

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 19th February, 2009

The House met at 2.30 p.m

*Mr. Deputy Speaker in the Chair*

### PRAYERS

### PETITION

#### INTRODUCTION OF VETERAN BILL

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I wish to present a Petition under the provisions of Standing Order Nos.163 to 167. This is the most humble Petition of over 7,000 Kenyans from all the eight provinces of Kenya who fought for the liberation of Kenya from the colonial rule. The Petition bears over 7,000 signatures and thumbprint of members of this group. It also contains the history and reasons for petitioning this august House. The petitioners pray as follows:

THAT, the National Assembly urges the Government of Kenya to bring a Bill for an Act of Parliament to be known as The Veteran Act to identify and recognize the *Mau Mau* and all other freedom fighters like Mekatilili Menza, Ndonge wa Kauti, Waiyaki Wahinga, Moraa Ongiti, Koitalel arap Samoei, Hassan Osman Ali, Elijah Mwasame Masinde, Ojilo Okoteko Eboi, among others, who resisted colonial rule and sacrificed greatly through heroic deeds for the deliberation of Kenya and to erect monuments and statutes in their honour.

The second prayer is to award appropriate compensation, including land and housing for all the heroes and heroines of the Kenyan liberation struggle and generally provide for their welfare and that of their families since many of them have totally been neglected, are landless and live in abject poverty.

The third prayer is to ensure the institution of all private land and property ceased and confiscated during the war of national liberation to the owners or their descendants or where not possible, alternative land be given in compensation; to give *ex-gratia* monetary awards to the freedom fighters or descendants as a token of appreciation for their participation in the liberation struggle; to identify and repeal all pre-colonial and post-colonial repressive laws outlawing *Mau Mau*, *Dini ya Msambwa* and all other freedom movements that have not been repealed to date; to preserve two parliamentary nomination floors for a male and female representative of the freedom fighters group. Lastly, is to introduce courses on our heroes and our history in our curriculum to promote patriotism, nationalism, and research in our culture.

**Mr. Deputy Speaker:** I direct that the Petition be referred to the relevant Departmental Committee. In this case, it is the Committee on Administration of Justice and Legal Affairs. The Petition is praying to the House to urge the Government of Kenya to bring a Bill for an Act of Parliament to be known as The Veteran Act.

I also acknowledge the presence of eight representatives of the petitioners.

*(Applause)*

I am advising the hon. Member to give a Notice of Motion at a later date to have the Petition printed in line with Standing Order No.166.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, most obliged.

**Mr. Deputy Speaker:** Hon. Members, the representatives of the petitioners who we, as a nation, are proud of, are seated at the Speaker's Gallery.

*(The Petition was referred to the relevant Departmental Committee)*

*(Applause)*

### **PAPERS LAID**

The following Papers were laid on the Table:-

Report of the Departmental Committee on Finance, Planning and Trade on the Proceeds of Crime and Anti-Money Laundering Bill, 2008.

*(By Mr. Okemo)*

Report of the Parliamentary Delegation to the Fourth Inter-Parliamentary Seminar in Kigali, Rwanda, from 1st to 3rd October, 2008.

*(By Mr. Kombo)*

Report of the Departmental Committee on Administration, National Security and Local Authorities Study visit to the Republic of South Africa from 17th to 21st November, 2008.

*(Mr. Kapondi)*

### **QUESTIONS BY PRIVATE NOTICE**

#### **EXPOSURE OF NDIUNI RESIDENTS TO TOXIC WASTE MATERIALS**

**Mr. Mwathi:** Mr. Speaker, Sir, I beg to ask the Minister for Environment and Mineral Resources the following Question by Private Notice.

(a) Considering the health hazards posed to Ndiuni residents by the burning of toxic waste materials in a dumping site in Ngarariga, Limuru Constituency, could the Minister clarify how the site is managed and why National Environment Management Authority (NEMA) has not taken action against those responsible for dumping and burning of waste on the site.

(b) What is the Ministry doing to contain the pollution so as to avert a possible human catastrophe?

**The Assistant Minister for Environment and Mineral Resources (Mr. Kiptanui):** Mr. Speaker, Sir, I beg to reply.

(a) The dumping site in Ngarariga area of Limuru Constituency is managed by the Limuru

Municipal Council. The council designated it as a domestic and commercial waste dump site in 2005. However, some of the enterprises authorized by the councils to dispose off waste at this dump site are involved in dumping hazardous waste components of their waste. The dump site is further managed through open-burning which generates air pollutants that may affect the health of the neighbouring residents, including those in Ndiuni area.

Officers from the NEMA visited the site and, indeed, confirmed that the dump site was not being managed in an appropriate and environmentally sound waste management manner. Consequently, the Limuru Municipal Council was instructed by NEMA to either immediately cease open-burning at the site or construct a proper incinerator as per the guidelines of the Environmental Management and Coordination, Waste Management Regulations of 2006.

(b) My Ministry, through its implementing agency, NEMA, has taken various measures to contain the pollution so as to avert a possible human catastrophe. These include creating awareness workshops on the licensing process and the waste management regulations which must be adhered to by enterprises and waste transporters who must dispose waste only at NEMA licensed sites. My Ministry has also put in place intensive surveillance and monitoring systems to ensure compliance with the regulations by all waste transporters and disposers.

The Ministry has further obligated various enterprises in Limuru Constituency to pre-treat their waste to the domestic waste standards before disposing it into the municipal's dump sites, which do not have the capacity to handle hazardous waste from the various processes.

**Mr. Mwathi:** Thank you, Mr. Deputy Speaker, Sir. I appreciate the action taken by the Assistant Minister. At the same time, note that, he has said that the waste there is hazardous and that the burning of the waste is producing air pollutants. He is also saying that he has given two options to the municipal council; to either get proper waste disposal methods or construct an incinerator. In the meantime, because they are still continuing to burn this waste, what immediate steps has he taken to ensure that this does not continue?

**Mr. Kiptanui:** Mr. Deputy Speaker, Sir, as I said, My Ministry has instructed the Limuru Municipal Council to take one of the two options that I have mentioned to cease open burning or construct a proper incinerator. In the event we get information that they are not complying with the instructions that we have given, we, as a Ministry, are ready to take action, including prosecution for non-compliance against the Limuru Municipal Council and any other enterprise or industry that does not comply with the NEMA regulations.

**Mr. Joho:** Mr. Deputy Speaker, Sir, I appreciate the answer by the Assistant Minister. However, we have a similar dumping site in Mombasa called Mwakirungi, which the Minister visited and issued the same instructions while on the ground. It is now about four months down the line and no action has been taken. The area residents are living under serious health hazards. I wonder if the Ministry is truly committed. What is he intending to do to ensure that we have proper waste management rather than waste dumping?

**Mr. Kiptanui:** Mr. Deputy speaker, Sir, I would like to inform my colleague that the Ministry is very serious. We have closed down some industries. Ours is a Ministry of action. The hon. Members will remember the closing down of the slaughterhouse in Dagoretti. If no action has been taken, I want to assure the hon. Member that I can revisit the area and the industries and the enterprises that do not comply in his area shall be closed down.

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, from the answer given by the Assistant Minister, it is clear that one of the ways that the Ministry will take measures to contain this pollution is by holding awareness workshops on the licensing process and waste management regulations. When is the workshop in my constituency scheduled to take place? Could he get some time to visit this dumping site with me, so that he can appreciate the gravity of the issue?

**Mr. Kiptanui:** Mr. Deputy Speaker, Sir, NEMA organised some awareness workshops in our constituencies in 2007. However, I am ready to pay a visit to his constituency as he has requested.

**Mr. Mwathi:** On a point of order, Mr. Deputy Speaker, Sir. Since he is in agreement with me, am I in order to ask him to give me a date, because this is very vital? It is very urgent.

**Mr. Deputy Speaker:** Give a date to the hon. Member!

**Mr. Kiptanui:** Mr. Deputy Speaker, Sir, I have requested him to liaise with my office. This can be done within the next two weeks.

**Mr. Deputy Speaker:** Within the next two weeks! Are you happy, Mr. Mwathi?

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I will be okay if it is done within the next one week, if you can so direct.

**Mr. Deputy Speaker:** Hon. Assistant Minister, negotiate with the hon. Member! It is a serious issue. Please, give it the urgency and the importance it deserves.

#### REINSTATEMENT OF INTERDICTED PRISON OFFICERS

**Dr. Monda:** Mr. Deputy Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Considering that the Government terminated the cases against the prison officers interdicted following the strike by warders last year, why have the officers not been re-instated to their jobs?

(b) When will they be reinstated?

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The offence for which the prison officers were interdicted and charged with in court in the wake of a strike in the service was a serious matter that threatened State security. Whereas the State terminated the cases that were before the court, the Government is still assessing the details of the offence before a further decision can be made.

(b) The reinstatement of the officers to their jobs will depend on the outcome of the investigations.

**Dr. Monda:** Mr. Deputy Speaker, Sir, the officers were interdicted from the prisons service in April last year. In the same month, the Government entered a *nolle prosequi* and withdrew the case from the court. That gives me the assumption that the Government found nothing wrong with the officers and, therefore, it had no case against them. What is the Vice-President and Minister for Home Affairs doing to reinstate these officers considering that they had no case to answer in court?

**Mr. Musyoka:** Mr. Deputy Speaker, Sir, speaking as a lawyer, I want to advise my friend, who is a veterinary doctor, that the mere fact that the Attorney-General chose to enter a *nolle prosequi* does not, as the colleague next to you will agree, necessarily mean that those officers were actually innocent. What it means is that there was need in the national interest and other issues considering the circumstances, either for lack of evidence, for the Attorney-General decided, in his wisdom, to enter a *nolle prosequi*. I want to assure Dr. Monda that we are now looking at these cases individually. It may mean that some of them will be redeployed with the Public Service. In the wake of that strike, I promised this House that we will reform the prisons service. Indeed, we are very serious about that. For instance, one of the nine officers, a Mr. Isaac Odongo, was actually on an extended one year contract after his contract had expired. Such a gentleman will now have retired because his contract had expired.

We are looking at the others because there may be others who have mitigating circumstances that would actually mean that they will have to be redeployed. However, I want to share this with the House. Because of the nature of this matter, it amounted to a mutiny. I said so, at that particular time. Mutiny is regarded as a very serious offence within the disciplined forces. In fact, I had to stand firm and say that rather than disband the entire prison service as happened to the Air Force in 1982, I am sure the Members will remember that, we should look at it more rationally. My opinion prevailed, but

against great resistance by the force commanders, who felt that this was sending a terrible bad signal to the rest of the Armed Forces.

I would like to urge my friend, Dr. Monda, to treat this matter with humane. In the light of what I have told him, some of these officers may very well be redeployed. The investigations are almost complete.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, it took a few days to take these officers to court given the fact that it was a very serious criminal offence amounting to mutiny. How long will it take the Ministry to go through the files and carry out investigations, so that these officers can be redeployed, retired or justice be done for them?

**Mr. Musyoka:** Mr. Deputy speaker, Sir, hon. Kapondi may not have realised that the new Commissioner for Prisons and his deputy were actually appointed in September last year. One of the things that they have done is to stabilise the Force. I am very proud of the progress that they have made to reform the prison service. They are very busy trying to look at the pros and cons of the redeployment of these officers. I would not, therefore, want the House even to jeopardise the chances of these officers. I may, as the Minister responsible, even have private opinion regarding some of them. We are looking at this matter very humanely. I am sure we will arrive at the right decision. Let us allow the Commissioner and his team to come up with recommendations.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, the Vice-President and Minister for Home Affairs is in the forefront and on record as leading the healing process in this country. He is viewed as the vine of reason. Could he bend backwards, forgive and forget, so that the very bad memories of our prison conditions are all behind us? In any case, even during those very bad moments, sanity prevailed and he stopped a possible prison break in Naivasha. Is it possible for him to just forgive and forget, so that we could put all these things behind us?

**Mr. Musyoka:** Mr. Deputy Speaker, Sir, the Vice-President and Minister for Home Affairs does not act alone in a matter as grave as this one. He has to consult widely. Believe you me, the process of those consultations is underway. As I said, I may have private feelings about some of the cases and I will put that across, of course, on a wider national front. I hope that when we get the opportunity, we will go out and preach national healing and reconciliation. This is separate from the members of the disciplined forces.

This country is very well-known internationally as one that has very disciplined forces to the extent that our Armed Forces are called upon to keep peace in other countries. In fact, the quality of training within the prison service is at par with the training in the military. Therefore, men and women bearing arms and trying to misuse them or to disobey lawful orders is a matter that is taken with all the seriousness that it deserves within the disciplined forces. Having said that, this is a matter that is now under very active scrutiny by my Ministry and all the others concerned.

**Dr. Monda:** Mr. Deputy Speaker, Sir, while I appreciate the answer given by the Vice-President and Minister for Home Affairs, he has clearly indicated that this matter has been investigated and it is about to be concluded. It is one year down the line. Could he give us a timeframe within which this matter will be settled and these officers compensated or redeployed in alternative Government offices as he has promised the House?

**Mr. Musyoka:** Mr. Musyoka): Mr. Deputy Speaker, Sir, it will be done within a maximum of two months from now.

**Mr. Deputy Speaker:** Next Question, Mr. C. Kilonzo!

#### DELAYED PROMOTION OF PI TEACHERS

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Why has the Government delayed promotions of the over 7,000 trained A-level holder PI teachers in the teaching service?

(b) Could the Minister also explain why untrained A-level teachers, who underwent a two weeks induction course in 1996 to be promoted to SI status have continuously been promoted while trained A-level holder PI teachers have been ignored?

(c) What measures is the Minister taking to correct this anomaly?

**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government has not delayed promotion of the over 7,000 PI A-level teachers. It should be noted that between 2003 and 2004, the Government, through the Teachers Service Commission (TSC), promoted most of the PI A-level teachers who had the required qualifications to AT IV in accordance with the scheme of service in force. These teachers were among the 78,204 primary school teachers promoted at that time.

Mr. Deputy Speaker, Sir, the existing scheme of service for non-graduate teachers provides for upward mobility of the trained PI A-level teachers upon undergoing the Teachers Proficiency Course (TPC). Promotion, therefore, depends on a teacher's initiative. So far, 12,600 teachers have been promoted under TPC; many among them being Trained PI A-level Teachers.

(b) The Government has not ignored the PI A-level teachers. The two week in-service course conducted by the Ministry in 1995 placed the Untrained A-level teachers into a then existing scheme of service for Graduate/Approved Teachers (now obsolete), which recognised AT III, AT II and AT I as common establishment. As such, these teachers were able to move upward consistently, leaving behind their counterparts. However, the TSC Revised Scheme of Service for Non Graduate Teachers, which came into force in 2007, has taken care of the Trained PI A-level teachers.

(c) The Ministry, through the TSC, is promoting the PI A-level teachers in accordance with the current scheme of service.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the Assistant Minister is talking about the year 2003/2004. I am talking about the current situation. We have over 7,000 A-level teachers who went through teachers training colleges, where they were trained for two years. At the same time, the Government upgraded A-level teachers who had not gone for the two-year course. I have a letter from the Kenya National Union of Teachers (KNUT). There is no dispute in as far as this issue is concerned. With your permission, I want to table the letter.

*(Mr. C. Kilonzo laid the document  
on the Table)*

Mr. Deputy Speaker, Sir, I will refer very clearly to what they are saying. There is no dispute between---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order, hon. Members! The hon. Member on the Floor must be heard!

**Mr. C. Kilonzo:** Thank you, Mr. Deputy Speaker, Sir. I was saying there is no dispute between the TSC, the Ministry of Education and the KNUT in as far as this matter is concerned. When will these trained A-level teachers be considered in the same level as their counterparts who went only for a two-week induction course?

**Mr. Deputy Speaker:** Mr. Assistant Minister, be specific. When?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the Ministry has actually promoted the teachers. Only a small number of them remained. Those ones will be promoted as soon as possible.

**Mr. Pesa:** Mr. Deputy Speaker, Sir, the question of promotion of these teachers, who were trained almost ten years ago, has been a problem in this nation. I do not think the Assistant Minister is ready to answer this Question. The KNUT says, according to the figures laid on the Table, that over

7,000 teachers we are referring to as having trained for two years, have not been promoted to-date. So, could he assure this House that the Ministry will take steps to promote these teachers?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I have said that we shall do it. I do not think there is any problem. So far, we have promoted so many teachers. The small number that is remaining will also be promoted in due course.

**Mr. Pesa:** On a point of order, Mr. Deputy Speaker, Sir. You directed the Assistant Minister to be specific about time. The time he has given before this House is "as soon as possible". How soon is that? Could we know the time?

**Mr. Deputy Speaker:** Mr. Assistant Minister, how soon is "as soon as possible"?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, they will be promoted in the new financial year, because that is when we get money.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, "A-level" means "Advanced level", and it is actually advanced. Could this Ministry consider preparing a programme of elevating these teachers through scholarships, so that they can upgrade their skills by ensuring that, for example, they can get to the university, so that they do not keep on stagnating on the same scale?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, going to the university is an individual's own initiative. As far as I know, so many teachers at the moment have enrolled in the universities for training. In fact, they teach during the term dates and go to study during the holidays. So many of them already have degrees as a result of going to the university while they are still in service. So, pursuing university studies is one's own initiative.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is avoiding my question. I think he is not sympathetic to these A-level teachers. Could the Ministry provide a scheme in which the Ministry can provide some funds, so that these teachers can further their education, as a special measure?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the Ministry does not have money for teachers to go to the university. In this country, we have the Higher Education Loans Board (HELB), which provides loans for those who want to go to the university. So many teachers have benefited from HELB.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, in the last teacher promotion exercise, the Ministry promoted up to 4,000 teachers. In so doing, he discriminated against these particular A-level teachers. Could he tell us the reason? Secondly, now that he is going to promote them, could he undertake to backdate their salaries to the time they promoted the 4,000 teachers.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, for the benefit of the hon. Members of this House, in the year 2003 and 2004, the Ministry promoted a total of 78,240 teachers. In the year 2005, 4,312 teachers were promoted. In 2006, 4,059 teachers were promoted. In 2007, 5,548 teachers were promoted. In 2008, 4,705 teachers were promoted. Between 2005 and 2008, a total of 18,600 teachers were promoted. They were promoted based on attending the TPC, which is mounted annually. Those who have gone for that course will be promoted. As I have said, it is based on one's own initiative. So, those teachers who have gone for the proficiency course will be promoted.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the untrained A-level teachers never went through this course which he is referring to - teachers proficiency course - yet they were promoted. The Assistant Minister is wrong to say they are only few. Today, we are talking about 7,000 teachers. The promotion which he read through here, did not include these trained A-level teachers who are slightly over 7,000. Why did he find it fit to promote untrained A-level teachers and leave out properly trained A-level P1 teachers?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I have given a commitment that, that issue will be looked into by the Ministry.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Could the Minister explain why there has been no teaching at Moi Girls Secondary School, Marsabit, since February 3, 2009?

(b) What urgent measures will the Minister take to ensure that teaching resumes at the school?

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The learning programme at Moi Girls Secondary School was disrupted on 3rd February, 2009, after the students in Forms Two, Three and Four walked out in protest of the principal's transfer. The students moved out of the school compound at 6.00 a.m., and demonstrated in town and later dispersed to their homes. The Form One admission was already underway and they continued with normal learning.

(b) A new principal from outside the district has been posted to the school. The students reported back on 12th February, 2009, and learning resumed immediately.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, the issue I wanted to solve by raising this Question has been well-managed. I want to thank the Assistant Minister for Education, Prof. Onger, for the able leadership he provided in solving this problem. Learning has resumed and I have no further questions.

COMPENSATION/RESETTLEMENT OF IDPS  
FROM MOLO CONSTITUENCY

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) In line with the Government's directive that all Internally Displaced Persons (IDPs) from Molo Constituency be duly compensated and resettled by the first week of December, 2008, could the Minister state the number of IDPs from Njoro, Mau Narok and Molo divisions who have been duly compensated and resettled?

(b) Could the Minister consider displaying the names at the Chief's offices as a sign of transparency in the "*Operation Rudi Nyumbani*" campaign?

(c) What steps is the Ministry taking to urgently address the plight of IDPs from Molo Constituency and the Rift Valley in general, who are yet to be compensated and resettled?

**The Minister of State for Special Programmes** (Dr. Shaban): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government has been able to support IDPs households with Kshs10,000 as GoK support to facilitate quick resettlement. An additional Kshs25,000 was also given to IDPs whose houses were burnt or destroyed to assist in repair or construction of such houses. So far, the following numbers of IDPs from Njoro, Mau Narok and Molo divisions have been duly assisted with the GoK support and provision of reconstruction of houses: In Molo - 1,099 households benefited from Kshs10,000. In Njoro, 1,422 households benefited from Kshs10,000 and in Mau Narok Division, 913 households benefited from Kshs10,000. The total number of houses in these three divisions which benefited from Kshs25,000 were 646.

(b) Just as the Ministry displayed the figures on payments made to the IDPs in the newspapers with wide circulation in the country on 1st November, 2008, and 15th December, 2008, respectively, the Ministry would consider asking the DC, Molo, to likewise display the names of the IDPs who have been duly compensated and resettled at chief's offices as a sign of transparency in "*Operation Rudi Nyumbani*" campaign.

(c) The Government will take the following steps to address the plight of IDPs countrywide which will also be applicable to those from Molo Constituency and Rift Valley in general who are yet to be compensated and resettled. There is a request for more funds from the Treasury to facilitate the



resettlement of the IDPs who have not yet been resettled. The Government has opened discussions with development partners to assist in the rehabilitation and construction of house units for IDPs. This initiative has led to two projects for construction or rehabilitation of 15,631 house units of which 3,148 have already been constructed.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, however much I appreciate the Minister's answer, I really do not agree with some statistics which she has read out. This is my constituency and I know what we have undergone. Considering what we went through, these people are willing to go back to their farms and some have gone back. A promise is a debt. The Government promised these IDPs that it would compensate them for their loss. They have been waiting for more than a year to be given whatever they were promised. They have returned back to their farms but they are waiting for what the Government promised to give them. I would like to request this Ministry to ensure that it pays these farmers the compensation before the rainy season starts.

**Dr. Shaban:** Mr. Deputy Speaker, Sir, whereas I do appreciate that there are families of IDPs who have still not been resettled, the Government has already disbursed to the larger Molo District over Kshs500 million. There are 21,247 households which have already collected Kshs212,470,000 which is the GoK support. They also got more GoK support of Kshs25,000 to the tune of Kshs315,625,000. There are quite a number who have still been left out because Molo was one of the areas which was badly affected. I would request the hon. Member to be a bit more patient and to talk to the people who have been left out so that we can finalise this exercise.

**Mr. Olago:** Mr. Speaker, Sir, I hope that the issue of putting this information in public notices at the chiefs' offices will apply to all constituencies and not just Molo. It seems the Ministry is applying different standards when dealing with IDPs. What is the Ministry's policy in treating IDPs who did not register when they left their places of residence and those who were registered?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, all IDPs who were not able to register, after they were displaced, we gave them an opportunity to register in the areas where they ran to. All those registers were completed after a thorough verification exercise was carried out with the help of our Ministry working together with the UNHCR. Proper forms were filled. I am wondering who those IDPs who are not registered are because that exercise went on and we closed it at the end of September.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, I thank the Minister for the answer she has given us. Could the Ministry speed up the process of compensation? Could she also inform the House when these people will be paid their compensation so that they can forget about this money and go back to their farms to concentrate on their farming and other business? They are still waiting for whatever they were promised by the Government. Some were promised fertilizer, seeds and even tractors to plough their land last year. When those machines were provided, they did not have time. Could the Minister give this House the specific date when these people will be paid?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, I am asking the hon. Member to come out there with us so that we can be able to resettle these people. Part of the problems that we are facing in this exercise is because the IDPs have not worked very closely with the political leadership in those areas. So, I know that, whereas the hon. Member for Molo has been very close to the people, but I believe that even in the areas where we have put up houses through our development partners, some of the IDPs have refused to move in. They are insisting that they are waiting for the Kshs25,000. So, it is important for us to make sure that such people are resettled very fast.

## ORAL ANSWERS TO QUESTIONS

*Question No.660*

TERMINAL DUES FOR FORMER EMPLOYEES  
OF DEFUNCT EAST AFRICAN COMMUNITY

**Mr. Yakub** asked the Minister for Finance:-

(a) whether he could explain what became of the country's entitlement in the defunct East African Community as well as the terminal dues of the Kenyan employees in the community; and,

(b) whether he could further inform the House how much the British Government paid as terminal benefits for Kenyans working for the defunct community and clarify whether the money was paid to the deserving persons.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Kenya's entitlement in the defunct East African Community is provided for in the East African Community Mediation Agreement Act, Cap.4 of the Laws of Kenya. The Act stipulated how the assets and liabilities of the East African Community were to be divided between the three countries, and also how the employees of the East African Community were to be compensated for their services. Kenyan officers who served under the community were given two options with regard to their terminal dues, namely:-

(i) To retire from the East African Community on the re-organisation or abolition of service and be paid their benefits immediately.

(ii) To join the Kenya Government and State corporations and be paid their benefits on retirement at the normal retirement age of 55 years.

Officers who opted to retire immediately upon the dissolution of the East African Community were paid their retirement benefits as at 30th June, 1977. Those who took the second option continued to be paid their retirement benefits in full from the date they joined the East African Community to the date of their retirement from the Kenya Government or State corporations. In addition, some members who had contributed to the East African Community Provident Fund and the National Social Security Fund are paid as they leave the service based on their contribution record, which are extracted from the Arusha East African Community Registry for the purpose.

(b) The British Government paid 21,841,427 Sterling Pounds only as terminal benefits for the Kenyans who worked for the defunct East African Community. I assure the House that the money was paid to and continues to be paid to former employees of the East African Community only, who were the deserving persons. The money was paid as per the agreed divisions to the three Governments of Kenya, Uganda and Tanzania. The Government of Kenya received 42 per cent of the money which was held and managed by the Crown Agents in the United Kingdom.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Yakub:** Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Assistant Minister for Finance for the answer he has given to the House. But I would like to get a clarification. In his answer to part (a), he said:-

(a) Kenya's entitlement in the defunct East African Community is provided for in the East African Community Mediation Agreement Act, Cap.4 of the Laws of Kenya."

Mr. Deputy Speaker, Sir, is the Assistant Minister referring to the same Mediation Agreement which was chaired by Dr. Umbricht and signed by the Heads of State of the three East African countries in 1984? If not, did the mediation agreement which was chaired by Dr. Umbricht offer the two options to the then East African Community retired staff?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, under the East African Mediation Agreement of 1984, the one that the hon. Member has just referred to, the provisions of the Pension and Provident Fund, as stipulated in Article 10.05, which states as follows:-

"(i) Each state shall:-

(a) Pay its nationals employed by the corporations of GFS and retired from active service by the division date, the pensions and other benefits due to them on account of such employment.

(b) Make provision for the pension rights and entitlements to other benefits accrued as

of the division date in favour of its nationals with active service in such corporations and GFS Act at of that date."

Mr. Deputy Speaker, Sir, the employees of the defunct Community complained and said that they were entitled to additional benefits, apart from the ones which were in the agreement. A total of 774 members of staff went to court in 1997 and the courts ruled in favour of the Government in the dispute.

Thank you, Mr. Deputy Speaker, Sir.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your point of order, Mr. Kiunjuri?

## PROCEDURAL MOTION

### EXTENSION OF SITING TIME

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, with the indulgence of Mr. Speaker and the House, I note that we have an Adjournment Motion and other Motions before us. I, therefore, beg to move a Motion that this House extends the adjournment of the House until the completion of the business appearing on the Order Paper as Order No.9, and the Adjournment Motion starts thereafter.

It is clear that if you look at our Order Paper, according to the rules of the House, the debate of a Motion of Adjournment of the House to another day other than the normal sitting day, shall be limited to a maximum of three hours, with not more than five minutes for each Member speaking. Therefore, considering the Orders that are there we have Order Nos.8 and 9 which are very important to us. Then we have the Adjournment Motion which requires three hours. I beg that this House agrees that we extend our normal sitting of the day.

Mr. Deputy Speaker, Sir, I beg to move.

**The Minister of State for Public Service** (Mr. Otieno): Mr. Deputy Speaker, Sir, I would like to second the Motion. It looks orderly that we finish the business before us today. At least, all the Questions should be answered and the rest of the Orders dealt with. So, it is in order to agree to extend the sitting of the House until we finish the business before us, that is Order No.9, plus the Adjournment Motion.

*(Question proposed)*

**Mr. Deputy Speaker:** Is there anyone who wants to contribute to the same issue?

**Hon. Members:** No!

*(Question put and agreed to)*

### RESUMPTION OF ORAL ANSWERS TO QUESTIONS

**Mr. Deputy Speaker:** Order! Under the circumstances, the hon. Minister for Finance, I think that same Question will appear on the Order Paper at a later date. It will come on a more convenient date. It has been overtaken now.

*Question No.660*

*(Question deferred)*

**Mr. Deputy Speaker:** Also the following Questions have been deferred. These are Question Nos.516 by hon. Pesa, 392 by hon. Mbau, 632 by hon. J.M. Kamau, 626 by hon. Waititu, 502 by hon. Kiilu, 654 by hon. Lekuton, 638 by hon. Bahari, 397 by hon. Wamalwa and, finally, Question No.497 by hon. Mwakulegwa are deferred. They will appear on the Order Paper at other convenient time.

*Question No.516*

MANIPULATION OF FOREIGN  
CURRENCY BY BANKS

*(Question deferred)*

*Question No.392*

ALLOCATION OF FUNDS FOR SCHOOL  
EXTRACURRICULAR ACTIVITIES  
IN MURANG'A SOUTH

*(Question deferred)*

*Question No.632*

BENEFICIARIES OF  
GOVERNMENT SCHOLARSHIPS

*(Question deferred)*

*Question No.626*

PROVISION OF PIPED WATER  
TO KAMULU/MIHANGO AREAS

*(Question deferred)*

*Question No.502*

RECRUITMENT OF  
ADMINISTRATION POLICEMEN  
FROM MAKUENI CONSTITUENCY

*(Question deferred)*

*Question No.654*

ELEPHANT/BUFFALO POPULATION  
IN MARSABIT NATIONAL RESERVE

*(Question deferred)*

*Question No.638*

DEPLOYMENT OF CLINICAL OFFICER  
TO SERICHO HEALTH CENTRE

*(Question deferred)*

*Question No.397*

LACK OF STANDBY GENERATOR  
IN KITALE DISTRICT HOSPITAL

*(Question deferred)*

*Question No.497*

UNSATISFACTORY CONSTRUCTION OF ANIMAL  
HOLDING RINGS IN NDI/KASIGAU

*(Question deferred)*

**Mr. Deputy Speaker:** Next Order!

#### COMMITTEE OF THE WHOLE HOUSE

THE PROCEEDS OF CRIME AND  
ANTI-MONEY LAUNDERING BILL

*(Mr. Deputy Speaker consulted  
with the Clerk-at-the-Table)*

**Mr. Deputy Speaker:** Order, hon. Members! Hon. Members, the Chair will give a ruling on Order No.7 later. We now proceed on to Order No.8.

*(Order No.7 deferred)*

#### MOTION

ADOPTION OF PSC RECOMMENDATIONS  
ON CHAIR/MEMBERS OF IIEC

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-  
THAT, pursuant to Section 41 of the Constitution of Kenya, this House approves the recommendations on the Chair and Members of the Interim Independent Electoral Commission contained in the Report of the Parliamentary Select Committee on the Review of the Constitution laid on the Table of the House on Wednesday, 18th February, 2009.

Mr. Deputy Speaker, Sir, the Interim Independent Electoral Commission (IIEC) is to be established pursuant to the provisions of Section 41 of the Constitution. The functions of the IIEC are stipulated in Section 41(a) of the Constitution as follows:-

- (a) to reform the electoral process and management of the elections in order to institutionalise free and fair elections;
  - (b) establishment of an efficient and effective secretariat;
  - (c) promotion of free and fair elections;
  - (d) fresh registration of voters and the creation of a new voter register;
  - (e) the efficient conduct and supervision of elections;
  - (f) the development of modern systems of collection, collation, transmission and tallying of electoral data;
  - (g) the facilitation of observation, monitoring and evaluation of elections and referenda;
  - (h) the promotion of voter education and a culture of democracy;
  - (i) settlement of minor electoral disputes during an election as may be provided for by law;
- and,
- (j) the performance of such other functions as may be prescribed by law.

Mr. Deputy Speaker, Sir, Section 41(10) of the Constitution provides, and I quote:-

"In the exercise of its functions under this Constitution, the Commission shall not be subject to the direction or control of any other person or authority."

On the 17th of December last year, this House set up the Parliamentary Select Committee (PSC) on the Constitution Review and part of the functions of that Committee was to nominate those individual Kenyans, who that Committee felt were fit to serve on the IIEC subject to the law. That is provided under Section 41(4) and (5) of the Constitution, and pursuant to those provisions, the PSC advertised for applications for the positions of the Chairperson and members of the IIEC. Those advertisements were carried on in the Press of 5th and the 12th of January 2009, with the closing date for the applications being 30th January 2009.

Mr. Deputy Speaker, Sir, on the 10th of February this year, applications received from applicants were submitted to the human resource firm, Manpower Services Kenya Limited, for a preliminary analysis. The firm received a total of 42 applicants for the position of chairperson and a total of 2,499 candidates for the position of members of the IIEC.

Mr. Deputy Speaker, Sir, on Monday 16th of February, the PSC shortlisted eight candidates for the position of chairperson and 51 candidates for the position of members. The shortlisted candidates were subsequently interviewed by the PSC. As for the interviews, the PSC deliberated on the persons to be nominated as chairperson and the members of the IIEC. The committee then recommended the following persons to be nominated as such:-

- (1) Mr. Cecil G. Miller for nomination as chairperson;
- (2) Mr. Suleiman Y. Buko for nomination as a member;
- (3) Ms. Tiyah Galgalo as member;
- (4) Ms. Hamara Ibrahim as member;
- (5) Mr. Kenneth Nyaundi as member;
- (6) Dr. Yusuf Nzibo as member;
- (7) Ms. Winfred Waceke Guchu as member;
- (8) Mr. Davis Chirchir as member; and,
- (9) Mr. Charles Masinde as member.

Mr. Deputy Speaker, Sir, the PSC thus presents the above names to the House for deliberation and approval pursuant to Section 41(3) of the Constitution of Kenya, and in line with the Notice of Motion I gave earlier, which is the subject of this Motion.

Mr. Deputy Speaker, Sir, on the meetings that deliberated on these two issues, both the

shortlisting and the approval, we had a very high number of members of our Committee attending. At the meeting that was called for the shortlisting, 23 out of the 27 members of our Committee were in attendance. In the meeting that interviewed these candidates, 25 out of 27 of our membership was in attendance.

Mr. Deputy Speaker, Sir, the position of chairperson was unanimously agreed on by the 25 members of the PSC, who were in attendance on that morning. The PSC has been in existence for slightly more than two months. You realise from the word go that the PSC has been actively functioning. These names have been in the public domain for a couple of days now and it will be fair that I comment on one or two issues that have come to the public notice.

Mr. Deputy Speaker, Sir, one is that the PSC has spent a short time on the process. The PSC sat from the 25th of January up to the date when this determination was made on 17th February; we went through various stages like advertisement, analysis, shortlisting and finally interviews and thereafter a review and determination of these names.

Mr. Deputy Speaker, Sir, the other issue that we have had is that a number of individuals were not qualified, or suitably qualified. The PSC clearly looked at the law when we were looking at these individuals, and on the final analysis of all the individuals, the independent consultant confirmed that these individuals were, indeed, qualified. The PSC was lucky to have a number of eminent lawyers and members of other professions when we were looking at these things. We also had in attendance a very high number of individual Members of Parliament. The fact that each individual on that list met the legal requirement is something that the Parliamentary Select Committee (PSC) agreed on. With respect to Mr. Nyaundi, the PSC debated whether the fact that he was serving in the Media Council was, indeed, a bar to the qualifications. Earlier on, the PSC had taken a very high bar as to who a public officer is. The bar we took is the definition as stipulated in the Public Officer Ethics Act, which is the widest possible bar.

Mr. Deputy Speaker, Sir, the equivalent to the Media Council that people look at is the Law Society of Kenya (LSK). While the LSK is a statutory body set up by an Act of Parliament, we do not consider members of the LSK public officers. To that extent, the Committee came to the determination that, indeed, he was not a public officer.

We have also heard that another member served in the former Electoral Commission of Kenya (ECK) as a Deputy Returning Officer. May I say that, that came to the determination of the Committee. My view as the Chairman is that Returning Officers, their Deputies and Presiding Officers are hired on a temporary basis when elections are called. They are people who are hired irrespective of holding other jobs on permanent basis. So long as the person is not, at the time when we were interviewing or appointing, a member of the Public Service, we see absolutely nothing wrong in that person being a member of this Commission, unless there are other reasons.

Mr. Deputy Speaker, Sir, finally, I have heard that one of the people we have proposed for nomination served as a lawyer in several election petitions. As a lawyer who has practised for sometime, and as a professional, I do not think it is a bar for anybody to serve any other party. Indeed, this morning, I received a call from the Chairman of the LSK, who had also heard of the criticism and was of the view that members of that profession are independent to serve any party. In fact, the ethics of the LSK require that one does not deny service to any client that walks through their door as that would be considered discriminatory. To hold against a member the fact that he or she has served as a lawyer to a Member of Parliament in this House will, in my opinion, not be appropriate.

The law requires that we look at three issues. Other than the basic qualifications, we look at gender equity and regional balance. We confirmed that eight of the professionals represented come from one province each. So, the PSC confirms that, indeed, we were faithful to the requirement of regional balance. The other requirement was that we be gender sensitive and equitable. Three of the proposed members are represented by women, that is, North Eastern Province, Eastern Province and

Central Province. We even had a close chance to having four of the eight provinces being represented, only that the final two candidates, one being a woman, was defeated on vote.

Finally, Mr. Deputy Speaker, Sir, may I reiterate that this matter is fully backed by the PSC. After this Report was released and laid on the Table, the PSC sat one more time to confirm that, indeed, the PSC's provisions are indicated on the Report.

With those few remarks, I beg to move and ask Mr. Ruto to second.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I stand to second this Motion. I want to confirm that we, indeed, followed the law in the entire process. We interviewed people and we were satisfied with the competence displayed by the various interviewees. What the Chairman of the PSC has articulated is the true position. Indeed, we shortlisted people, interviewed them and proposed their names. I want to urge hon. Members to get along with us and approve the list as it is.

Thank you.

*(Question proposed)*

**The Assistant Minister for Roads (Dr. Machage):** Mr. Deputy Speaker, Sir, I congratulate the Chairman and his Committee Members for a job well done. This is a Committee we unanimously selected and they have not failed us. I strongly support their recommendation and request that all hon. Members, without fail, support this recommendation.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I stand to oppose this Motion. I appreciate the amount of work this Committee has put in. I know that the Committee itself is comprised of very able hon. Members of this House. I appreciate that the names proposed by the Committee are names of Kenyans who deserve to serve. However, I wish to oppose the inclusion of the names of Mr. Miller as Chairman and Mr. Buko as a member.

**Mr. Deputy Speaker:** Order, Mr. Olago! As much as I was consulting with the Clerk-at-the-Table, I thought you were putting in an amendment. You are amending the Motion?

**Mr. Olago:** Mr. Deputy Speaker, Sir, I want to amend the Motion. I want to give my reasons.

**Mr. Deputy Speaker:** I do not have a copy of the amended Motion. The practice is that the Chair has to have a copy of the amended Motion.

**Mr. Olago:** Mr. Deputy Speaker, Sir, the amendments that I wish to propose, I wish to propose them from the Floor.

**Mr. Deputy Speaker:** Even under those circumstances, since it is a Motion on the Order Paper, you still need to give me a copy of the amended Motion.

Mr. Olago, I know that you had given a copy of this to the Speaker. Proceed on with your argument in the meantime, but let me be provided with the copy of the amended Motion. The Chair is giving you the benefit of doubt, but that is how the practice is.

**Mr. Olago:** I am obliged, Mr. Deputy Speaker, Sir.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Chair to give Mr. Olago the benefit of doubt when this matter is well spelt out in our Standing Orders? Either the Chair is aware that the notice of amendment was given in the properly stipulated period or not.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. If I heard Mr. Olago very well, he is attempting to substitute the name proposed for the Chairman of the Commission. That is perfectly in order, if you so permit him. However, if you rule that he goes ahead to do so, you will have ambushed Members of Parliament. This is because whoever will be proposed to substitute Mr. Miller, hon. Members need to have known him, read his curriculum vitae, made their decisions on it and so on. The Chair should not allow that this House be used for purposes of surprises, ambush and so on.

**The Minister for Foreign Affairs (Mr. Wetangula):** On a point of order, Mr. Deputy



Speaker, Sir. Debate in this House is guided by our Standing Orders, our precedents and decisions and rulings made by the Chair. If you may recall, in the last Parliament, when this House was debating the nominations to the Kenya Anti-Corruption Commission (KACC), famously called "the Ringera group", attempts to amend the list of names was rejected by the Chair and a ruling was made that either the list was to be taken as it was or rejected as it was. That ruling is part of the precedent of this House, and I want to urge you to follow the ruling of the Chair on which you are sitting today.

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. I wish to inform the House that this afternoon, I went to give notice to the Speaker of a Motion for the House to reject the list as it is, and he advised us that since a Motion was already before the House seeking amendment of the Motion, we could not, therefore, bring ours. On that basis, we did not bring ours; the Speaker did not allow it since there was already another Motion. Be that as it may, I would like to say that with regard to replacements, we have not heard whom we want to replace. If we want to replace with persons who were interviewed by the PSC, there is nothing wrong with it because the entire House did not sit in the interview. As a matter of fact, all of us did not agree. I raised a reservation to that list.

**The Assistant Minister, Ministry of State for Defence (Mr. Musila):** On a point of order, Mr. Deputy Speaker, Sir. I just want to reiterate what Mr. Wetangula said. When you were consulting with the Clerk-at-the-Table, an hon. Member suggested that, because the Committee interviewed some people, those people are known. I want to submit that if the House for any reason rejects the list proposed by its own Committee, then the matter will go back to the Committee to discuss again and propose another list of names. But there cannot be any substitution on the Floor of the House, because the House has no idea what kind of candidates were there.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. C. Kilonzo! Hon. Members, I have been reminded of the tradition of the House, in that in a similar situation, the list had to be either accepted or rejected in totality. To be able to reject this Motion you do not need to give a notice of an amendment. You can do it from the Floor of the House. Proceed with the debate.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I intend to oppose the list in totality.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I personally went to see the Speaker in the company of Ms. Odhiambo and Mr. Olago. The advice of the Speaker was that we go name by name, and if we are not satisfied, then we delete a particular name, but your ruling is contradictory. In my Motion, I had requested that this matter be referred back to the Committee. Secondly, I do not find it in order for this House to be converted into a recruitment agency. That should be done by the Committee.

**Mr. Deputy Speaker:** Order! Whereas the Speaker has actually communicated to me about the impending, amendment, I have no amendment in my folder or with the Clerks Department. In any case, there is something that supersedes that; that is the practice. In a similar situation, a precedent was set that you can reject or accept this Motion in totality. Indeed, if you all remember, Parliament had no option but to accept the list in totality, but when it went to the President, he removed one name. So, tradition is already in place. You do not have to have a notice of Motion for you to reject this Motion. It is the business of the House either to pass the Motion or reject it.

Proceed, Mr. Olago!

**Mr. Olago:** Mr. Deputy Speaker, Sir, may I repeat, for avoidance of doubt, that I am opposing the list presented by the Chairman in totality. In so doing, I wish to put my reasons. Could Mr. Duale kindly sit down? He is distracting my attention.

**The Assistant Minister for Livestock Development (Mr. Duale):** On a point of order, Mr. Deputy Speaker, Sir. The Committee is an organ of this House, and we can see very clearly that Members of the Committee are the ones who have a problem with this list. Ms. Odhiambo is a Member of the Committee---

**Mr. Deputy Speaker:** Order, Mr. Duale! It is not the Chair that is going to pass this Motion. If you reject it, then it will go back to the Committee; if you approve it, it will go to the President for his action.

**Mr. Olago:** Mr. Deputy Speaker, Sir, in opposing the list presented by the Chairman of the Parliamentary Select Committee, I wish to make it abundantly clear that the Committee comprises of very eminent Members of this House and their choice of persons presented may have been based on facts that were not within their knowledge at the time they were making the list. I wish to say this about Mr. Miller, whose name is proposed for the chairmanship. First, Mr. Miller's inclusion as the chairman, must have been based on concealment of material facts. One, Mr. Miller is an advocate in a pending petition for Esposito Franco in Malindi High Court; this is Election Petition No. 1 of 2008. Mr. Esposito Franco was opposing Mr. Joffa Kingi--

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to suggest that an advocate doing his usual duties of representing a client will have his mind poisoned or something of the sort? Is he in order?

**Mr. Olago:** Mr. Deputy Speaker, Sir, could the hon. Member be patient for me to finish, then he will see the point that I am trying to put to the hon. Members? It is much more than what the hon. Member has said.

The issue is not that Mr. Miller acted for a party in that petition. No! The issue is that, that petition is still pending in the Court of Appeal in Nairobi.

**Mr. Nyamweya:** On a point of order, Mr. Deputy Speaker, Sir. There are a number of us here who are practising advocates, including myself and my learned friend. Is he in order to suggest that when we are carrying out our duties as advocates, we cannot also apply for jobs in the public service?

**Mr. Deputy Speaker:** Mr. Olago, you are a lawyer and you understand that conflict of interest can only arise after Mr. Miller assumes his position as the Chairman of the Interim Independent Electoral Commission of Kenya. Proceed!

**Ms. Odhiambo:** On a point of Order, Mr. Deputy Speaker, Sir. I respect your ruling but, nonetheless, want to say that I actually do agree that, me being a lawyer, there is nothing wrong with a lawyer representing anybody from across the divide. Nonetheless, according to the Public Officer Ethics Act, at the point when this person appeared for interview, for transparency, you must have declared his relationship with a Member of the Committee. So, if you are a lawyer of Mr. Mungatana, you must declare it.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. With all due respect to the good lawyers in this House, I know for a fact that before Mr. James Orengo was appointed to become a Minister, he was representing me in a petition case. As soon as he was appointed, he withdrew from my case and I took another lawyer. If Mr. Miller happens to be participating in another case including petitions, as soon as he is appointed, that thing will be sorted out. Lawyers, please, give us a chance!

*(Applause)*

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order!

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): This is a serious point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your serious point of order, Mr. Kiunjuri?

*(Laughter)*

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, for the first time, we must conduct ourselves in a way that this country will respect us as Members of Parliament.

Mr. Deputy Speaker, Sir, I am raising this point because Ms. Millie Odhiambo is the one who proposed the name of Mr. Cecil Miller in the Committee.

*(Applause)*

Mr. Deputy Speaker, Sir, the record of the Parliamentary Select Committee is here---

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

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): I am on a point of order.

Mr. Deputy Speaker, Sir, we have the Powers and Privileges Committee which can summon Members who mislead this House. I will write to the Powers and Privileges Committee to summon Ms. Odhiambo and Mr. Kiunjuri to appear before the Committee. Also, the minutes of the Parliamentary Select Committee should be brought to the Committee. We would then know who is misleading this House.

Mr. Deputy Speaker, Sir, for the first time, hon. Members must act with decorum. If hon. Members mislead this House and the public, they should be censured---

**Mr. Deputy Speaker:** Order! Order, Mr. Kiunjuri! The Powers and Privileges Committee cannot censure a Member of Parliament for his or her conduct in expressing her opinion here. Nonetheless, serious as it may be, if what you are saying is true, let us proceed with the matter at hand.

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. I am sorry I have to stand again even though I had promised myself I would not do so. The reason I am standing is because Mr. Kiunjuri is telling the House that I am a liar which I am not!

Mr. Deputy Speaker, Sir, I want to clarify. I am a lawyer, I know words and I know what words mean. You can go back, look at your records and you will find that I did not propose him.

Mr. Deputy Speaker, Sir, we have a human resource firm called Manpower. Manpower has been giving---

**Mr. Deputy Speaker:** Order, Ms. Odhiambo! What is not in order here? You have made your point.

**Ms. Odhiambo:** I am giving you what is not in order, Mr. Deputy Speaker, Sir.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Hon. Members, the Chair will now apply the rules of the House firmly. Mr. Olago Aluoch is going to proceed with his contribution without interruption.

Proceed, Mr. Olago Aluoch!

**Mr. Olago:** Thank you, Mr. Deputy Speaker, Sir. I say all this with a very heavy heart. The member of the Select Committee is none other than my learned friend Mr. Mungatana. Mr. Miller has been an advocate for Mr. Mungatana. If we are to apply the rules of confidentiality, then this fact should not have been left out. Mr. Miller should have disclosed to the Select Committee that fact; that, a member of the [Mr. Olago]

Select Committee is his client. He did not. Also, the member of the Select Committee did not disclose to the Committee that Mr. Miller is his advocate.

Mr. Deputy Speaker, Sir, I wish to lay the following document on the Table---

*(Several hon. Members)*

*stood up in their places)*

**Mr. Deputy Speaker:** Order, hon. Members! Mr. Wetangula and the other Members who want to contribute, you will have your time.

Mr. Olago, please, proceed!

**Mr. Olago:** Mr. Deputy Speaker, Sir, I wish to lay on the Table a Notice of Acceptance in an election petition No.16 of 2008; Ambassador Hussein Dado - Petitioner *versus* Danson Buya Mungatana, ECK and George Nyawa Mwadae.

*(Mr. Olago laid the document  
on the Table)*

Mr. Deputy Speaker, Sir, that is a fact which cannot be denied.

Two, in Nairobi Court of Appeal No.UR159 of 2008; Mr. Miller acted for Exposito Franco and the matter is pending before the Court of Appeal as I am addressing this House. I wish to lay on the Table a record of appeal in Nairobi.

*(Mr. Olago laid the document  
on the Table)*

Mr. Deputy Speaker, Sir, these are grave concealment of material facts that should have come out before the Select Committee.

Mr. Deputy Speaker, Sir, it is also within my knowledge that Mr. Miller is touted as having extensive knowledge in the electoral process. That is very doubtful because Mr. Miller is not known to have been involved in the agitation for electoral reforms of this country.

Mr. Deputy Speaker, Sir, today, Mr. Miller is facing a credibility test before this House. What Kenya needs now is a person with no blemish at all and acceptable to a very large majority of Kenyans to head the new look ECK.

Mr. Deputy Speaker, Sir, you can see from the Floor of the House that already, the names of the persons proposed for nomination by the Select Committee are attracting a lot of attention from hon. Members. In the circumstances, it will not be right that this list is adopted the way it is. I propose that this list be rejected and taken back to the Select Committee for reconsideration.

**Mr. K. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. If you listen to the discussion going on here, those who are fronting it are Members of the same Committee that brought the names here. Would I be in order to ask the Chair to rule that Members of that Committee, for example, Ms. Millie Odhiambo, Mr. Kiunjuri and the likes, to stay away of this debate and let other Members contribute? I have no problem with Mr. Miller! Any time that young people are proposed here, hon. Members come out to oppose them. We shall not allow that. It is now our time to rule this country.

**Mr. Deputy Speaker:** Order! Order, Mr. K. Kilonzo! Hon. Members, I know of no practice or precedence in this House, or any other House in any democracy in this world, where Members of Parliament are gagged in a debate in the chamber of the House. The only thing you do is that you declare your interest before you proceed with contribution and say, "I am a Member of the Committee". That is it!

Yes, hon. Wetangula!

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Deputy Speaker, Sir, I did not intend to contribute to this Motion because I am a member of the Committee. But I am constrained to do so. I wish to ask the House to hear us.

Mr. Deputy Speaker, Sir, this House, in its wisdom, selected a Committee of 27 Members to

do some work for it. I was privileged to be a member of that Committee, whose report our very able Chairman has tabled here. I want to urge the House, because hon. Members in this House are leaders in their own right, individually and collectively that, if we let narrow, parochial and partisan interests cloud our judgement, we are going to continue to lead this country astray.

Mr. Chairman, Sir, the Committee and, indeed, our Chairman very ably articulated, retained a manpower company on a competitive basis. There were 2,500 applicants. They were shortlisted and brought for interview. If you look at the Act, it says that there will be a Chairman and, at least, eight members, drawn from the provinces of this country. The presumption is that one per province. The painstaking interviews that the Committee went through--- I want to urge my colleagues in the Committee not to try to be wiser after the event. That is because we left the Committee with a unanimous position on, not only the list, but on every member. There was no dissenting voice when we left and instructed the Chairman to bring the list to this House.

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

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Deputy Speaker, Sir, I think my learned junior mistakes a point of information with a point of order.

Mr. Deputy Speaker, Sir, having brought the list here, I am actually disturbed by the arguments of my very learned and able senior, Olago Aluoch, whom I have tremendous respect for as a lawyer. I cannot imagine any situation where you say, a professional discharging his duties, by the very fact that he or she is appointed to serve on a Committee, automatically creates a conflict of interest. How? In the interviews, issues as to whether Mr. Miller was a lawyer for hon. Mungatana or not never arose. The quality of answers depended on the quality of questions.

Mr. Deputy Speaker, Sir, secondly, as far as I can remember, the case of hon. Mungatana versus his opponent is long over. It is no longer a case in court. How does that create conflict? We the leaders, including my learned friend, hon. Olago Aluoch, for whom I have tremendous respect for, stand on a platform every day and say: "Young people must be given an opportunity to lead this country." When we provide you with a young person, with proven competence, professional career, we say: "He is unqualified and unsuitable. Reason? None is given. I want to urge that it is dangerous and wrong to prejudge anybody before you taste and feel his or her potential. The young Miller is a lawyer that we all know. You have heard at no time, my learned senior point out that Mr. Miller has mis-conducted himself as a lawyer, or has conducted himself in a manner unfit for a person learned in law. All he is saying is that he is such a competent lawyer that he has two petitions acting for Mr. Esposito and acted for Mr. Mungatana. That is a credit to him. It is not a minus.

Mr. Deputy Speaker, Sir, I want to urge that, in the spirit of bipartisanship that we have created in this House; in the spirit of bipartisanship that we demonstrated when we debated the National Accord; in the spirit of bipartisanship that brought the President and the Prime Minister sit with us to set the ball rolling, we approve this list and embark on the process of registering voters without the 1.2 million dead voters that voted and brought us problems and get this country on the avenue of development. I urge the House, with the greatest humility, to support this list so that we can move to the next level.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, I want to support this Motion because the Committee that handled this matter is a very, very professional Committee.

Mr. Deputy Speaker, Sir, I have had an opportunity, in my other profession as a human resources director, of having dealt with manpower services. To the best of my knowledge, they are a perfect institution that can handle that assignment. Having gone through these two vettings, then I have no doubt that they have recommended the correct persons to handle that job.

Mr. Deputy Speaker, Sir, elections in this country have been a big joke. These reforms are long overdue. We have converted elections in this country to stone throwing, burning houses, shouting

at each other, harassment and all manner of things. It is high time that we put in place a team like this, through that rigorous process, of going through an independent consultancy firm and a professional Committee of the House, which has come up with this list. It is very timely that, among other things, the people represented here are headed by a very young able lawyer. Nobody has told us how he has mis-conducted himself. He did his job of election petition, which exposes him to a lot of research on matters of elections, which we expect him to come in, once appointed, to bring in reforms.

Mr. Deputy Speaker, Sir, having been a lead counsel, it is normal management practice - and I want to repeat - it is normal management practice when you get involved with Commissions and you make certain recommendations, which I have had the privilege and time to read from page one to the last page of the Kriegler Commission Report--- It is normal management practice to bring in persons who have been part and parcel of that Commission, to come and implement whatever they have recommended. That is because they have the insight. If you ever had the opportunity to go through that report, you can see the glaring crimes that have been committed against the people of this country through inactions or omission on the part of the defunct Electoral Commission of Kenya.

Mr. Deputy Speaker, Sir, it is extremely important that this House shows unity today and endorse the membership of the Interim Independent Electoral Commission as proposed by the House Committee.

With those few remarks, I beg to support.

**Mr. Baiya:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion.

Mr. Deputy Speaker, Sir, I am not a Member of the Parliament Select Committee that made these selections. But I am also aware that the Committee went through a really sensitive process of doing these appointments. The disagreement being brought before this House right now, is unfortunate. I would want to urge those colleagues who are part and parcel of that process, to accept what the Committee has collectively arrived at. It is part of democracy and competitive politics; that whether you like it or not, you will have to give and take. This same culture is what Kenyans are watching. It is what has caused our country, at large, to behave the way it has been doing, even during elections. This is because even us, at the level of leadership, at this very hour, we have demonstrated that unless one of us whom we want is accepted, we would rather spoil the whole broth. It is tragic and not deserving of leaders to behave in that way. I would, therefore urge our colleagues to give this team a chance.

As I speak, the country is having a lacuna within the constitutional set up. We do not have an electoral body. There is, therefore, an urgency to fill this gap. If we reject this team, we are, therefore, saying that we continue with the crisis in the country. Petitions in the High Court and Court of Appeal cannot go on because there is nobody to represent the electoral body. Therefore, I am urging the hon. Members to support this Motion.

With those few remarks, I beg to support.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I have no problem with the list or with the people who are in it. I have a problem with the selection process. From the knowledge available to us, the Parliamentary Select Committee contracted Manpower Services Limited. As one hon. Member said, this is a very reputable organization. Having contracted them to do this work for them, they came up with a short list of names which they presented to the Parliamentary Select Committee. So, if the list done by a specialist consultancy organization was given to the Select Committee and, in total disregard, they went ahead and did their own thing--- The Select Committee spent public money contracting this organisation. They went ahead also and got a short list from the same organization, giving the preferred qualified candidates. They gave some second option; that means the reserves. They went ahead, took the reserves instead of the preferred qualified people. I have a problem with that. If the selection process has a problem, the outcome must have a problem.

That is my only issue.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I wish to support as a Member of the Committee. I also wish to clarify to the House that, yes, we asked for a short list from the human resources firm. But apart from the short list, they had indicated on the column of the remaining, all the other people who were very qualified. However, because they could not bring all the very qualified people with two stars for interview, they only picked six. So, even in the process of experts which you approved earlier, we, as a Committee, would then look for additional names and boost the list given by the selection firm, so that we are able to move with a larger team. So, there was no sinister motive or compromise on criteria by the additional list. Mr. Deputy Speaker, Sir, I would plead with hon. Members. In a place where more than one Kenyan are qualified for one job and one is picked, it is not right for us to come to this House and demonise any of those qualified Kenyans. There is no single time all the 42 or so communities of Kenya will be included in a list needed for assignment. We have to learn to trust each other; that today you can represent me in point "A" and tomorrow, I represent you in a different place. We, as a Committee, took a lot of time. Although we start with different options, we try to find consensus. It is regrettable that after we agree, we can come to destroy our own Report.

Mr. Deputy Speaker, Sir, I want to urge Members that, Constitutional Review is a thorny issue. If we start by trying to tear our own nationals in this House, it does not augur well for reforms. This is because next time a candidate is brought, and if it is perceived that he was opposed to facilitate inclusion of a preferred candidate of a Member, then what is going to happen is that we shall be opposing each other instead of pulling together. Let us have faith in fellow Kenyans. They may not have been everybody's first choice, but they are qualified and acceptable. I plead that we accept them, move on with the review and try to find harmony. Even in the Constitutional Review itself, we will have very thorny issues. If we cannot get over this first stage, then it does not augur well for the rest of the review. May I, once again, plead that we give the Kenyans selected a chance.

I beg to support.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I rise to oppose this Motion.

We all can remember what happened to this country immediately after the 2007 General Elections. It was as a result of having an Electoral Commission of Kenya (ECK) in place, that a section of this country did not have faith in. We cannot repeat the same mistake and start with an electoral commission which a section of this country already has doubt of its membership.

Mr. Deputy Speaker, Sir, I agree that as Members of Parliament, we constituted the Parliamentary Select Committee to carry out this exercise. But the reason this list was supposed to be brought back here for ratification, is to allow us to debate, synthesis it and agree that it is a list that we can go by.

A lot has been said about the selection of the Chairman. I want to pick what the hon. Minister, Ms. Karua, talked about. If you have faith in a selection firm, you, first of all, go ahead and interview the six that have been selected. If you do not get any qualified among them, is when you can go to any alternative route. But if you have the first preferred six names and before you even interview them, you already, in your mind, assume that they will not produce the most competent candidate, then there is something wrong.

The Chairman who has been appointed was not among the six. Therefore, this means that according to Manpower Development Limited, that person was not rated among the best six. I wonder what unique characteristics this particular Chairman has; if after being left out in the first short list, he is the one found to be the most qualified. A lot has been said about his age. I think he is just one and a half years older than me. I would have really loved to support him. We want the youth, but do not just want the youth, but competent ones.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I have information that there was even conflict of interest. One of the very senior members of the Parliamentary Select Committee (PSC) was a

classmate of the proposed Chairman, a roommate and a personal friend.

*(Several hon. Members stood up in their places)*

**Mr. K. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. While I do not want to disrupt the hon. Member, is he in order to doubt the competence of the proposed Chairman when we have been told he is qualified? Is he in order to doubt his competence?

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, please protect me so that I can continue debating this Motion.

*(Mr. Gabbow stood up in his place)*

**Mr. Deputy Speaker:** Order, Mr. Gabbow! Hon. Members, Mr. Mbadi is going to be given the opportunity to make his presentation without being interrupted.

Proceed, Mr. Mbadi!

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, if you look at some of these points of order, they are arguments. Why can they not wait for their time to argue? I have my point; wait for your time and argue! You are a senior hon. Member of this House. I just came here the other day, but I think I am doing much better!

*(Laughter)*

I not only have a problem with the Chairman of this proposed Electoral Commission. One of the proposed members of this Commission is even Secretary-General of a political party.

**Hon. Members:** Who?

**Mr. Mbadi:** Mr. Masinde, Mr. Deputy Speaker, Sir.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Did you hear the hon. Member say that one Charles Masinde is a Secretary-General of a political party? Mr. Masinde comes from Western Province and I know him very well. I happen to know that Mr. Masinde has fought for democratisation in this country; once upon a time, he was a member of the political party called New Ford-K. I can inform the House confidently that Mr. Masinde is no longer an official in the New Ford-K. If the House cares to know, I have the list of the registered officials of New Ford-K and none of them is Mr. Masinde.

*(Applause)*

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, from his conclusion, he has just proved me right. Mr. Masinde has been an official of New Ford-K! That is a partisan person we cannot allow to be in such an important Electoral Commission of Kenya.

*(Dr. Eseli and Mr. Nyamai stood up in their places)*

**Mr. Deputy Speaker:** Mr. Mbadi, conclude your presentation!

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I want to continue but a lot of noise is interrupting me.

The Chairman of the PSC said that one of the persons they have nominated was even a Deputy Presiding Officer in an election, and that fact was not made known to them at the time of the



interview. Why was it not made known to them, yet this person had a CV? Did that person lie in his CV? If he did, then the process of recruitment was faulty and we should refer this list back to the same team. I have information that, that particular electoral official presided over Garsen Constituency election, which had a dispute. This means that he did not do a good job. How do we allow such a person to again be in a Commission that is going to preside over elections, possibly, of 2012? Then we would have a repeat of what we saw in 2007.

I would urge this House to debate this matter soberly. This is an important Commission! It is a Commission that can finish this country. This is a Commission that can build this country. I would expect hon. Members to debate. I am not worried about ethnic representation, personally. You can leave some ethnic groups out, because we have 42 of them and we only have eight slots. It would be naive for each one of us to think that his or her ethnic community is going to be represented on this Commission. But if we have a Commission that we have confidence in from the word go, then we will have no problem.

With those few remarks, I beg to oppose.

**Mr. Deputy Speaker:** Hon. Members, since there is a lot of interest generated by the hon. Members who want to contribute to this Motion, with the indulgence of the House, hon. Members should not take more than five minutes.

**The Minister of State for Defence** (Mr. Haji): Mr. Deputy Speaker, Sir, I support the Motion in principle. First, I have no interest whatsoever. Secondly, I have full confidence in the Committee which has done a very wonderful job.

*(Applause)*

If we listened very carefully when the Chairman was presenting his report, he stated that from January 5th to date, they have meticulously followed all the rules and regulations in arriving at their decision. He further told us that out of 27 hon. Members, the interview panel was attended by 25 hon. Members of the Committee. If we really want independence in this Committee, we have no other option but to agree to the recommendations of the hon. Members of the panel. Why do I say that? Today, we were attending prayers and a fundraiser for the Nakumatt and Molo fire victims. The clergy, all the religious leaders who were there, addressed us as political leaders, and particularly, hon. Members, because they alleged that we do not listen--

**Mr. K. Kilonzo:** On a point of order, Mr. K. Kilonzo. Having listened to hon. Members contributing to this Motion, it is clear that we are all repeating ourselves. Would I be in order to propose that you call upon the Mover to respond?

*(Applause)*

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I am happy that we have had various views on this matter. That is as it ought to be, and that is the reason why this matter was brought to Parliament. I have not heard any reason to persuade me to think otherwise, and I absolutely agree with the list we brought. I only heard two matters; that Mr. Miller acted for Mr. Mungatana. There is absolutely nothing wrong with his professionally serving Mr. Mungatana.

*(Applause)*

The other matter I heard was that one of the---

*(Ms. Odhiambo stood up in her place)*

**Mr. Deputy Speaker:** What is not in order, Ms. Odhiambo?

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. What is not in order is that my Chair has said that the only thing he has heard is that Mr. Miller, whom I was lobbying very hard for initially, was somebody's lawyer.

**Hon. Members:** Aaah!

**Ms. Odhiambo:** Mr. Deputy Speaker, Sir, my point of order is that the reason I withdrew my support is because I have been informed that he is a wife batterer. I cannot support a wife batterer!

**Hon. Members:** Nooo!

*(Several hon. Members stood up in their places)*

*(Mr. Musila consulted loudly)*

**Mr. Deputy Speaker:** Order, hon. Members! Order, Mr. Musila! Time and again, the Chair has reminded, pleaded and implored the House on the need to respect the dignity of the House. Ms. Odhiambo, that is not in line with preserving and protecting the dignity of the House!

Proceed, Mr. Abdikadir!

*(Mr. Musila stood up in his place)*

**The Assistant Minister, Ministry of State for Defence (Mr. Musila):** On a point of order, Mr. Deputy Speaker, Sir. You have accurately said what should be of this House. The words that were uttered by Ms. Millie Odhiambo on the Floor of this House in respect of a citizen of this country should not be allowed. Therefore, I request that those words be expunged from the record of this House, and that Ms. Odhiambo apologise to the House.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. We cannot abuse our majority by not listening to hon. Members with different views. I support this Motion. The practice of this House is that if Mr. Musila feels that what Ms. Odhiambo has said is not correct, we should ask her to substantiate or withdraw the remarks. However, we cannot just force her to withdraw and apologise. I have reasons to believe that she may be right.

**Mr. Deputy Speaker:** Hon. Members, the Chair has already ruled that what Ms. Odhiambo said was not in line with the dignity of the House. Since no hon. Member asked her to either substantiate or withdraw the remarks, we shall proceed with the presentation of by the Chairman of the Parliamentary Select Committee.

**Mr. Abdikadir:** Thank you, Mr. Deputy Speaker, Sir. I am still not persuaded that Mr. Miller is unqualified, [Mr. Abdikadir] because he acted for that individual. Another matter has been---

*(Prof. Anyang'-Nyong'o stood up in his place)*

**Mr. Deputy Speaker:** Prof. Anyang'-Nyong'o, I hope you are not going back to what the Chair has already ruled.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, far abit from me to detract the attention of this House to something else, but I am worried. You, yourself, ruled just not too long ago, that since there are many hon. Members who needed to speak, you were reducing the time to five minutes to allow hon. Members to address themselves to this issue. Only one Member of Parliament made a contribution---

**Mr. Deputy Speaker:** Order! Order, Mr. Minister!

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I want to appeal for your patience. The hon. Minister---

**Mr. Deputy Speaker:** Order! Order, Prof. Anyang'-Nyong'o!

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, there is a contradiction.

**Mr. Deputy Speaker:** Order! Order, Prof. Anyang'-Nyong'o!

Hon. Members, the Chair conducts and moderates the business of the House with the indulgence and with the leave of the House. I put a Question. An hon. Member rose and moved that the Mover be called upon to reply, and the majority of the membership of the House assented to that request. When the "Ayes" say that the Mover be called upon to reply, the Chair cannot overrule them.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): On a point of order, Mr. Deputy Speaker, Sir. Please, do not rail-road us. There is a precedent in this House that when an hon. Member moves for a closure of debate, the Chair has the right to rule that there are still more hon. Members who want to speak on this Motion. Therefore, debate on the Motion should continue. That is a precedent in this House.

**Mr. Deputy Speaker:** Prof. Anyang'-Nyong'o, we were, indeed, together during the Seventh Parliament. That is the precedent in this House. However, it is also a precedent of this House that the Chair gauges the mood of the House and uses his discretion accordingly. The discretion is that the majority of the Members of the House wanted this debate to be brought to a fore closure.

Under the circumstances, proceed, Mr. Abdikadir.

**Mr. Abdikadir:** Thank you, Mr. Deputy Speaker, Sir. On the issue of qualifications, out of the 2,499 applicants, we had 444 who were qualified. The role is for both the---

**The Minister for Lands** (Mr. Orengo): On a point of order, Mr. Speaker. I do not want to go back to your ruling, but I am finding that the usage in this House is becoming completely contrary to the practice of most parliaments. It is not just that the majority must have their way. The minority must have their say. Like in the United States of America, at least, on every vote, there is always a record. The only way, in a parliamentary system like the one we have in Kenya, where your constituents can know your stand, is by hearing what you have to say. Some of us have not said anything. You are cutting us shot. Unless you want this House to become a voting machine, you must allow us to have a debate.

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

**Mr. Deputy Speaker:** What is it, Mr. Ethuro?

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I stand here to defend the right of every hon. Member of this House to be heard. We will vote, and I am sure we will carry the day. I support this Motion, but there is a dangerous trend in this House where, when we do not want to hear certain views, we are very quick to move that the Mover be called upon to reply. We are asking you to re-consider your decision in the sense that a while earlier, you reduced the time for hon. Members speaking from ten minutes to five minutes, because you had thought, and correctly so, that there was a lot interest on this subject by members, including myself, who want to speak on this debate. However, immediately thereafter, you were kind of forced to call upon the Mover to reply. Could you, kindly, allow us to debate this matter?

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. We all remember where this country came from early last year. It was because of the Electoral Commission of Kenya (ECK) then. Today, we are pushing to pass names of an Interim Election Commission (IEC) when there is no consensus. Therefore, in accordance to the provisions of Standing Order No.21, I beg to move that the debate be now adjourned for the sake of allowing the same Committee to go back and agree, so that it can bring the names here for the House to approve.

**Mr. Deputy Speaker:** Hon. Members, whereas we all take note of the emotions and the passions this debate is generating, we nonetheless, have our own rules. We are not governed by the rules of the House of Commons or the rules of the House of Congress or any other House, for that matter. We are governed by the House of the Kenya National Assembly. We are beyond that.

Mr. C. Kilonzo, if you, indeed, wanted to invoke the provisions of Standing Order No.21, you should have done so, before the Mover was called upon to reply. I had put the Question. The Mover has come to reply. We are now in the process of the Mover concluding his reply.

Hon. Members, under the circumstances, whether we like it or we do not like it, we live in a democracy. In a democracy, we have a process. We have books which guide us. We just have to move in line with that process. I do understand. Initially, I was of the opinion that the majority of the Membership of the House wanted to contribute. That is why I sought the indulgence of the House to limit the time each hon. Member may speak to five minutes.

It is, indeed, not the wish of the Chair. If it is the wish of the House, and an hon. Member moves a Motion for the closure of debate on the Motion, and the House approves it, the Chair has no business other than to conduct the proceedings of the House, in line with the wishes of the House. So, let us proceed.

Mr. Chairman, please, conclude your reply to this debate.

**Mr. Sirma:** On a point of order, Mr. Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Sirma!

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I beg to move.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, we want to cause anarchy in this country!

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order, Mr. Sirma!

*(Question put and agreed to)*

**The Assistant Minister for Tourism** (Ms. Mbarire): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order, Ms. Mbarire! The Chair is on its feet. I will put the Question again.

*(Question put and agreed to)*

**Hon. Members:** Division! Division!

*(Several hon. Members stood up in their places)*

Order. Hon. Members, in line with the provisions of the Standing Orders, the hon. Members

who stood satisfied the threshold. Consequently, we will order for a division. Let the Division Bell be rang.

*(The Division Bell was rung)*

### **DIVISION**

*(Question put and House divided)*

*(Question tied by 67 votes to 67)*

**AYES:** Ms. Abdalla A, Messrs. Abdikadir, Affey, Bahari, Baiya, Chachu, Dr. Eseli, Messrs Ethuro, Gaichuhie, Gitau, Githae, Gabbow, Gumbo, Haji Y.M, Imanyara, Kabando wa Kabando, Prof. Kaloki, Messrs. Kamama, Kamau J.I, Kamau J.M, Kambi, Ms. Karua, Messrs. Kathuri, Kenyatta, Keya, Keynan, Dr. Khalwale, Messrs Kilonzo K., Kimunya, Kiuna, Kiunjuri, Kivuti, Kombo, Dr. Kosgei, Dr. Machage, Messrs Omingo, Maina, Mbai, Mahamud M.M, Dr. Monda, Mrs. Mugo, Mr Mungatana, Dr. Munyaka, Messrs Muriithi, Musila, Musyoka, Musyimi, Muthama, Mwaura, Ndambuki, Ngugi, Maj-Gen. Nkaisserry, Messrs Nyamai, Nyambati, Nyammo, Nyamweya, Ombui, Onyonka, Ruteere, Dr. Shaban, Messrs. Thuo, Waititu, Wamalwa, Warugongo, Wathika and Wetangula

Tellers of the Ayes: Mr. Kabando wa Kabando and Mr. Letimalo.

**NOES:** Mr. Anyanga, Prof. Anyang'-Nyong'o, Messrs, Chepkitony, Cheruiyot, Duale, Godhana, Gunda, Joho, Kaino, Kapondi, Khang'ati, Kigen, Kilonzo C, Kipkiror, Kiptanui, Kingi, Dr. Kones J, Mrs. Kones, Messrs Kosgey, Kutuny, Dr. Laboso, Messrs. Lagat, Lankas, Langat, Ms. Leshomo, Messrs Lesrima, Lessonet, Letimalo, Magerer, Magwanga, Mbadi, Mohamed I.E, Mudavadi, Mung'aro, Muoki I., Mwadeghu, Mwahima, Mwaita, Mwakulegwa, Mwau, Namwamba, Nanok, Mrs. Ngilu, Mrs. Noor Dr. Oburu, Mr. Ochieng, Ms. Odhiambo, Messrs Ogindo, Okemo, Olago, Prof. Olweny, Mrs. Ongoro, Messrs Onyancha C., Oparanya, Orengo, Dr. Otichilo, Messrs. Otieno, Outa, Eng. Rege, Messrs. Ruto, Shakeel, Prof. Sambili, Messrs Sambu, Sirma, Washiali, Were and Yinda.

Tellers of the Noes: Mr. Gabbow and Mr. Olago.

**ABSTENTION:** Ms. Mbarire

**Mr. Deputy Speaker:** Hon. Members, the tradition of the House has in the past been that in the event of a tie, the Chair can cast its vote to break the tie. But given the sensitivity of the issues at stake, and the fact that this is one thing that we essentially want to do in a perfect manner to unite this country, the Chair has absolutely no intention to cast its vote either way. Under the circumstances the matter goes back to the Parliamentary Select Committee. The Motion before the House is, therefore, lost.

*(Applause)*

Hon. Members, the country and indeed, the House, plead with the Select Committee to understand as much as possible the spectre that was displayed today in front of Kenyans and the plenary of the House, is one we cannot be proud of. We had a Select Committee which had the responsibility to do its job as perfectly as possible and take as much time as possible. Indeed, what we have seen now is Members of the Select Committee have disagreed on the Floor of the House. That in itself does not augur well for the image of both the Select Committee and the House at large.

Hon. Members, indeed, we expect the second time round, the Select

Committee will do a positive job and bring to the Floor of this House a clean job! A job well done.  
Next Order!

*(Several hon. Members stood  
up in their places)*

**Mr. Deputy Speaker:** Order, hon. Members! Indeed, the Chair has called for the next order. This matter is closed for the time being! In the event that Members want to open up anything to do with a process like this, the provisions are there in the Standing Orders. As of now, we are going on to the next order and proceed to conclude the business before the House!

### CONSIDERED RULING

DEFERMENT OF COMMITTEE STAGE:  
THE PROCEEDS OF CRIME AND  
ANTI-MONEY LAUNDERING BILL

**Mr. Deputy Speaker:** Hon. Members, I had earlier on indicated that I am going to show the direction on Order No.7. This is the Committee of the whole House on The Proceeds of Crime and Anti-Money Laundering Bill (Bill No.4). The Chair directs that this matter be deferred!

Hon. Members, this has been done in consultation with the Minister and Members of the relevant Committee!

Let us move, therefore, to Order No.9!

### MOTION

ADOPTION OF REPORT ON NOMINATION  
OF KACC ADVISORY BOARD MEMBERS

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs laid on the Table of the House on Tuesday, 17th February, 2009, and approves the Members nominated to the Kenya Anti-Corruption Commission Advisory Board.

Mr. Deputy Speaker, Sir, on 1st December, 2008 to help the Committee fast-track the nominations under this process, a sub-committee was formed by the Committee. The sub-committee---

*(Loud consultations)*

Mr. Deputy Speaker, Sir, could I seek your protection, please?

Mr. Deputy Speaker, Sir, on 1st December, 2008, to help fast-track the nominations, the Committee formed a sub-committee with the following Members:-

The hon. Amina Abdalla, MP

The hon. Millie Odhiambo, MP

The hon. Njoroge Baiya, MP

The hon. Alfred Wekesa Sambu, MP

Mr. Deputy Speaker, Sir, the sub-committee met on Wednesday December, 2008, and

considered the 18 names forwarded by the Minister for Justice, National Cohesion and Constitutional Affairs from the Statutory Board as required. I will name the organizations and the people they nominated. The rule was that each organization nominates two people.

**Organization****Name of Person**

Institute of Certified

Public Accountants of Kenya(ICPAK) Hon. Billow Adan Kerrow  
Dr. William Otiende Ogara

Kenya Bankers Association (KBA) Mr. John Khameme Wanyela  
Mr. Samuel Mutungi

Federation of Kenya Employers (FKE) Mrs. Jacqueline Mugo  
Mr. Mugo Kibati

Institute of Engineers of Kenya Eng. Francis W. Ngokonyo  
Eng. Reuben K. Koskey

Kenya Medical Association (KMA) Dr. Stephen Ochiel  
Dr. Abdalla Athman Kibwana

*(Loud consultations)*

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): On a point of order, Mr. Deputy Speaker, Sir. We cannot hear what the Chairman is saying because of the loud consultations. As you understand, this is a very important matter that he is announcing. May I plead that the Chair orders the consultations to be lower. I would also like to ask the Chairman of the Committee to speak slowly instead of hurrying.

**Mr. Deputy Speaker:** Hon. Members, the inclination of the Chair is to say that if you have to consult, consult in silence. But, I know you cannot conduct a consultation in silence. Do it in very low tones so that we can hear the hon. Member!

Mr. Abdikadir, please, proceed!

**Mr. Abdikadir:** Mr. Speaker, Sir, I asked for your protection on a number of occasions but you---

Mr. Deputy Speaker, I will repeat the list of nominees and from which organisation they are.

**Organization****Name of Person**

Institute of Certified

Public Accountants of Kenya (ICPAK) Hon. Billow Adan Kerrow  
Dr. William Otiende Ogara

Kenya Bankers Association (KBA) Mr. John Khameme Wanyela  
Mr. Samuel Mutungi

Federation of Kenya Employers (FKE) Mrs. Jacqueline Mugo  
Mr. Mugo Kibati

Institute of Engineers of Kenya Eng. Francis W. Ngokonyo  
Eng. Reuben K. Koskey

Kenya Medical Association (KMA)	Dr. Stephen Ochiel Dr. Abdalla Athman Kibwana
Kenya Association of Manufacturers (KAM)	Mr. Allan N. Ngugi Mr. Suru Tana.
Architectural Association of Kenya (AAK)	Architect Evan Juma Planner Irene Keino
Association of Professional Societies of East Africa	Mrs. Anna Muchungu Mrs. Grace Kaome Injene
COTU	Mr. Francis Atwoli Mr. Francis Wangara

Mr. Deputy Speaker, Sir, the responsibility of the Committee was to pick one of those and propose for nomination to the House.

Mr. Deputy Speaker, Sir, the sub-committee considered the names with regard to requirement of paragraph 7 of the First Schedule of the Anti-Corruption and Economic Crimes Act which states as follows:-

(7) In nominating and approving persons to be members of the Advisory Board, the nominating body and the National Assembly shall have regard to-

(a) the honesty and integrity of the person and the person's knowledge and experience; and,

(b) the importance of representing Kenya's diversity on the Advisory Board.

With regard to the requirements of the diversity, the sub-committee categorized the listed nominees into regions. After intense consideration and consultations, the sub-committee unanimously agreed to recommend the following names-

**Organization**

**Name of Person**

Institute of Certified Public Accountants of Kenya (ICPAK)	Hon. Billow Adan Kerrow (Regional balance - North Eastern Province)
Kenya Bankers Association (KBA)	Mr. John Khameme Wanyela (Regional balance - Western Province)
Federation of Kenya Employers (FKE)	Mrs. Jacqueline Mugo (Gender)
Institute of Engineers of Kenya	Eng. Reuben K. Koskey (Regional balance - Rift Valley)



	Province)
Kenya Medical Association (KMA)	Dr. Abdalla Athman Kibwana (Regional balance - North Eastern Province)
Kenya Association of Manufacturers (KAM)	Mr. Suru Tana. (Experience and Regional balance Nairobi Province)
Architectural Association of Kenya (AAK)	Planner Irene Keino
Association of Professional Societies of East Africa	Mrs. Grace Kaome Injene
COTU	Mr. Francis Wangara

Mr. Deputy Speaker, Sir, it is indicated in the report that Dr. Abdalla Athman Kibwana comes from North Eastern Province but that is not correct.

Mr. Deputy Speaker, Sir, the sub-committee tabled its report in a full Committee meeting held on 10th December, 2008 and its report was adopted by the main Committee without changes.

Mr. Deputy Speaker, Sir, you will notice that none of the members who are currently serving on the Advisory Board are on this list. That was deliberate so that we could give that Board a fresh start. On behalf of the members of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to the House the report of the Committee on the above named names of qualified candidates for further consideration and subsequent adoption by the House.

With those few remarks, I beg to move.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I beg to second this Motion. It is, indeed a very important Motion because it will put in place a fresh team to replace the team that has been there previously, that is at the Kenya Anti-Corruption Commission Advisory Board (KACCAB).

Mr. Deputy Speaker, Sir, the names recommended in this Report were arrived at by consensus. Perhaps, what we have seen previously, where members of the same Committee have come out here to actually contradict and undermine their own Report, will not be seen in respect of this report. As a member of that Committee, I want to assure this House that the names were properly vetted. There was consensus and wide consultations. We have endeavoured to achieve regional balance, but, most importantly, to get people of integrity. Today, Kenya lives in an era where corruption has taken root, while both the NARC and Grand Coalition Governments were elected on a platform of zero tolerance to corruption. Indeed, corruption has taken root and major scandals are being witnessed, maybe, on a monthly basis. We do, therefore, need a team that will be above board, like Caesar's wife, and it should be beyond reproach. These are the names that we have presented to the House for scrutiny. We urge Members to scrutinise the names properly because of the important role that these members are going to play in the war against corruption.

With those few remarks, I beg to second.

*(Question proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I support the Motion. The Committee has done its work and it is time that we appointed an Advisory Board for the Kenya Anti-Corruption Commission. The tenure for the old ones

expired sometimes back.

I commend the Committee and fully support the report. I regret that Parliament is showing a trend where members of Committees disown their report. I do hope that, this time round, members of the Departmental Committee on Administration of Justice and Legal Affairs will support the report.

With those few remarks, I beg to support.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I rise to support the Motion with a general comment that I want to make regarding the role of Parliament in adopting a Report like this.

Mr. Deputy Speaker, Sir, I have been in this House since 1993. I do believe that this House is an extremely importance institution in the democratic system in our nation.

One of the most important roles of Parliament is that hon. Members of Parliament should express their preference, opinions and ideas on issues that come before the House. They should be in no way hurried in doing so. We may have to revisit our Standing Orders and find out how the institution of Parliament, as a debating Chamber where, as hon. Orengo said earlier, the majority can have their way while the minority have their say, is actually active in reality.

Mr. Deputy Speaker, Sir, I have been sitting in this House during this session and watching with dismay when points of order become the most important item on the menu, and real debate is reduced to mere pudding. That is an extremely dangerous trend. Some of us only rise on points of order when it is really paining like today. I would like each hon. Member to inculcate in himself or herself the culture of debate and the respect of opinion, whether it differs or concurs with yours.

Mr. Deputy Speaker, Sir, Bishop Augustine of Hippo once said that it is important in expressing your ideas, to think for a moment that you may be wrong. This House is displaying an extremely dangerous trend of being impatient. Like the English say: "Patience pays." Consultations create solidarity. Confidence is important and anxiety is the mother of fear. When debates are rushed through the House, and Members do not have the opportunity to express their opinions and preferences, anxiety sets in and fear breeds in the House.

Mr. Deputy Speaker, Sir, I would like us to adopt a culture that is akin to the US Congress where, when there is an important debate before the House, Members can be allowed to talk. Even if a few Members remain in the House, they continue to talk until they finish. I watch CNN where there are important issues before Congress. They are not worried about a quorum provided somebody is speaking. They know that there are monitors all over and when a Member wants to come in and contribute, he can do so. That is why we have modern technology. So, on issues that we have been dealing with today, consultations until consensus is reached is extremely important. Confidence building is fundamental. The breeding of anxiety so that fear reigns in the House should be banished from the culture of this House.

The Kenya Anti-Corruption Commission, and I really sympathise with my colleague the Minister for Justice, National Cohesion and Constitutional Affairs, whose docket is to ensure that, that Commission does its work and corruption is eradicated in this country--- I am afraid that the record of the Kenya Anti-Corruption Commission in dealing with corruption in this country is rather dismal. In spite of the pleas and concerns that people express that are for justice and constitutional affairs, I do not think that there is institutional capacity and capability, in spite of the high salaries paid to people who work there, for that institution to deliver. That is because the cases they get excited about is when Members of Parliament raise issues in the House. Then, the next day, there are furious consultation and people being called to Integrity House to be interviewed. But apart from that, you will never hear anybody being called to account or being interviewed for the major corruption scandals in this nation. I have had cases in my Ministry where there are heaps and heaps of letters going on between the Attorney-General's Chambers, my Ministry and the Kenya Anti-Corruption Commission on cases which are never settled.

The bottom line is that there seems to be a convergence of interest among lawyers to keep cases involving Government institutions and agencies in court. So, the longer the case stays in court,

the more the lawyers are paid their fees. So, lawyers on the Government side and lawyers on the other side keep on going to court, are paid handsome monies and the cases never end. The Government is losing a lot of money in court cases that do not need to continue being there and which could have been terminated a long time ago in the interest of the nation. So, I do hope that this team that is being set up will be a kind of team that will keep the Kenya Anti-Corruption Commission (KACC) in check and make sure that it delivers. The people who were appointed to those positions at the KACC, were given good salaries, so that they could not involve themselves in rent-picking. However, I am afraid because there are a lot of complaints from the public, in Government Ministries and parastatal bodies against the KACC: Unfortunately, whether its scouts officers do engage in harassment and intimidation for purposes of rent-picking. Therefore, they never bring out the results of finishing or eliminating corruption in our nation. It is a very daunting task for the Minister. This is because as a Minister you are expected to lay down policies and guidelines which are followed and implemented by officers. You cannot be at the same time the policy maker and regulator and ensure that execution is done. You expect that delivery will come from the other side of the divide, that is, the Executive branch and the institutions that it has set up to make sure that delivery is done. If we look at the delivery record of the KACC - I must say it - whether I was in the Opposition or in Government, I have not been impressed. We must be autocritical. Being autocritical does not mean that we are trying to tear down the KACC. It means that we are concerned that our performance should be better. After all, we need to get what I call corruption dividends, as sources of revenue that can help us implement projects which will help us meet the goals of the Vision 2030. Unless year after year, there is an increment in corruption dividends, we will not meet the targets that we have set for ourselves for the Vision 2030.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support.

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion. From the outset, I would like to thank the Committee for a job well done. From the list presented to us, these people have been nominated by various organizations. The Committee actually looked at them and selected maybe one from each of them. I know quite a number of the people in the list. They happen to be people of integrity and good standing in society. Furthermore, they also represent a good diversity in this country.

With those few remarks, I beg to support the Motion. I hope my colleagues will also support it.

**Mr. Ogindo:** Mr. Deputy Speaker, Sir, I rise to oppose this Motion. The Chairman of the Committee stood here and eloquently told this House that this list was arrived at considering regional balance. I know that the names have been forwarded by various organizations. I represent Rangwe Constituency. I also represent a constituency of a region and the larger constituency, Kenya. I have respect for all these people who have been nominated. However, this country needs a more modern approach to the way it is shortlisting people to serve it.

We are just coming from an election-instigated violence last year. The elections had violence because the stakes were very high. What made the stakes very high was the distribution of resources and positions in this country. It is in the interest of this country that each and every region gets its rightful share. We have relevant data in this country that can enable us work out the relevant share of each region. It is important that we be seen to engage in an affirmative action that ensures that each and every region of this country is not left behind in matters of positions and resource distribution.

Mr. Deputy Speaker, Sir, I fear that if we do not outline clear guidelines on how we are recruiting in this country, we are creating a recipe for further violence in future. With hindsight, there are about nine nominees in this list. If we were fair, this could have been regionally distributed to cover the whole country. The data I have is that Central Province constitutes about 21 per cent of this nation in terms of population. Western constitutes about 14 per cent. Nyanza constitutes about 12 to 13 per cent and Rift Valley constitutes 14 per cent. If these figures could be used, I believe that the whole country would be happy. I do not know of any part of this country that would not want another part

to have its share. But what we are failing in is to take deliberate steps or affirmative action to correct this situation. If we are not careful, we will end up with a situation where we have the resources of this country and the watchdogs in the hands of people coming from the same region. We will end up with collusion more than service to this nation.

Mr. Deputy Speaker, Sir, I oppose this Motion. Maybe, one day, this House will come up with a formula that will safeguard the interests of each and every corner of this country.

With those few remarks, I beg to oppose.

**Mr. Langat:** Thank you, Mr. Deputy Speaker, Sir, for giving this opportunity. Let me start by saying that I support the Motion. Corruption in this country has been a very hot subject from the time of the late Jomo Kenyatta, Moi and now in the Grand Coalition. I support the Motion because the cost of corruption in this country is too high. Many of our resources have been lost to a few people. However, many people in this country are dying because there is no medicine, maize and so on.

Mr. Deputy Speaker, Sir, I want to say that we need to be honestly fighting corruption; while I support the Motion, I also want to challenge the Minister concerned that we need to know what progress has been made as far as fighting corruption is concerned. What are the successes? I believe that in Moi's, Kibaki's and the Grand Coalition's regimes, corruption is the same; there has been no success. So, we need to be sure that we are doing the right thing and achieve results.

With those few remarks, I beg to support.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, I stand to support this very important Motion. First, I thank the Chair of the Committee, who has very ably presented the report to this House. It is high time we gave a quick approval to this Motion, because our nation right now is ailing as a result of corruption that is raging in the whole nation. If you can direct your attention to the Kenya National Examinations Council (KNEC), what really happened last year and the year before? What has caused destruction in our schools? The strikes were as a result of corruption. Look at the Nairobi Stock Exchange (NSE) and the loss of heavy investments by the Kenyan people in that sector. You also look at the questions that are being directed at the Kenya Airports Authority (KAA); there are unanswered questions. This is an area that could be investigated properly if we had a capable anti-corruption commission. Mothers and fathers are also crying about the Nyaga Stock Brokers. This is an issue that needs to be addressed by this anti-corruption commission. This is a cancer that is deeply affecting this nation. If we can give an approval to the proposed members, who happen to be credible people, they will be able to mobilise their energies, sacrifice for this nation and solve some of these problems. Therefore, it is important that we give approval to these very important nominees.

With those remarks, therefore, I beg to support the proposed nominees.

**The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry):** Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute to this very important Motion. At the outset, I would like to commend the Chairman and his team for a commendable job. There are four things which are very dear to my heart. First are the issues of impunity, corruption, ethnicity and poor leadership. This country needs credible people; people of honesty, integrity and people with moral courage to stand and defend this nation. I do not care which region these people come from, so long as they can stand up and defend this country. They can stand up and destroy corruption!

*(Applause)*

This afternoon, our Committee was put on the spot just because people are talking of regional representation. We want to talk about Kenya, and we want the Government to deal with corruption. We want the Government to have moral courage, which is stronger than physical courage to confront this monster, or dragon, called "corruption". Because there is this advisory team to the Kenya Anti-Corruption Commission (KACC), we want to start seeing big fish being fried and roasted whenever corruption cases are brought to the Government.

I would like to say one more thing in support of this Motion, that corruption is everywhere. If

Government lawyers and the Judiciary cannot stop some lawyers from delaying cases of corruption, we are not going to clean this country. I would like this Parliament, maybe the Minister for Justice, National Cohesion and Constitutional Affairs, to bring a Motion to fast-track all corruption cases in this country, so that it will be clean and without ethnicity, impunity and corruption.

With those very few remarks, I beg to support.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I rise to support this Motion and want to be associated with what the hon. Member has just said. Even if the whole list came from North Eastern and these were the most noble men we have in Kenya, we would let it be. Even if they all come from Kiambu, let it be, but let us have men of integrity. Let us have men who will stand to be counted as having guided this country away from this monster called corruption. When they get there, as their first assignment, let them re-evaluate the workers who are carrying out anti-corruption duties. The truth is that - I want to declare my interest under Standing Order No.75 - some of those so called investigators are more corrupt than corruption. They are the ones who are causing the jam, even in courts.

I would like the Minister for Justice, National Cohesion and Constitutional Affairs to listen. There are officers in the Kenya Anti-Corruption Commission, and I am prepared to give evidence to that effect, who are more corrupt than corruption. Those are the people who are causing jams by placing obstacles on the way to make prosecution impossible.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** On a point of information, Mr. Deputy Speaker, Sir. I would just like the hon. Member on the Floor, and the House at large, to note from the Motion before the House that my Ministry does not even appoint any board member to the KACC, which is an anomaly, because then this House puts questions to my Ministry about its efficiency. Consequently, my Ministry has nothing to do with who is employed in the KACC. Perhaps then, it is the House that ought to answer its self on that issue. I have informed the hon. Member, so that at an appropriate time, we may review the law.

**Mr. Mututho:** Thank you for that information!

Mr. Deputy Speaker, Sir, that brings me to my final point, that sooner than yesterday, we should have that Act back here, so that all those things that are making it impossible to get hold of all those corrupt people, all those things that are making people go scotfree; all those things that make you, when you are not politically correct to appear before the KACC and when you are politically correct to be protected must be cleared.

I do not want to hear about regional balance; I come from the central Rift, and from 1963 we have never had a Cabinet Minister, but we have lived with it. We are over two million people! Regional balance is useless. As of now, let us talk of efficiency! Even Mr. Obama could not have been elected if Americans were considering regional balance.

With those few remarks, I beg to support.

**Dr. Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion, hoping that as we inject fresh blood into the Board, it will be reason for us to see a renewal in the fight against corruption. As I talk about corruption in this country, I wonder what happened to the Office of the Attorney-General. Under normal circumstances, if the Office of the Attorney-General had been merged with the Ministry of Justice, National Cohesion and Constitutional Affairs, and the Attorney-General was functional, then the Kenya Anti-Corruption Commission (KACC) would be nothing, but just a small and efficient department within that Ministry. However, given where we are, it shows---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! Ms. Karua, it is the Chair's feelings that, maybe, you should listen to Dr. Khalwale. What he is saying may be a lot of interest to your Ministry.

Proceed, Dr. Khalwale.

**Dr. Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I was saying, if the Office of the

Attorney-General had been merged with the Ministry of Justice, National Cohesion and Constitutional Affairs, there would be harmony. Indeed, the so-called "KACC" would be nothing, but a small and very efficient department within that Ministry. All this wastage of resources in terms of money and personnel is simply because the Office of the Attorney-General is not functioning.

Kenyans, especially Members of Parliament, must never lose the fight against corruption. We must never give up. If you give up, what would be your alternative? I want to beg hon. Members of this House that, if we are going to commit our minds to fighting corruption, let us also commit our hearts to fighting corruption. It is quite evident in this House that corruption is bad so long as you are able to point your finger at the person who is perpetrating it. However, when you suspect that you are involved in corruption, you fight back in such a strong way that even a simple Motion seeking to find out whether there was corruption surrounding maize, the Mover is not given an opportunity to even move it.

Mr. Deputy Speaker, Sir, it is very unfortunate if we are going to forget. The real scandal that visited this country were those contracts of Anglo Leasing. They were contracts worth Kshs56 billion. The matter was ably brought up in this House by Mr. Maoka Maore in the last Parliament. After some heads rolled, we were promised that all would be well. This matter was such that goods and services were purported to have been delivered. The truth was that some goods and services were delivered after being over-priced, while others were not delivered at all. This was done by civil servants, politicians and business people. To date, no single politician has appeared in court.

Politicians are using their political offices to cushion themselves when they are suspected to have been involved in acts of corruption. We have to search our souls and commit our minds and hearts to the fight [Dr. Khalwale]

against corruption, because of our children and our children's children. By the 28th of this month, Parliament will be at home. Nobody will raise a finger. The Government of Kenya will pay one of these companies called Midland Finance and Securities Limited, £34 million.

**Mr. Mbadi:** On a point of order Mr. Deputy Speaker, Sir. Given that many of us are supporting this Motion and that there is a Motion of adjournment that is coming up, would it be in order for me to ask that the Mover of the Motion responds?

**Mr. Deputy Speaker:** Can you conclude, Dr. Khalwale?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, as I conclude, this company is being paid and Mr. Mbadi, this is a serious matter. Since the payment will be done on the 28th of this month, there is nothing we can do because the promissory notes that were signed on behalf of the Government by the Permanent Secretary and the Minister, they cheated us. Mr. Kimunya told this House in the last Parliament that those promissory notes had been cancelled and that they were safely locked up in a safe at the Treasury.

The Attorney-General went on and gave his opinion. He told them that those promissory notes which they had pretended that they had cancelled are still in force. They ignored him and now these people will be paid on 28th. This company called Midland Finance Securities Limited was purported to have been registered in Switzerland. We have done a search on this company and it does not exist at all. It means, therefore, that the politicians, civil servants and business people will walk out with 34 million pounds of taxpayers money. Can we really develop Kenya? Politicians, let us commit ourselves to the fight against corruption.

I beg to support.

**Mr. Konchella:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity to contribute to this Motion. I stand to support this Motion with a very heavy heart. The Kenyan people are looking up to us to do something about corruption. I do not understand why corruption is on the lips and mouths of everybody. I do not understand why the institutions that have been established are not able to arrest this issue. The other day, the Director of KACC shed tears because the Attorney-General is not able to support him. I want to request Members of this House to create two positions of the Attorney-General; one Attorney-General to deal with corruption and another to go around the world

to do what the current one is doing because he is not helping the people of Kenya.

Not a single person has been locked up in connection with the corruption that is taking place. We have a Mr. Pattni, who, is the cause of all the things that are happening in this country where our children will suffer and be in problems for the rest of the lives. In spite of this, he is still free. He even sits at national functions, close to the Head of State. We have Mr. Devani who is enjoying himself around the world with the sweat of our children and our people.

Mr. Deputy Speaker, Sir, if these people will enjoy these salaries, then there is no point in them being there. If the anti-corruption team that we have is not able to do something about corruption in this country, let them all resign and let us form another body to deal with corruption. I think we should start with having the position of the Attorney-General to be legislated by this House. He should be an Attorney-General for corruption. I think it is the only way we can do something about this.

It is so shameful that a few people have taken over the resources of this country for themselves and their friends. Now, our fellow Africans are following suit. If you look at what is happening at the Nairobi Stock Exchange, how many Kenyans have invested money in the Nairobi Stock Exchange? Now, what is happening? There is the Thuo company and Nyagah Stockbrokers Company which have collapsed and others. Soon the Nairobi Stock Exchange itself will collapse. How much money will go down the drain? It will even be more worse than all the other corruption cases that we are trying to deal with! Now, if a nation is not able to stop corruption, it is going to go on its own knees and people are going to decide to survive on their own! If we cannot stop corruption, let us just be ready for war! Corruption is, actually, a criminal act. To me, anybody who is involved in corruption in a grand way like we are seeing, should face a firing squad. They should not just to go to jail! Even if we have to change our laws to deal with them, we have to do it because we are all going to die!

Mr. Deputy Speaker, Sir, let me not waste more time because I am very bitter about the fact that we are doing nothing about corruption in this country.

I beg to support.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Chepkitony:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion on the appointment of the persons to the Advisory Board to assist the Kenya Anti-Corruption Commission (KACC). It is a very important body which is going to assist in the fight against corruption. Corruption in this country is a cancer. It has really penetrated into our society. There is mega corruption. There is petty corruption and there is corruption in all areas of our livelihoods. It is affecting offices, civil servants, businessmen and almost every aspect of our lives. Something must be done.

Mr. Deputy Speaker, Sir, we are talking about corruption and impunity. We must address these issues seriously. We must take decisive, consistent and a firm decision to fight that disease, which has really eaten into our society. The KACC has been charged with the responsibility to lead the fight against corruption. It is also supposed to take corrupt people to court. But KACC alone cannot fight corruption. Everybody must be involved; from the top leadership to everybody in the society. That way, we will eradicate corruption. So, we must all get involved in the fight against corruption. All of us! Not one particular group.

In the recruitment of people like civil servants, police and any other people, they talk about corruption. You must pay something in order to get a job. That is not acceptable! We must be fair in whatever we do. In the allocation of resources, if you favour one region, that is still corruption! We must be people of integrity. We must show that in whatever we do as leaders!

So, Mr. Deputy Speaker, Sir, it is very important that we support this Motion. I can see that the people who have been nominated are representatives of various organisations as provided for in the Act. Somebody was saying that they are not representing the regions. I think they were not meant to represent the regions. He even mentioned that certain regions do not have a representative. But I think we have almost all the representatives of the Kenyan society.

With those few remarks, Mr. Deputy Speaker, Sir, I support this Motion.

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

**Mr. Deputy Speaker:** What is your point of order, Mr. Thuo?

**Mr. Thuo:** Mr. Deputy Speaker, Sir, would I be in order to ask that the Mover be called upon to reply?

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Mr. Abdikadir:** Thank you very much, Mr. Deputy Speaker, Sir. The problem of corruption cannot be gainsaid in this country. As a Committee, we feel that KACC has not handled those matters as Kenyans had hoped they would. That is why we thought that the entire team of the Board should be changed. That is just a first step.

Mr. Deputy Speaker, Sir, in the programme for the Committee, reforms in that sector is a priority. The constitutional reform process ties into that very well.

Mr. Deputy Speaker, Sir, so, I am very alive to the issues raised by hon. Members including those of the Minister of Justice, National Cohesion and Constitutional Affairs. Therefore, we feel this is the first task in sending a very clear message to the Kenya Anti-Corruption Commission (KACC) that things must absolutely change if that institution has to exist.

Mr. Deputy Speaker, Sir, we have a very lopsided budget that gives more than Kshs1 billion to one institution and less than that to the entire Judiciary. The entire Judiciary has a budget that is smaller than that of the KACC and yet Kenyans have not seen anything to write home about as far as the results of that particular commission are concerned. So, I think this is the first step for that commission; that we feel things must change in that commission. We are hoping that Parliament agrees with us that we sack the entire board of that commission.

Mr. Deputy Speaker, Sir, as far as the directors are concerned, that is our next issue and, therefore, I beg to move.

*(Question put and agreed to)*

**Mr. Deputy Speaker:** Next Order!

## **MOTION FOR ADJOURNMENT**

*ADJOURNMENT OF THE HOUSE SINE DIE*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. We are seeking your indulgence as the Government and that of the House not to move the Motion. In view of the stalemate on the confirmation of the Interim Independent Electoral Commission (IIEC), we would wish not to move the Motion for the Adjournment of the House to give time up to next week and see whether we can build consensus around the issues. I can see the Chairman of the Parliamentary Select Committee (PSC) on the Review of the Constitution and the members present shaking their heads. Having an IIEC is a matter of urgency. It is an institution the country cannot stay without, otherwise, we will be precipitating a constitutional crisis. I seek the Chair's and House's indulgence on this matter.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I also rise to seek the indulgence of the Chair in supporting the sentiments of the hon. Minister for Justice, National Cohesion and Constitutional Affairs who is also a shepherd member of the PSC. It is important that before we go on recess, we accord this House an opportunity to give the names. We would also like the PSC to review all the issues that Members have raised today. We are fortunate that we tied. I am sure before the end of next week, we will be able to come back to the House with the names that would be acceptable to it.



I support and second my Minister.

**Mr. Deputy Speaker:** Hon. Members, the business of the House is determined by the House Business Committee (HBC) and, indeed, the Leader of Government Business and in this case represented by the Deputy Leader of Government Business. She has sought my attention as demonstrated and the Chair is much obliged. Under, the circumstances, hon. Members, I think it is time for us to adjourn the House.

*(Motion deferred)*

### **ADJOURNMENT**

**Mr. Deputy Speaker:** Hon. Members, the House stands adjourned until Tuesday, the 24th of February, 2009 at 2.30 p.m.

The House rose at 6.39 p.m.