I beg to oppose.

The Minister of State for National Heritage (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I have been listening very carefully to all these issues that have been raised. However, I want to talk very briefly. The Ringera issue is very important. However, the Mau issue is just as important or more important. For that reason, if tomorrow the Mau issue is going to be included on the Order Paper, then definitely, I will oppose the Motion.

(Applause)

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, I wish to stand to oppose this Motion.

Whenever I am in my constituency, the issue of corruption always appears number one. Even when the President came to my constituency I told him it is corruption which is finishing my people. If the same President is trying to mess up with the KACC that we, Kenyans, tend to trust--- Even though it has not done anything, there is no reason for us to go home.

The Government provided Kshs10 million to construct a bridge that was leading to my own home but it was not done properly. I reported the matter to the KACC but to date, two years down the line, nothing has happened. There are many other cases.

Mr. Deputy Speaker, Sir, corruption is destroying our country and it is not something easy. Some of us have been in politics for almost 20 years. Others have been in Parliament for at least two terms. We had to sacrifice to be where we are now. We have a very urgent Agenda 4 which the international community wants us to handle. However, it is not appearing anywhere in the Government circles. There are historical injustices such as unequal distribution of Government resources and the skewed appointment of people into the Civil Service. What would I be going to tell my people in Amagoro? That I support this Government because it is not appointing my people to the Government? That I support this Government because it encourages corruption? That cannot happen! Let us send a very strong message to the President, wherever he is, that we, as elected people or representatives of the people who elected us, will not treat this issue casually anymore. Enough is enough!

Those of us who are Assistant Ministers are prepared to serve this Government for the benefit of the people of Kenya and not for the benefit of the people who are out there. That should go down well with this Government. Therefore, we cannot be frightened by someone because we are Assistant Ministers. Some of us were teachers. We were earning Kshs5,000 but we survived. We have come here in our important role as the representatives of our people and to do good to ensure that our people's needs are delivered and not what one person, an MP from Othaya wants.

With those few remarks, I vehemently oppose the Motion.

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you for giving me the opportunity to contribute to this very important Motion and to join my colleagues who are here to support this Motion. I want to say, from the outset, that it is very sad that every time we talk about national issues, they are clouded by ethnic connotations, party connotations and other issues. The same House should sit here when we are talking about very important issues such as the country starving, the way we have gone without water, lack of power and how lakes are drying up. That, however, has not been an important matter. However, when a personality is reappointed to a seat that he has held for the last five years, that becomes a serious enough matter.

Lake Nakuru, where I come from, has been there since time immemorial. It is "disappearing" while this Parliament is sitting here. We have not found that to be a serious enough matter for us not to continue with the business of the House. However, we sit here because of other serious issues. We sit here because everyone wants their own man to be appointed to that position and yet we hide behind the reappointment of Mr. Ringera. I do not know Mr. Ringera as a person and I do not have time for that. However, let us be honest with ourselves; what is before us is not about whether we should reappoint Mr. Ringera or not. The issue before us is whether we should go on recess to address matters at the constituency level where we can get in touch with our people and address the many problems that affect us.

As we talk about this, we know that our country is going through difficult times. We have the *Kazi Kwa Vijana* Programme that has been ongoing. Hon. Members have a role in it. We have not had time to inspect these programmes and to ensure that the money is used for what it is intended to do.

The opportunity for hon. Members to interact with the electorate is, indeed, part and parcel of their mandate. They need to ensure that when they stand here to represent their people, they are speaking on behalf of their people. As I come to a close, I request my colleagues, hon. Members, to realize that there will be an opportunity for them to ventilate on issues to do with the KACC and the reappointment. However, before us to do is the issue of whether we should go and have a recess and address issues pertaining to our constituencies and other national issues including the crisis that we have had.

I support.

Mr. Linturi: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I almost gave up because I had stood a number of times.

I stand here so that it also goes on record that this is not the time to go on recess. This is the time to commit ourselves and sacrifice so that this great nation can remain united and stand. The message I have from my people is that I should not step my feet in the constituency I represent without the Economic Stimulus Package money. I remember that when the Deputy Prime Minister and Minister for Finance read his Budget, he raised

the expectations of the public so high that what Kenyans are waiting for is action on the ground. Unfortunately, yesterday the Government wanted to reduce the maturity period of the Appropriations Bill to five days appears to have “evaporated” to areas that we do not know. I feel that this is the time we must stay here and pass the Appropriations Bill so that when we go back to the constituency, we will have the CDF and the Economic Stimulus Package money so that within the time we will be at the constituency, we can oversee the running and implementation of these projects.

The culture of impunity in this country must stop. What has happened--- I feel very aggrieved when Mr. Ringera becomes a point of debate in this House, a man who is a kinsman, whom I respect and a man whom I think that if the Executive wanted to give the reappointment, should have followed the procedure and the normal process that was followed with regard to Mr. Mutonyi among others. I feel that this is wrong because this man has been ridiculed in this House for a mistake that he did not commit. I feel that it is high time that we stood here and correct measures are taken with regard to this reappointment. We do not care who will be reappointed as long as the procedure is followed.

You will realize that the Executive has made a number of mistakes and for that reason, the Back-benchers and any other hon. Member who is guided by his conscious has every reason to stand here very strongly and express his outrage on the manner by which the Executive is conducting itself. If I were to remind them, if they do not have an institutional memory - this Parliament passed a Vote of No Confidence on Mr. Kimunya and the Executive later reappointed him. Is this not disregard of Parliament? With regard to the Fiscal Analysis Bill, the same happened. This is another time when Mr. Ringera has been appointed without undergoing the due process of approval by this House. I feel that if we do not oppose this very strongly, this culture will continue. We must remember that the lives that we lost during the post-election violence in January would not have been lost if there was complete respect and due regard for the law in this country. When those people died, there was a legitimate Government in place that had sworn to protect the lives and properties of Kenyans. However, with all that, we know what happened and they decided not to do anything. Time has come when we must say no to this culture.

With those few reasons, I beg to oppose the Motion.

The Assistant Minister for Industrialization (Mr. Muriithi): Thank you, Mr. Deputy Speaker, Sir. I agree with the statement that we must end impunity in this country. But who is acting with impunity? We have people who have settled in the Mau Complex, Marmanet and Olalabel forests illegally. We have people who have gone to court to try and stop the lawful processes of this country and they have lost. We have people who have stood up before God and the country and said that blood will be spilt if people are removed from those forests. So, who is acting with impunity?

We are saying that we have sworn to protect the Constitution of this country. We have people who have repeatedly reminded us this afternoon that we must follow the Constitution. We are going around the country saying that Agenda 4 is to deliver a new Constitution. If we are not willing to respect the Constitution that exists today, can we really stand up and say to the country that we shall respect the Constitution that we propose to make? So, who is acting with impunity? Who is living a lie?

An. hon. Member: Toboa!

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Deputy Speaker, Sir, the Executive has acted within the law as it exists. The Chair of the relevant Committee has stood and argued that, in fact, appointment also means re-appointment. That is a point of contention between lawyers. Speaker after speaker have stood here and accepted that it is a matter of interpretation. So, the Executive has acted within the written law. Those of us in this House who are then suggesting that it is okay to disregard the written Constitution as it is today, and we want to stand up and say to this country that we are acting with our conscience today, the Constitution is clear. If truly, we are interested in moving this country forward, is it not time that hon. Members live within the law?

Mr. Deputy Speaker, Sir, the Chair has---

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to purport to quote a Constitution that he does not even understand? He is not telling us what parts he is referring to. This is what is contributing to the impunity.

Mr. Deputy Speaker: Order! How is that a point of order?

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Deputy Speaker, Sir, you have stood twice and read the Constitution for those who have ears to hear and understand. I think that it is fair to accept that the Motion before this House is about adjournment. It has nothing to do with KACC or the appointment of officers to that institution or any other things that are going on in this country. So, we should focus on the merits and demerits of whether we should actually go on recess.

An issue has been raised that we want to go home knowing that the Economic Stimulus Package is in place. Two months ago, Parliament accepted that the Government can spend up to 50 per cent of the amounts that are proposed in the Budget, implying, therefore, that the Economic Stimulus Package is in place.

With those very many words, I vigorously support the Motion.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise with a heavy heart to contribute to this Motion. I thought that the reason why we were going on recess was because of the Parliamentary calendar which, we ourselves decided in the House Business Committee. Last week, we did not go on recess because of the one day holiday which we had for the census. But what I get is that we are going on recess because the President lawfully appointed Justice Ringera. I rise to oppose this Motion.

I am a Party Whip and I also act as Leader of Government Business. But right is right and wrong is wrong. I heard the reasons advanced by hon. Murungi and hon. Ndiritu. Yesterday, in the House Business Committee, we sent the Minister for Justice, National Cohesion and Constitutional Affairs to consult the Executive and come here today at 3.30 p.m. and make a Statement to this House. We said as Whips that we are going to support the Motion for Adjournment only after the Government guarantees Members of Parliament that, that irregularity was going to be corrected. That was yesterday in the House Business Committee. So, we need to set the record straight.

Mr. Deputy Speaker, Sir, I have consulted the Prime Minister and he said that he was not consulted when that decision was taken as the law requires. If we want to talk about constitutionality, let us face it. What are we trying to hide? I have nothing against Justice Ringera. In fact, I have always thought that he needed more powers than the Attorney-General. But he cannot be crudely run down the throats of Kenyans. That will

not happen. I think the Back Bench is right in saying that we should bring the Appropriations Bill here and we delete the budget of KACC. They do not belong here. It is a lyric of the past. I know what we went through when we were appointing Justice Ringera. We said certain things on the Floor of this House. Those things have come to be true. Justice Ringera has been there for over five years and has not prosecuted any single “big fish”. He does not deserve that job. He does not deserve to make Kshs2.5 million a month, which is the taxpayers’ money.

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. I really respect hon. Midiwo, but I feel that he is misleading the House. Is he in order to say that Justice Aaron Ringera has not prosecuted any “big fish”, when he knows very well that KACC does not have prosecutorial powers? We are not sure whether the Attorney-General has, at any one time, delegated those prosecutorial powers to KACC?

Mr. Midiwo: Mr. Deputy Speaker, Sir, if this House wants to give prosecutorial powers to Justice Ringera, it is free to do so. But at this moment, there is no reason to keep him there, particularly if Parliament has not approved his re-appointment. The law is clear and we cannot circumvent it. Parliament has powers to approve. The committee goes through the list and forwards it to the President to select the members. Why has that process not been followed? You cannot tell us that because he was interviewed and appointed once, the way hon. Kiraitu was reasoning, there is no more reason to interview him. Who has vetted or assessed the work that he has done in the last five years? These are issues that we need to look at.

This is time for peace. We have been trying to make peace with our colleagues. We will not sit back and be part of illegalities. People have died because of such issues. Kenyans have shed blood because of such issues. We want the Executive to respect the supremacy of Parliament because Parliament has a role to play.

I urge Members of this House that this is the time to stand up to be counted. Let us be on record as people who have supported somebody who is appointed and is being paid money to protect corruption or we want change in this country. If the President wanted peace in this country, he should have followed the law. Ms. Karua has said that when they appointed the other directors they followed the law. Why not follow the law with the appointment of Justice Ringera?

Mr. Deputy Speaker, Sir, I beg to oppose this Motion.

Mr. Chanzu: Thank you, Mr. Deputy Speaker, Sir. I stand to oppose this Motion. We are trying to forget about the past, but something happens that reminds us about it. The appointment of Justice Ringera without the advice of the Advisory Committee and before the period of appointment is ripe, reminds me of what happened on 30th December, 2007, when the President was sworn in at night. This is the same thing that is happening. We want to forget about this but we are reminded by these kind of events. Justice Ringera is being appointed prematurely before the Advisory Committee gives any views.

Mr. Deputy Speaker, Sir, I have seen a lot of hypocrisy today. The Members of Parliament are saying that they want to go home. If you are a sincere person and you go home, the first question you will be asked by the electorate is: “How was Justice Ringera appointed and yet you were in Parliament?” We will be asked this question, unless we are the type that does not go to the constituencies but are now pretending that they will go

there. If you will go to the constituency, you will be asked that question. How did Parliament allow this to happen?

Mr. Deputy Speaker, Sir, because I know many hon. Members would like to contribute, I beg to oppose this Motion.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to contribute to this very important Motion. If you noticed, I have been sitting at the most strange place for me in the history of this House. I have been sitting a very lonely man. In fact, as I listened to the contributions, the only contribution I found reasonable was the one from Mr. ole Ntimama.

Mr. Deputy Speaker, Sir, it has been very confusing today listening to what has been going on here. I have wondered. What game are we playing? Are we really being sincere with ourselves? I have heard loud voices against impunity and for once I thought probably many sauls were on the road to Damascus and they have become Paul; that they have seen the impunity that has gone on in this country. It has been very puzzling for me because for a while I wondered. Have all my colleagues suddenly seen the impunity that has gone on in this country? How come they had not stood up before to be counted? I wondered because many times when we have tried to stand up against impunity in this House, many have been vilified. Many people have mentioned the Mau issue and other water catchment areas.

Mr. Deputy Speaker, Sir, the height of impunity I think is violent impunity. We have had violent impunity in this country. We have been trying to set up a tribunal or a method of trying to stop this violence but there has been a lot of opposition. I am wondering whether the fight against impunity that is being shown today is really genuine.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House that hon. Members have been opposing the local tribunal and yet he is on record for voting against it in this House?

Dr. Eseli: Mr. Deputy Speaker, Sir, while I respect Mr. Mbadi very well – in fact he is a close friend of mine – I think he is so hell-bent on opposing the Motion that he cannot think straight. This is because I never voted against the local tribunal in this House. I voted against the change in the Constitution, which was not the Tribunal Statute. The Tribunal Statute was going to come later on. We voted against the change in the Constitution.

Mr. Deputy Speaker, Sir, we want to score some points here and the fall guy here happens to be Justice Ringera. As we send out the loud message that we do not want impunity to persist in this country and we agree that we do not go home, then let us agree on the priority of the order of business tomorrow. We should start with the Mau issue, follow it with the local tribunal and then get to the appointment of Justice Ringera. If my colleagues agree to that order of business, I will join them in opposing this Motion.

(Applause)

Mr. Deputy Speaker, Sir, I now support the Motion.

Mr. Deputy Speaker: Dr. Eseli, unfortunately, it is not the House that decides the order of business. It is the House Business Committee which has got the majority of the Government side.

Yes, Mr. Gunda!

Mr. Gunda: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute. We know impunity thrives in this country. If impunity is thriving, how else can we deal with it? I would like to say that if the hon. Members who are present today oppose impunity, then they should vote against this Motion. If you support impunity, of course, you will vote for the Motion.

(Applause)

Mr. Deputy Speaker, Sir, I oppose impunity and this Motion.

Ms. Leshomo: Asante sana, Bw. Naibu Spika. Nimenyamaza na kusikiza sana. Niko tayari kuunga mkono Hoja hii. Kile kimenishangaza ni vile wenzangu wanaongea. Nilikuwa ninafikiri kwamba tunakataa kwenda likizo na kumbe Jaji ambaye anaitwa Ringera ambaye hata simjui ndiye anayeleta taabu hii yote. Ningependa kuwaeleza wenzangu kwamba Wakenya katika kila pembe ya nchi wako na shida nyingi sana. Ingefaa kama tungeangalia shida hizo vile tunavyoangalia mambo yanayomhusu Jaji Ringera. Ingefaa kama tungeyaangalia matatizo ya Wakenya vile tunavyoongea sasa hizi.

Bw. Naibu Spika, je, Jaji Ringera ni Mkenya, Mtanzania au Mganda? Nauliza hivyo kwa sababu ikiwa yeye ni Mkenya, kwa nini tunaongea masaa matano juu yake na kuna sheria ambayo inaweza kufuatwa ikiwa kuna shida?

Naunga Mkono Hoja hii kwa sababu Jaji Ringera ni Mkenya.

Mr. Konchella: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also contribute and oppose this Motion.

Justice Ringera said that he sent 800 criminal files to the Attorney-General for prosecution and the latter refused to prosecute anybody or do anything about those files. So, who is the problem? Is it the Attorney-General or Justice Ringera? We have a problem of an Attorney-General who is like an absentee landlord. He only rushes to Kenya when there is a crisis to mislead the President. He has misled the President and allowed him to endorse somebody when this House has passed a law to ensure proper appointment of Government officials.

Mr. Deputy Speaker, Sir, the most important issue as far as I am concerned is the Mau issue and not Justice Ringera's. The Prime Minister tabled a document in this House to discuss the issue of Mau Forest because our people have no water. We want to go and see them because they have no water. I do not know whether I should go and tell the Maasai to go to Tanzania or Zambia because there is no water for their cattle or for them to drink.

The most important thing here is the Mau Complex. People can be moved out in whatever way in accordance with the recommendations of that document. Why has the Prime Minister not tabled that document here for debate and adoption by this House? We should not go on recess until we adopt the document on the Mau to protect the people of Kenya and the Maasai community, in particular, from the problems they are now going through.

We had the Appropriation Bill before us. That Bill is supposed to empower the Executive. But they are not bothered. They do not need money. I think it is because they have so much money which they can take illegally and live with impunity. They do not care about this House. So, this House must stand up and say: "No! You do your job. We

will also do our job.” Our job is to ensure that you do your job because we are the supreme organ of this nation.

Thank you. I oppose.

Mr. Kiuna: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to support this Motion. But before I make my contribution, I would like to request all hon. Members to know that they are hon. Members. They were elected to this august House to represent their constituents; their people. So, whatever they talk and discuss here, they should bear in mind that they are talking on behalf of their constituents and the whole nation at large.

Mr. Deputy Speaker, Sir, this “somebody” you are calling by the name Ringera, in my own opinion, is a toothless bulldog; he has no teeth to bite. If we are discussing how we can give him enough teeth to bite, it would be a noble debate. But, at the moment, we have wasted all our time debating on somebody whose hands are tied. I thought that the people who are opposing this Motion should consider where we have come from, where we are and where we are heading. I thought they should support this Motion so that they can go back to their respective constituencies to look after the welfare of their constituents.

Mr. Deputy Speaker, Sir, I would like to remind those who are opposing this Motion that their constituents are listening to them. They are eagerly waiting for them. If they have failed---

Mr. Ochieng: On a point of order, Mr. Deputy Speaker, Sir. We are becoming repetitive and nearly all Members have spoken.

Mr. Deputy Speaker: Order!

Mr. Kiuna: Mr. Deputy Speaker, Sir, those who are opposing this Motion are, probably, afraid of going back to their constituencies because they are very unpopular. So, my proposal is that we should support this Motion and go to our respective constituencies. If we are discussing issues like the Mau Complex, famine and, above all, those IDPs who are still languishing in those IDP camps, I would support this Motion.

Thank you, Mr. Deputy Speaker, Sir.

The Minister for Transport (Mr. Mwakwere): Mr. Deputy Speaker, Sir, this is a very, very important Motion. This is a Motion that needs sobriety for us to come to a conclusion that will chart the way forward. This is a Motion that should not be dwelling on an individual because we are giving ourselves a very bad perspective by making references that will surely be questioned by our constituents or Kenyans as a whole. We are saying that we are opposing the Motion because Justice Ringera has not prosecuted anybody.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. I know that Mr. Mwakwere is the most loyal Minister but, is it in order for him to say that this is the most important Motion for the Government? It means that they do not want to see Parliament continuing. That is why they do not even attend to parliamentary business. Could he confirm that this is the most important Motion for this Government?

Mr. Deputy Speaker: Order! Order, Mr. Ruto! You are out of order!

The Minister for Transport (Mr. Mwakwere): Mr. Deputy Speaker, Sir, it is just a question of paying attention to specific words. I said that this is an important Motion. I did not say that this is the most important Motion. There is a difference between the two.

Mr. Deputy Speaker, Sir, why are we asking ourselves questions that are truly irrelevant? We are saying that Justice Ringera has not prosecuted anybody and yet, it is this same House that charted out his duties? It did not give himself duties to perform. We did not give him the powers to prosecute. So, we should not blame him if he has not prosecuted anybody.

Secondly, we are saying that we need to sit here for the next three days, again, because of Justice Ringera – that he earns Kshs2.5 million as a monthly salary. Justice Ringera did not decide on his own salary. We did it here ourselves. Let us not take that as a reason.

We say that we are going to stay here for three more days because when Justice Ringera was appointed, to quote Mr. Midiwo: “The Prime Minister was not consulted.” Is he really the right person to speak on behalf of the Prime Minister? Was he sent by the Prime Minister to come and tell the House that the Prime Minister was not consulted? Is it not proper to hear it from the Prime Minister himself? Why do we take that as a reason?

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mis-represent or tell this House that the Prime Minister could have sent me here to say what is a fact? The National Accord is very clear that the President must consult the Prime Minister. The Prime Minister has said publicly that he had no role or idea about the re appointment of Justice Ringera. I think that is a fact.

The Minister for Transport (Mr. Mwakwere): Mr. Deputy Speaker, Sir, if that was said publicly, I am afraid that Kenyans would know it. Maybe, it was said to Mr. Midiwo. However, we take your word. We respect you.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. The Minister may not have read the newspaper. That does not mean that it was not said in public. If the Minister was unable to read the newspaper, he should take ---

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order!

Mr. Shakeel: That is public knowledge!

Mr. Deputy Speaker: Order! Order, hon. Members! If you understand your Standing Orders very well, you should know that newspapers are not admissible in the House.

Mr. Shakeel: Mr. Deputy Speaker, Sir, it is not meant to be quoted as evidence. But the Minister is saying that the information that the Prime Minister gave was not in public domain. If the Prime Minister gave that information and it was carried in the newspapers, it is in public domain.

The Minister for Transport (Mr. Mwakwere): Mr. Speaker, Sir, if the hon. Member was paying attention, I concluded by saying that I accept what hon. Midiwo had said, even though the matter was not publicly announced.

Anyway, I am humbly requesting my colleagues to take note of the fact that we have many issues that need our attention. Even three days might not be enough. We probably need three months. We have to make sure that there is continuity in expanding our ideas, our positions and our decisions. Adding two or three more days just because we want to discuss Justice Ringera--- Maybe, it is important but it should not be the reason behind the extension of our stay in Parliament. We need to go back to our

constituents to see problems that are really affecting them. These include the problem of famine and the problems of the many disadvantaged people in our society. Those are important issues and even if Justice Ringera has been appointed, when we come back after our recess, we can still take up the matter and carry it forward and achieve what we want to achieve as Parliament, irrespective of what others say.

I am, therefore, supporting the Motion.

Mr. Mwaideghu: Bw. Naibu Spika, nashukuru kwa kunipa nafasi hii ili nikosoe wenzangu ambao wamejibana hapo wakisema kuwa wanaunga mkono Hoja hii. Kwa maoni yangu, ni ufidhuli. Hawa ndugu zangu hawatoi hisia zao za ukweli. Jana katika shughuli zetu za kikao cha Bunge, tulikubaliana kuwa Waziri wa Haki, Maridhiano ya Kitaifa na Maswala ya Katiba atakuja hapa ili afanulie Bunge kwa uwazi na kwa undani yale ambayo wamekubaliana na Mheshimiwa Rais. Lakini hayuko hapa. Inamaanisha nini? Inamaanisha kwamba mna mambo ambayo yanafichwa na hayapo wazi. Naomba kama Wabunge ambao tunaheshimika, tukiwa tunakaa katika Bunge hili, tuelezane uwazi. Ni nini kinafichwa? Ni nini kimetokea ndiposa lazima twende nyumbani kesho? Kwani tukikaa tujadiliane yale ambayo ni ya muhimu, ni jambo gani litakalotokea?

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker took the Chair]

Bw. Spika, kuna mambo kadhaa wa kadhaa ambayo tunaomba yajadiliwe na tukikaa hapa, Hoja ya Naibu Waziri Mkuu na Waziri wa Fedha ambayo hatujakamilisha itakuwa imeiva kesho na tutaihudumia kama vile ilivyo. Tungependa kwenda tukijua kwamba wale ambao wametupatia majukumu ya kuja kuwaakilisha hapa, tumewasilisha yale walio nayo kikamilifu. Watatuuliza maswali magumu na moja yao ni hiyo Hoja ya Naibu Waziri na Waziri wa Fedha.

Ya pili ni shughuli ya Msitu wa Mau. Umesikia wenzetu wakizungumza kwa undani. Jambo la kukata Msitu wa Mau umesababisha ukaukaji wa maji kila mahali. Hata kwangu kule Taita kumekauka. Sasa mnataka twende nyumbani kabla hatujamaliza hayo mambo? Ni nini tunakimbilia? Kwani mna watoto wa kunyonyesha? Hamna! Kama wapo muwalete tuwaone.

Mheshimiwa mwenzetu amesema hapa kwamba hisia zake kwa mumewe amezibana ili ashughulikie mambo ya Bunge, nasi tunamuunga mkono. Lakini ni nini hiki hatuelezwi wazi wazi? Tumeuliza hapa; Bw. Ringera amepewa kazi lakini swala sio yeye bali ni njia ambayo imetumiwa kumpa kazi. Wengine wetu hatumfahamu wala hatumjui Bw. Ringera. Tunaona kazi yake. Wengine wanaiheshimu na wengine wanaipuuza. Lakini swala muhimu ni kuwa, kama wale Wakurugenzi wengine walipewa wadhifa wa kuhudumia taifa hili walifuata sheria na mkondo ambao umewekwa na sheria, kwani huyu Ringera ana nini? Kwa nini aletwe kinyumenyume? Kwa nini sheria isifuatwe hadi apewe kazi?

Bw. Spika, jioni hii ninashangaa kusikia wenzetu wakisema kwamba wanaunga mkono Hoja ya kwenda nyumba ilhali hatujakamilisha maswala muhimu. Kwenda nyumbani haimaanishi kuwa unaenda kuhudumia watu wako. Kuna wengine hapa

tutapewa likizo ya kwenda nyumbani lakini hawaendi. Watakuwa wanajibana hapa hapa mjini na tunawajua. Naomba niweke tamati.

An hon. Member: Wataje!

Mr. Mwadeghu: Bw. Spika, nitawataja wakati ukifika lakini kwa sasa naomba niweke tamati na kusema kwamba napinga Hoja hii na watu wa Wundanyi Constituency wako na mimi wakisikia naipinga.

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to impute improper motive---

Hon. Members: Ongea Kiswahili!

Mr. Speaker: Order, hon. Members! A Member may speak in any one of the two languages and if he begins talking in Swahili he will continue talking in Swahili. He does not have to follow the example of his predecessor. That is precedence and it is on the historical record of this House.

Proceed, Dr. Eseli!

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to impute improper motive on the rest of the hon. Members---

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

Mr. Speaker: Order, Mr. Ruto! If you want to raise a point of order in respect to the direction I have given, my direction is informed by the historical records of this Parliament beginning from 1963. The Standing Orders are also clear on this. I am afraid I will not revisit that matter.

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

Dr. Eseli: Mr. Speaker, Sir, I am on the Floor!

Mr. Speaker: Order, Dr. Eseli! Mr. Ruto, you are insisting that it is important!

Mr. Ruto: Yes, Mr. Speaker, Sir.

Mr. Speaker: Okay, proceed!

Dr. Eseli: That is impunity, Mr. Ruto!

Mr. Speaker: Order, Dr. Eseli!

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I want to bring to your attention that although you are referring to historical records, this afternoon, we have had two different rulings from the Chair. About an hour ago, we had a ruling that we must speak Kiswahili if the person who was contributing was speaking Kiswahili. You cannot interrupt him unless you are also speaking in Kiswahili. So, my history is very short. It is only one hour and the two rulings have come from the same Chair. I also want to bring to your attention---

Mr. Speaker: Order, Mr. Ruto! You have to be relevant to the matter that is on the Floor currently.

Mr. Ruto: Mr. Speaker, Sir, I am relevant to the ruling from the Chair and I am asking for direction over the two rulings that have come from the Chair this afternoon. Which one do we follow? We have also been told that no Minister can oppose a Government Motion.

Mr. Speaker: Order, Mr. Ruto, now you are talking about a different matter which I will not entertain at this stage! The position that I have given is informed by the long history of this House not just what happened a month ago.

Proceed, Dr. Eseli!

Dr. Eseli: Thank you, Mr. Speaker, Sir. I think Mr. Ruto was exhibiting his usual impunity. Is the hon. Member in order to impute improper motives on hon. Members that some of them are not going to go home and that they will be hiding in Nairobi? He even knows them! Is he in order?

Mr. Speaker: Mr. Mwadeghu, do you want to make a response to that? It has to be a quick one.

Mr. Mwadeghu: Bw. Spika, nilikuwa ninanakili msemaji ambaye awali alisema kuwa tunaenda nyuma na hatuendi, na Spika akanyamaza. Kwa hivyo, nilikuwa ninanakili tu. Yangu yameisha.

Mr. Speaker: I do not find anything out of order. Hon. Members, we have one minute which we will give to the Minister for Justice, National Cohesion and Constitutional Affairs. I am afraid it is just one minute.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, on the issue of the re-appointment of the Director of KACC and his two deputies, the position of my Ministry and myself is very clear: His Excellency the President has not violated any law. He is entitled to do what he did. The law that we passed in this House is very clear. It has a section and a schedule that is clear. The method of appointment is clearly stated and requires the Advisory Board to make recommendations for Parliament to approve and the President to appoint. But for purposes of re-appointment, if somebody wants to amend Regulation 3(2), they can do so. I hear that there are allegations that it is subsidiary legislation; it is not. It is part of the law. It is a clear schedule. It is where the terms of reference and the actual criteria of appointment are stated and it is also where the period of appointment and re-appointment are stated.

The words appearing in that schedule are that any person who has served as a Director or Deputy can be re-appointed. So, it is very clear and I am satisfied. I speak with firmness and authority that the President has not violated any law.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House when clearly the reference to reappointment is reappointment in accordance with the law as set out in Section 8(3)? Is it another piece of advice with coloured lenses so as to mislead the Government?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I am not giving advice to anybody. I am not required to give advice to anybody. I am acting from the purposes and under the principles of legal policy. My learned friend was sitting in my chair. I had not found any complaint from her against hon. Ringera. I have spoken this morning with the Director and the bodies concerned. The position remains that there is nothing on the table of His Excellency the President against the reappointment of those people that this House interviewed and approved.

Mr. Speaker, Sir, there is absolutely no provision for reinventing a person who has been vetted.

Mr. Speaker: Order, hon. Minister. Hon. Members the time allocated to this Motion has now run out.

(Question put and negatived)

(Several hon. Members stood up in their places)

Hon. Members, I am satisfied that there are adequate numbers for a division. I order the Division Bell be rung!

(The Division bell was rung)

Mr. Speaker: Order, hon. Members! You may resume your seats now!

(Hon. Members resumed their seats)

(Mr. Koech answered a phone call)

Order, hon. Koech! The House is sitting! You cannot attend to a telephone call in the House. That is grave disorder. But because, perhaps, you did not know before, I will excuse you. It is, however, not permissible at all!

DIVISION

(Question put and House divided)

Mr. Speaker: Order hon. Members! I can see the Tellers are now ready. Please, proceed to come in and give us the results

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

Mr. Speaker: Order, hon. Mbadi! You do not make any other addresses on an occasion so solemn as this one!

(Question negated by 59 votes to 36)

Ayes: Messrs. Gaichuhie, Haji, Kabando wa Kabondo, Kamama, Kambi, Kenneth, Mrs. Kilimo. Messrs. M. Kilonzo, Kinyanjui, Kioni, Kiuna, M'Mithiaru, Mbai, Dr. Munyaka, Messrs. Mureithi, Muriithi, Murungi, Muthama, Mwakwere, Mwangi, Mwathi, Mwaura, Ng'ang'a, Ngugi, Rai, Ruteere, Prof. Saitoti, Prof. Sambili, Messrs. Simiyu, Thuo, Waititu, Wambugu, Warugongo, Dr. Wekesa, Mr. Wetangula and Ms. Leshomo.

Tellers for Ayes: Messrs Ngugi and Kigen

NOES: Messrs. Abdikadiir, Anyanga, Chanzu, Ms. Chepchumba, Messrs. Cheruiyot, Githunguri, Godhana, Gunda, Kaino, Prof. Kamar, Ms. Karua, Messrs. Keter, Keynan, Khang'ati, Kigen, Kiilu, Kiptanui, Kizito, Koech, Konchella, Mrs. Kones, Dr. Laboso, Messrs. Lagat, ole Lankas, Lessonet, Letimalo, Linturi, Magerer, Magwanga, Mbugua, Midiwo, Mbadi, Murgor, Musyimi, Mwadeghu, Mwaita, Mrs. Ngilu, Messrs. Nanok, Ngugi, Maj-Gen. Nkaiserry, ole Ntimama, Mrs. Noor, Dr. Nuh, Mr. Odhiambo, Ms. Odhiambo, Messrs. Ochieng, Ogindo, Ojaamong, Dr. Otichilo, Ms. Ongoro, Messrs. Orengo, Pesa, Ruto, Mrs. Shabesh, Messrs. Shakeel, Sirma, Washiali, Were and Zonga.

Tellers for Noes: Messrs Mbadi and Mbug

ADJOURNMENT

Mr. Speaker: Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow, Thursday, 3rd September, 2009, at 2.30 p.m.

The House rose at 7.05 p.m.