

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 1<sup>st</sup> September, 2009

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### ADMINISTRATION OF OATH

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

Justus Kizito M'Mbaya  
Simon Ogari Nyaundi

### PAPERS LAID

The following Papers were laid on the Table:-

Audited Financial Statement of Kenya National Hospital Limited for the Year ended 30<sup>th</sup> June, 2008 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Medical Services)*

Annual Report and Accounts of National Environment Management Authority for the Year ended 30<sup>th</sup> June, 2008 and the certificate thereon of the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister Environment and Mineral Resources)*

Annual Report and Accounts of Kenya National Library Services for the Year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister of State for National Heritage)*

Annual Report and Financial Statements of Kenya Ports Authority for the Year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)*

*on behalf of the Minister for Transport)*

Annual Report and Financial Statements of Agricultural Finance Corporation for the Year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Agriculture)*

Annual Report and Financial Statement of Commission of Higher Education for the Year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Higher Education, Science and Technology)*

Annual Report and Financial Statement of Teachers Service Commission for the Year ended 30<sup>th</sup> June, 2008 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Education)*

The Report of the Controller and Auditor-General on the Financial Statement of Kenya Utalii College for the Year ended 30<sup>th</sup> June, 2008

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Tourism)*

The Report of the Controller and Auditor-General on the Financial Statement of KTDC Utalii Investment Limited for the Year ended 30<sup>th</sup> June, 2008

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Tourism)*

The Report of the Controller and Auditor-General on the Financial Statement of the Youth Enterprise Development Fund Board for the 18 months ended 30<sup>th</sup> June, 2008

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Youth Affairs and Sports)*

The Report of the Controller and Auditor-General on the abstracts of the Accounts of Town Council of Rumuruti for the Year ended 30<sup>th</sup> June, 2008

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Deputy Prime Minister)*

*and Minister for Local Government)*

The Report of the Controller and Auditor-General on the Financial Statement of Kenya Agricultural Research Institute (KARI) for the year ended 30<sup>th</sup> June, 2008

*(By the Assistant Minister for Lands (Mr. Bifwoli)  
on behalf of the Minister for Agriculture)*

### MINISTERIAL STATEMENT

Report of the Commonwealth Parliamentary Association Kenya Branch, Study Visit to the Commonwealth Parliamentary Association, United Kingdom Branch

*(By Ms. S. Abdalla)*

#### LOCAL GOVERNMENT MINISTRY'S APOLOGY FOR NOT RESPONDING TO PARLIAMENTARY QUESTION

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Mr. Speaker, Sir, from the outset, let me give my apologies to the House and also on behalf of my Minister for failing to attend to a Parliamentary Question last week. We were attending the Annual General Meeting (AGM) of all local authorities and we realized that the business of the House takes precedence. We had written a letter which somehow did not get to the Table and we assumed that there was going to be consent that we would be excused on that material day.

On behalf of my Minister and myself, I must say that I am very sorry and I urge you and beg you to allow me to proceed to lay the Paper on the Table.

**Mr. Speaker:** Fair enough! Resume your seat!

I just want to re-emphasize for the benefit of the Front Bench that we intend and have already started to implement the Standing Orders very strictly and that the business of the House will always take precedence over any other business. That position has been re-emphasized by a person no less than His Excellency the President who was categorical at the conference in Mombasa that the Executive, inclusive of all Ministers and Assistant Ministers must account to Parliament for the people of Kenya.

You may proceed!

### PAPER LAID

The following Paper was laid on the Table:-

The Local Authorities Transfer Fund (LATF) Annual Report for the Financial Year 2007/2008

*(By The Assistant Minister, Office of the Deputy Prime Minister  
and Ministry of Local Government (Mr. Nguyai))*

**NOTICE OF MOTION****AMENDMENT OF STANDING ORDERS TO PROVIDE FOR APPOINTMENT  
OF FIRST AND SECOND LEADER OF GOVERNMENT BUSINESS**

**Mr. Jamleck Irungu Kamau:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, considering that the Government has failed to honour the provisions of Standing Order No.2 on the appointment of the Leader of Government Business; considering further that the absence of the Leader of Government Business has adversely affected the Business of the House; concerned that the duties of the Leader of Government Business are now shared between two Government Chief Whips, this House resolves, pursuant to the provisions of Standing Order No.200, that the Procedure and House Rules Committee consider the following proposals for amendment to the Standing Orders and submit a report to this House within two weeks.

The Standing Orders be amended:-

(i) Sub-paragraph (a) of Standing Order No.2 by deleting the definition of Leader of Government Business and substituting therefor the following new definition:-

“Leader of Government Business means Minister designated by the President as Leader of Government Business in the House”

(ii) By deleting paragraph 2 of Standing Order No.11 and substituting therefor, the following new paragraph 2:-

“At the commencement of every Session or from time to time as necessity may arise, the Leader of Government Business, with the approval of the President shall nominate two hon. Members being Ministers who shall be known respectfully as the first and Second Deputy Leader of Government Business.”

(iii) By deleting paragraph 6 of Standing Order No.158 and substituting therefor the following new paragraph 6.

“The Leader of Government Business shall be the Chairperson of the House Business Committee”

Mr. Speaker, Sir, this is a party Motion.

**QUESTIONS BY PRIVATE NOTICE****RETRENCHMENT OF PYRETHRUM  
BOARD EMPLOYEES**

**Mr. Kioni:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister inform the House the criteria that was used in terminating employment of the 162 employees of the Kenya Pyrethrum Board in August 2009?

(b) Could the Minister provide a list showing the retrenched employees as well as those that have been retained, respectively?

(c) When will the Minister pay terminal dues to the workers whose employment has been terminated?

**Mr. Speaker:** Minister for Agriculture! Minister for Agriculture! Let us move on to the next Question.

*(The Minister of State for Public Service  
(Mr. Otieno) stood up in his place)*

Order, Mr. Otieno! Unless you are prepared to proceed to answer the Question, we are leaving that Question in abeyance and will return to it.  
Mheshimiwa Leshomo!

#### OUTBREAK OF MENINGITIS IN SAMBURU

**Ms. Leshomo:** Bw. Spika, naomba kumuuliza Waziri wa Afya ya Uma na Usafi Swali maalum lifuatalo.

(a) Je, Waziri ana habari kuhusu kuzuka kwa ugonjwa wa uvimbe wa tando za uti wa mgongo (yaani Meningitis) Wilayani Samburu, ambapo katika wiki tatu zilizopita umesababisha vifo vya watu watatu?

(b) Ni hatua gani za dharura Serikali imechukua kukabiliana na ugonjwa huu?

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Bw. Spika, ninaomba kujibu.

(a) Sina habari yoyote kuhusu mkurupuko wa ugonjwa wa tando za uti wa mgongo (yaani Meningitis) Wilayani Samburu, wala vifo vyovyote kwa muda wa wiki tatu zilizopita.

Bw. Spika ninaomba ibainike ya kwamba kuna aina kadha za ugonjwa wa tando za uti wa mgongo kama vile *meningococcal meningitis* na *cryptococcal meningitis*. Kwa sasa, ninazo habari kuhusu wagonjwa watatu ambao wamelazwa katika hospitali kuu ya Wilya ya Samburu wanaouguua uvimbe wa tando za uti wa mgongo yaani *cryptococcal meningitis*. Wataalamu wamedhitisha kwamba wanao ugua ugonjwa huo huwa na viini ambazo hudhibitisha ukosefu wa kinga mwilini. Imebainishwa kwamba hali yao ya kinga mwilini imezoretaka sana. Kati ya hao watu, wawili ni wanaume na mmoja ni mwanamke.

Naomba pia kufahamisha Bunge hili kwamba ninazo habari kuhusu kifo cha mvulana mwenye umri wa miaka 15 ambaye alifariki baada ya kuugua ugonjwa wa malaria ya ubongo, yaani *cerebral malaria*. Kulingana na matokeo ya utaalum wa maabara, ilibaini kwamba ni malaria ya ubongo. Dalili zake hufanana na zile za ugonjwa wa uvimbe wa tando za uti wa mgongo yaani *meningococcal meningitis*.

(b) Ugonjwa wa uvimbe wa tando za uti wa mgongo ni mojawapo ya maradhi 18 sugu, ambayo Wizara ya Afya ya Uma na Usafi, imeorodhesha kwa ukachero mwafaka sana. Taarifa zake hutolewa kila wiki ili kuthibitisha mikakati maalum katika kuangalia haya magonjwa 18.

**Ms. Leshomo:** Bw. Spika, Waziri Msaidizi amesema ya kwamba hana habari kuhusu huo ugonjwa. Hata hivyo, kuna dhibitisho tosha kuwa watu watatu walifariki kutokana na ugonjwa wa meningitis. Watu hawa wanajulikana kuwa walikufa kutokana na ugonjwa huu. Watu wengi wanakufa kutokana na ugonjwa huu. Waziri Msaidizi atafanya nini kudhibitisha ukweli wa mambo haya?

**Dr. Gesami:** Bw. Spika, tayari nimekubali kuwa watu watatu wamekufa kutokana na ugonjwa huu wa tando za uti wa mgongo. Watu hawa walikufa kutokana na ugonjwa wa *meningococcal meningitis* ambao unashika mtu moja hadi mwingine. Watu hawa waliokufa walikuwa na kinga chache mwilini. Ninakubaliana na mhe. Leshoomo watu watatu walikufa lakini si kwa sababu ya *meningococcal meningitis*. Sisi tumeweka mikakati ya kuhakikisha ugonjwa huu hauenei katika Wilaya ya Samburu.

**Ms. S. Abdalla:** Bw. Spika, Waziri Msaidizi amesema ya kwamba waliothirika ni kuwa sababu ya kinga zao mwilini kuwa hafifu. Je, kuna mpango gani wa kuhakikisha wenye kinga hafifu mwilini wanasaidiwa?

**Dr. Gesami:** Bw. Spika, kuna magonjwa mengi ambayo husababisha upungufu wa kinga mwilini. Kwa mfano, tuna ukosefu wa chakula, HIV/AIDS na ugonjwa wa sukari. Watu hawa walikufa kutokana na matatizo ya HIV/AIDS.

**Ms. Leshomo:** Bw. Spika, nimeshangaa sana kusikia ya kwamba walikufa kutokana na UKIMWI. UKIMWI ni tofauti sana na ugonjwa wa *meningitis*. Ni aibu kuona ya kwamba hospitali ya Serikali inashindwa kusema kilichosababisha vifo hivyo. Kijana Lambushona alipimwa katika Wamba Mission Hospital na kugunduliwa kuwa alikuwa anaugua *meningitis*. Ni hatua gani atachukua kuwasaidia watu wetu? Je, wana mipango gani ya kuwaajiri madaktari wengi?

**Dr. Gesami:** Bw. Spika, sijasema kwamba wakati mtu ana upungufu wa kinga mwilini, ni lazima awe anaugua UKIMWI. Watu hao watatu walikufa kutokana na *cryptococcus meningitis*. Ninataka kumhakikishia mhe. Leshomo kuwa Wizara yangu imeweka mikakati rasmi ya kupambana na ugonjwa huu na kuhakikisha hauenee hapa nchini.

## ORAL ANSWERS TO QUESTIONS

### *Question No.352*

#### ALLOCATION FOR CONSTRUCTION OF KITUI MUNICIPAL BUS PARK

**Mr. Speaker:** Member, for Kitui West!

*(Mr. I. Muoki stood up in his place)*

What is it Member for Kitui South?

**Mr. I. Muoki:** Thank you, Mr. Speaker, Sir. The hon. Nyamai, the MP for Kitui West is out of the country. He asked me to ask this Question on his behalf.

**Mr. Speaker:** You may proceed as a good neighbour.

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

**Mr. Speaker:** What is it, Mr. Were?

**Mr. Were:** I am sorry!

**Mr. Speaker:** That is a false alarm.

Proceed, Mr. I. Muoki!

**Mr. I. Muoki,** on behalf of **Mr. Nyamai,** asked the Deputy Prime Minister and Minister for Local Government:-

- (a) If he could state how much funds were allocated for the construction of Kitui Municipal Council bus park, how much of the funds have been utilized and what percentage of the works has been completed so far; and,
- (b) what steps the Ministry is taking to ensure the bus park is completed promptly.

**The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government (Mr. Nguyai):** Mr. Speaker, Sir, I beg to reply.

(a) The funds allocated for the construction of Kitui Municipal Council Bus Park were Kshs46,129,577.70. The Ministry has paid Kshs14,431,310 as at December, 2008 leaving a balance of Kshs31,698,267.70 during the financial year of 2008/2009. The contractor has done 31 per cent of the works.

(b) The contractor has significantly delayed the completion of the bus park and my Ministry is planning to terminate the current construction contract with a view of procuring another contractor for the completion of the remaining works. I wish, therefore, to assure this House that it is my Ministry's intention to complete the remaining works within this financial year.

**Mr. I. Muoki:** Mr. Speaker, Sir, the reason for asking this Question is that this project has stalled for the last two or three years. The project is at the centre of Kitui Town and is inconveniencing almost everything. Could the Assistant Minister confirm whether he will take the necessary steps to make sure that this project will be completed this year as he has indicated?

**Mr. Nguyai:** Mr. Speaker, Sir, as I speak, we have had quite a number of project management meetings and we have come to the conclusion that the contractor does not have the capacity or is incapable of moving on with the contract. We are now engaging what we call the termination clause and that takes a bit of time. As soon as we have finalized with the termination, we will then proceed to give out another tender for contract.

**Mr. Bahari:** Mr. Speaker, Sir, you have heard the Assistant Minister say that the contractor does not have the capacity to complete the project. At what point did he realize after engaging the contractor that the contractor does not have the capacity? This is a serious matter! At what point did they realize it?

**Mr. Nguyai:** Mr. Speaker, Sir, before engaging the contractor, the due diligence was done and the normal procurement process went through. It is when the contractor was unable to meet the specific benchmarks in terms of certificate that we realized that he was unable to carry on with the contract. Then we engaged the municipal council and officers from the Ministry. From that point on, we have been monitoring to ensure that we are able to proceed ahead.

**Mr. Ochieng:** Mr. Speaker, Sir, taking into account that this time round the Ministry of Finance did not allocate funds to his Ministry to do that market and bus stop, what is he going to do in order to get funds so as to complete that project that is still pending?

**Mr. Nguyai:** Mr. Speaker, Sir, as you realize, this was an ongoing contract. The funds had been allocated and had been put into the project account, so it is not one of the ones that would suffer in case this particular instance was to happen.

**Mr. Linturi:** Mr. Speaker, Sir, in my view, this is another case of trying to turn people into overnight millionaires. If due diligence was carried out for this project at a cost of Kshs47 million, the Assistant Minister has just said that the work is done up to 30 per cent and the amounts that have been paid exceed 50 per cent of the cost of that project. There is a clear indication that that contractor had been paid more money than the work that he has done. How much more is that contract likely to cost the taxpayer because of that delay in the completion of that contract?

**Mr. Nguyai:** Mr. Speaker, Sir, I am just wondering whether the hon. Member is reading from the same script. If you look at the payment made, it is Kshs14,431,000 versus Kshs46 million. We have paid exactly 31 per cent. I am wondering where he is getting other imaginary figures from.

**Mr. I. Muoki:** Mr. Speaker, Sir, given that that project has delayed for about three years and the cost of materials have gone up within that period of time, has he factored in his rescue programme to have more funds to make sure that that project is completed?

**Mr. Nguyai:** Mr. Speaker, Sir, those considerations will be put in once the tenders are taken out and we see the price that will come in. Then we will be able to sufficiently factor for that.

*Question No.384*

EXCLUSION OF KAMARA DIVISION CANDIDATES  
FROM NYS RECRUITMENT

**Mr. Speaker:** Mr. Cheruiyot is not here? The Question is dropped!

*(Question dropped)*

*Question No.105*

SPLITTING OF KAPCHEROP INTO  
CHEBORORWA/MAKUTANO DIVISIONS

**Mr. Kaino** asked the Minister of State for Provincial Administration and Internal Security that; considering that Kapcherop Division is one of the largest and most populous in Marakwet District, when the Government will split it to create two more divisions namely, Chebororwa and Makutano) to speed up development in the area.

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

The Ministry has received the request from the leaders of Marakwet West District to split Kapcherop Division into Chebororwa and Makutano and the Ministry will consider the request in due course.

**Mr. Kaino:** Mr. Speaker, Sir, while I thank the Assistant Minister for the reply, Marakwet has a population of nearly 140,000 and Kapcherop alone, which is a



cosmopolitan division has almost 70,000 people. When will this be effected because there is a lot of crime in the area? There is insecurity almost on a daily basis.

**Mr. Speaker:** Order, Kaino! Do not explain why you are asking the question.

**Mr. Lesrima:** Mr. Speaker, Sir, we have already agreed to the request and what remains now is to post the District Officer. I am short of District Officers but in the next two weeks, I should be able to locate one to post to that area.

**Mr. Affey:** Mr. Speaker, Sir, I wanted to know from the Assistant Minister whether, indeed, they act as a result of the request of the leaders from the area or it is a decision by the Government to monitor and see which areas require to be divided? Must they wait to generate the requests from leaders or is it a Government policy to sub-divide when they realize there is need to divide?

**Mr. Lesrima:** Mr. Speaker, Sir, it is both. A number of districts have been sub-divided on the request of the leaders and wananchi, and we have responded to those requests. We are planning to implement the requests that have been approved.

**Mr. Olago:** Mr. Speaker, Sir, could the Assistant Minister explain to the House the overriding criteria used in deciding to create divisions and districts, in terms of size and population?

**Mr. Lesrima:** Mr. Speaker, Sir, a number of factors is considered. Population is very significant in terms of density and sparsity; areas in square kilometers, socio-economic factors, security concerns and physical features. We also recommend in terms of creation of divisions that every district should have four divisions, every division should have three locations and every location should have two sub-locations but those who have more will continue to retain the ones they have. We would want some restraint in requesting for more sub-divisions.

**Mr. Kaino:** Mr. Speaker, Sir, let me appreciate the answer the Assistant Minister has given and I have nothing else to add onto it; I am only waiting for the District Officer.

**Mr. Speaker:** Fair enough!

*Question No.255*

BENEFITS OF ROLLA PROJECT BETWEEN  
GOK/AL-BADAR LTD OF KUWAIT

**Mr. Affey** asked the Minister for Transport:-

- (a) if they could state the salient features and benefits of the Rolla Project which was negotiated between the Government of Kenya and Messrs Al-Badar Limited of Kuwait; and,
- (b) if he could explain what became of the project.

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

- (a) This project was originally referred to as the ROLLA Project; that was an acronym for Road Rail Oil Pipeline Oil Refinery Fibre Optic Cable Lamu Port and Airport. Presently, it is code named LAPSET which stands for Lamu Port-Southern-Sudan-Ethiopia Transport Corridor. So I will refer to it as LAPSET instead of Rolla as it appears in the Question, and I will explain why.

The new transport corridor is being developed in direct consultation with the governments of the countries which it will serve. It is one of the flagship infrastructure projects identified by the Government in the Kenya Vision 2030. It entails the development of a new transport and development corridor linking the proposed Port of Lamu with Garissa, Isiolo, Maralal, Lokori, Lokichar, Lodwar, Lokichoggio and to Southern Sudan and beyond. At Isiolo, the corridor will be linked to Ethiopia via Archers Post, Laisamis, Marsabit and Moyale.

The salient features of the project are the construction of:-

- (i) Lamu Port and Airport
- (ii) A standard gauge railway line
- (iii) A super highway and feeder road network
- (iv) Oil pipeline and refinery
- (v) Resort cities at key urban centres such as Lamu, Isiolo and at the tip of Lake Turkana and also the border towns
- (vi) Fibre optic cable.

Upon completion, the new transport and development corridor will be beneficial in many aspects such as:-

- (i) Increased development opportunities in tourism, agriculture and manufacturing in the area
- (ii) Opening up of Southern Sudan, Ethiopia and other neighbouring countries to viable bilateral trade.
- (iii) Opportunity to open up northern Kenya to new investments and modern developments.
- (iv) Enhancement of connectivity with northern Kenya, thus reducing transport and other costs.
- (v) Creation of employment opportunities for Kenyans during the construction period and after.

(b) Whereas the Al-Badar International Development Company of Kuwait gave a written proposal to undertake the implementation of the project from Lamu to Southern Sudan on a Build, Own, Operate and Transfer (BOOT) basis, the project took a broader dimension with the inclusion of Ethiopia. Consequently, the Ministry of Transport instituted competitive bidding to identify the company which will be involved in the process, initially to carry out the feasibility studies. Out of 30 bidders, eight were prequalified and they are expected to present their detailed proposals before the end of September, 2009, which is the month that has just started.

Mr. Speaker, Sir, as detailed in the schedule, the studies shall be commissioned in November, 2009, and will run for six months, culminating with the Port construction works at Manda Bay in Lamu in April, 2010. Meanwhile, the Ministry of Transport has formed a Ministerial Secretariat for the LAPSET Project and an Inter-Ministerial Committee is already in place.

**Mr. Affey:** Mr. Speaker, Sir, I thank the Minister for the answer that he has given to the House. That project started in 2006 and the Government was given a possibility by Al-Badar International Ltd of Kuwait to build, operate and transfer at a cost of almost Kshs30 billion. It looks like the Government has discarded that arrangement after two years, and started a new process again, which means, therefore, that the project will delay further. I would like to ask the Minister, first of all, to table the feasibility study done and

to let the country and Parliament to know what criteria they used to nominate those eight bidders and whether, in fact, all those eight bidders will do the feasibility studies or only one of the eight will do it.

Mr. Speaker, Sir, what has the Minister done to allow the communities that live along the project site - from Lamu to Turkana is, perhaps, 70 per cent of the landmass of the country--- What has he done to educate hon. Members from those areas and the communities involved?

**Mr. Mwakwere:** Mr. Speaker, Sir, the procedure followed to identify those who were shortlisted was in total conformity with our procurement procedure as passed by Parliament here. We advertized in April and the shortlist was made in total conformity with the regulations. I am pleased to lay on the Table the document that details the process followed to get the shortlist of the eight bidders. That is the evaluation methodology, criteria and preparation of shortlist of feasibility studies consultants. Two, as requested, I am pleased to table the list of the eight consultants that were shortlisted. They are companies from Japan, Denmark, China, India, South Africa, France and Netherlands. All those companies have local counterparts.

*(Mr. Mwakwere laid the documents on the Table)*

Mr. Speaker, Sir, on the question of sensitization, we have started the process and in February, 2009, I visited Lamu and held a very successful sensitization meeting with all the leaders from Lamu. Even hon. Members from Lamu attended. There were councillors, administrative officers, youth, women groups and fishermen. They were all informed of the importance of the project. Contrary to what appeared in the newspapers, they accepted the project because the Port will not be constructed on Lamu Island. It will be in Manda Island, which is far away from Lamu. The lifestyle of Lamu will not be affected in any way other than with greater opportunities for growth.

**Mrs. Noor:** Mr. Speaker, Sir, I would like to get some clarification from the Minister. Is the project taking into account the railway line designed in 1969? It was supposed to start from Lamu, proceed to Ijara, pass through Garissa, Wajir, Moyale and then to Ethiopia.

Thank you, Mr. Speaker, Sir.

**Mr. Mwakwere:** Mr. Speaker, Sir, way back in 1959, the colonial government came up with a proposal to construct a railway line via Ijara, Garissa and all the way to Nairobi. Now, what is happening in this one is that there will be a feasibility study. We have given key note areas which must be included. They are Lamu, Garissa, Isiolo, Lokichoggio and Moyale. Now, the route that will be followed will be determined by the feasibility study and there will be many factors for consideration, including the economic viability of certain projects in certain areas or, maybe, the population density. In some cases, it will just be to open up the areas to mining and other activities. But it will be a feasibility study that will give us a full picture of the exact route that will be followed. That is why we sent to the eight consultants that I read out, requests for proposals to come up with the feasibility study. The document that covers that aspect is also tabled for hon. Members to see.

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

**Dr. Nuh:** Mr. Speaker, Sir, could the Minister tell us whether the piece of land earmarked for the Port is currently idle? Could he assure the House that he will not displace the people of Lamu?

**Mr. Mwakwere:** Mr. Speaker, Sir, I visited Manda Bay. It is quite a long distance from Lamu Port and what I saw was virgin land. There are no farms. I am not sure of the ownership of the land. The study will reveal all that. But all I know is that there is no farming going on there. If anything, it is wild animals which sometimes cross to the shallow part of the channel to Manda Island, particularly elephants. But I do not have the exact answer to that. We are in the process of compiling the same. Manda Bay is still in Kenya and it belongs to the Government. That is how I take it.

**Ms. S. Abdalla:** Mr. Speaker, Sir, could the Minister confirm whether the Port is going to be in Manda or Magogoni? That is because initially, when we were called to the stakeholders meeting, we were told that it will be in Magogoni. But now, he is confirming that it will be in Manda Island.

**Mr. Mwakwere:** Mr. Speaker, Sir, I talked of Manda Bay on the mainland. As far as I recall, and the hon. Member was also in Lamu in February when we were having the sensitization meeting, the Port will be constructed at Manda Bay. It is a natural harbor with an average depth of 15 meters and a width of 3.5 miles. It is more viable as a port than Mombasa. It will be at Manda Bay.

**Mr. Affey:** Mr. Speaker, Sir, I want to thank the Minister. Mr. Minister, now that you have involved the leadership in Lamu, what plans does the Ministry have to involve the entire leadership along the site where the project is going to be undertaken?

Secondly, Mr. Speaker, Sir---

**Mr. Speaker:** Order! Order, Mr. Affey! Ask one question at a time. Proceed, Mr. Minister!

**Mr. Mwakwere:** Mr. Speaker, Sir, we have a schedule of meetings. The next one will be in Garrissa and it will involve all the leaders of the area. The third meeting will be held in Isiolo for all leaders in the corridor that branches to Lokichoggio and the one to Moyale. The dates are yet to be confirmed because we want to make sure that they are fairly acceptable. We are still consulting individual leaders to agree on the dates. That will be done.

*Question No.349*

NUMBER OF GK PRISONS IN KENYA

**Mr. Yakub** asked the Vice-President and Minister for Home Affairs:-

- (a) how many GK prisons there are in the country; and,
- (b) if he could state how many clergymen the Government has employed in the prisons, indicating how many are of Christian and Muslims faiths, respectively.

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

- (a) There are 99 GK prisons in the country. The distribution is as follows. Nairobi Province has seven prisons; Eastern Province - 14; North Eastern Province - four; Nyanza Province - 12; Western Province - seven; Central Province - 12; Coast Province - 16 and Rift Valley Province - 27. This gives a total of 99 GK prisons.
- (b) The Government has employed 103 religious preachers in the prisons as follows. In the category of Christians, Protestants and Catholics we have one Principal Chaplain in post, two Chief Chaplains, nine Senior Chaplains, 16 Chaplains under Job Group K, 34 Senior Catechists and 32 Catechists. This gives a total of 94.

In the Muslim Section we have one Chief Maalim; one Senior Maalim in Job Group L and another one in Job Group M, no Maalim I, three people in the post of Maalim II and one Maalim at Job Group H. This makes a total of nine.

**Mr. Yakub:** Mr. Speaker, Sir, first of all, I would like to thank the Vice-President and Minister for Home Affairs for his answer. According to the answer, the Government has employed 94 Christian preachers who I think can attend to all the 99 prisons all over the country. However, the Government has employed only nine Muslim preachers who cannot attend to all the 99 prisons in the country. Why do we have such a big shortage when it comes to Muslim preachers?

**Mr. Musyoka:** Mr. Speaker, Sir, you might find that in a province like North Eastern where there are four prisons, and I had an occasion to visit one prison in Wajir, most of the inmates are Muslims and it will not make sense to have a Catechist there. The Ministry has taken into account the religious affiliations of some inmates. So far, we have not received complaints in this regard, unless Mr. Yakub would like to bring this to our attention. We are always ready and available if there is need to post some Maalims, for example, in a prison in Nyeri where there could be inmates of the Muslim faith. Clearly, they are entitled to these services. We are open on these matters.

**Mr. Ruto:** Mr. Speaker, Sir, in the past, during the tenure of his predecessor, inmates used to have annual dances, beauty contests and so on. I do not know if the Vice-President and Minister for Home Affairs organises similar contests. Does he also, being a born again Christian, preach to the inmates, because of the shortage of pastors.

**Mr. Musyoka:** Mr. Speaker, Sir, there is nothing wrong with dancing. I will challenge the Member for Chepalungu to a serious dance session. However, you will agree with me that that is a completely different question. Mr. Yakub's Question has been treated with the seriousness it deserves. Of course, those prison reforms will continue and the annual beauty contests are still there. However, our business is to reform the inmates while we guard their basic rights. This is reform time and we are very busy reforming the prisons.

**Mr. Abdirahman:** Mr. Speaker, Sir, prisons are correctional centres for inmates and religion plays a very important role in terms of building the moral behaviour or uprightness of individuals. Could the Vice-President and Minister for Home Affairs undertake to ascertain the number of Muslim inmates and the number of Maalims they will require so that they can also be attended to wherever they are?

**Mr. Musyoka:** Mr. Speaker, Sir, I undertake to do that. I invite the hon. Member for Wajir South to work with us so that all of us are satisfied. It is important that the spiritual needs of all the inmates are addressed.

**Mr. Yakub:** Mr. Speaker, Sir, I would like to inform my very good friend the Vice-President and Minister for Home Affairs that out of the 99 prisons, Muslims are in

42 prisons in Kenya. They are not found in Coast and North Eastern provinces only. What arrangements will he make to ensure that the number of Muslim preachers is increased from nine to 42?

**Mr. Musyoka:** Mr. Speaker, Sir, I undertake that we will work with Mr. Yakub and all the other interested colleagues to make sure that the spiritual needs of Muslims in the 42 prisons are addressed. If it means increasing the number of Muslim preachers from nine to maybe 15, we will do so.

*Question No.366*

DESIGNATION OF USONGA  
LOCATION AS HARDSHIP AREA

**Mr. Yinda** asked the Minister for Education what steps he is taking to designate Usonga Location in Urunga Division as a hardship area and pay hardship allowance to teachers in the area, considering that the location suffers annual floods just like neighbouring Budalang'i whose teachers benefit from such allowance.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Speaker, Sir, I beg to reply. The Ministry has not taken any steps to designate Usonga Location in Urunga Division, Siaya District as hardship area because that is not within its mandate.

**Mr. Yinda:** Mr. Speaker, Sir, I am tickled to the bone by the Assistant Minister's answer. The Assistant Minister has been with this Question for over two months. With the good old collective responsibility, what has he done to refer the Question to the right Ministry?

**Prof. Olweny:** Mr. Speaker, Sir, the Question asked is with regard to hardship allowance to the teachers. It is in good faith that I have come to respond to the Question along that line.

**Mr. Gunda:** Mr. Speaker, Sir, could the Assistant Minister tell us the factors it takes into account in determining hardship areas for payment of hardship allowances?

**Prof. Olweny:** Mr. Speaker, Sir, the Ministry of Education does not classify various areas and districts in this country as hardship areas. That is done by the Ministry of State for Public Service, which has all the criteria. However, I can tell the hon. Member part of the criteria that is used. To classify an area as hardship area, the Government, through the Ministry of State for Public Service, looks into availability and accessibility of food and portable water, climatic conditions, availability of basic social services and amenities, transport and communication services, the security situation and the possibility of security threat.

So, it does not fall under the mandate of the Ministry of Education to do that job. Right now, as we know, the Ministry of State for Public Service has been reviewing the issue relating to hardship areas and hardship allowances to civil servants. When the Ministry of State for Public Service will be ready to inform us on the decision of the Government, we shall, accordingly, make changes.

**Mr. Yinda:** Mr. Speaker, Sir, on the assumption that the Question will eventually be referred to the Ministry of State for Public Service, and hoping that Usonga area, within the constituency, will be considered a hardship area, could he confirm to the

House that when that happens, teachers in that area will be considered for hardship allowances?

**Prof. Olweny:** Mr. Speaker, Sir, that is very obvious. Once it is done, we shall, very fast, implement it.

**Mr. Speaker:** Next Question by the Member of Parliament for Vihiga! Is the Member of Parliament for Vihiga not here? The Question dropped!

*Question No. 390*

APPOINTMENT OF M/S GEOCHEM MIDDLE EAST TO  
INSPECT PETROLEUM PRODUCTS

*(Question dropped)*

Next Question by Mr. Peter Kiilu!

*Question No.309*

DELAYED LAUNCH OF ATHIANI BRIDGE

**Mr. Kiilu** asked the Minister for Roads:-

(a) why Athiani Bridge in Kitise Location, which was constructed in 2008 to connect Kathozweni District and Kibwezi District, has not been launched;

(b) when it will be launched; and,

(c) how much money has been set aside for compensating the farmers whose land was acquired for construction of the bridge.

**Mr. Speaker:** Minister for Roads! Is the Minister for Roads not here?

Hon. Members, the Minister for Roads, beginning this afternoon, will not be allowed to transact---

**The Assistant Minister for Roads** (Mr. Kinyanjui): Mr. Speaker, Sir---

**Mr. Speaker:** Yes! Where were you?

*(Laughter)*

**Mr. Speaker:** Order! Order! Mr. Kinyanjui, you took so long to reach there! Proceed!

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

(a) The Athiani Bridge was launched in September, 2008.

(b) As stated above, the bridge has already been launched and is currently in use.

(c) My ministry has not set aside funds for compensation since the bridge was set on existing road alignments allowance. However, my Ministry realises that adequate improvement on the approach route is necessary to enable motorists to use the bridge.

Adequate provision has been made during the Financial 2009/2010 in the budget of Kenya Rural Roads Authority to carry out the task.

Thank you, Mr. Speaker, Sir.

**Mr. Kiilu:** Mr. Speaker, Sir, this Assistant Minister is one of those serious Ministers who give answers, but today the answers he has given to parts “a” and “b” of the Question are incorrect. I was in the constituency and I confirm to this House that this bridge has not been put to use. So, I would like him to state when this bridge was put to use.

**Mr. Kinyanjui:** Mr. Speaker, Sir, the records we have indicate that the road was put into use in September, 2008. However, we would like to verify that information since the hon. Member seems to have a different opinion. Indeed, I will ensure that we send our team to the area to clarify the true position.

**Mr. Speaker:** Last question, Mr. Kiilu!

**Mr. Kiilu:** Mr. Speaker, Sir, now that the Assistant Minister says that he wants to clarify further this information, I also want to tell him that this bridge has been put on people’s private land. So, I would request that the Assistant Minister goes to the ground to verify this position. In the meantime, I would like this Question deferred so that it can be answered again when he gets proper information regarding the bridge.

**Mr. Speaker:** Mr. Assistant Minister, there is a request. When will you visit this bridge?

**Mr. Kinyanjui:** Mr. Speaker, Sir, we will ensure that we visit the bridge to ensure that the details we have been given are, indeed, correct. I will be able to liaise with the hon. Member, so that we can set a date on which we can visit the bridge.

**Mr. Speaker:** Mr. Assistant Minister, the last question is simple: When will you visit the road?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I will need to consult with the my officials, but we will visit it the soonest possible.

**Mr. Speaker:** Can you do it within the next one month?

**Mr. Kinyanjui:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Fair enough! It is directed that you visit this road within one month from today.

**Mr. Kinyanjui:** Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Next Question, Mr. Peter Gitau!

*Question No.406*

CIRCUMSTANCES SURROUNDING  
TRANSFER OF MWEA DO

**Mr. Speaker:** Hon. Members, this Question, upon a request by the hon. Questioner, who is bereaved, is deferred to Thursday, at 2.30 p.m.

*(Question deferred)*

Next Question, Prof. Margaret Kamar!



*Question No.422*GOVERNMENT POLICY ON EXISTING STAFF  
HOUSES/OFFICES IN NEW DISTRICTS

**Prof. Kamar** asked the Minister of State for Provincial Administration and Internal Security:-

(a) to state the Government policy on existing staff houses and offices in newly created districts, and why the District Commissioner, Eldoret North/West, refused to vacate the DC's residence in Eldoret East for the new DC, who reported in March, 2009;

(b) when he plans to move the DC to a residence in his new posting; and,

(c) whether he could also provide a list of facilities, including houses, vehicles and funds (including IDPs funds) which were supposed to have been handed over by the DC, Eldoret North/West, to the DCs, Eldoret East and Eldoret South, upon reporting in March, 2009, and indicate their status.

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

(a) Government houses are allocated by the Ministry of Housing to Government officers on a first come, first served basis. There was no need for the DC, Eldoret West, to vacate the DC's residence he was occupying. The Eldoret East DC, upon reporting, was allocated house HG12, which he is occupying up to date, without any problem. The Eldoret South DC was also allocated house HG16. There was no complaint from the DCs. If there were, the Provincial Commissioner, Rift Valley, would have sorted it out. The Deputy Provincial Commissioner (DPC) has been allocated house HG23. The three districts extend up to the municipality. They share resources amicably.

(b) There are no plans to move Eldoret West DC to a new residence.

(c) The list of facilities handed over by the DC, Eldoret West, to the DC, South District and DC, East District, is as follows: Government House HG12, DC Eldoret East; Government House HG16, DC, Eldoret South; Government House HG7, DC Eldoret West; Government House HG23, Senior DPC; Land-Rover GK 120M, Eldoret East; Land-Rover GK A537Q, Eldoret South. All the divisions retained their respective vehicles.

With regard to funds, each DC will get his Authority to Incur Expenditure (AIE) to cover the various Vote Heads, including Transport, Travelling, Stationery, Airtime, to mention just a few.

On IDP, all payments have been handled in close consultation with the Provincial Commissioner and the Permanent Secretary, Ministry of State for Special Programmes. The DC, Eldoret West, holds no funds for IDPs currently. The Eldoret West DC is keeping the records for all payments. However, the new DCs have taken full charge of all issues in their districts, including the IDP matters.

**Prof. Kamar:** Mr. Speaker, Sir, may I ask the Assistant Minister to clarify whether he is aware that actually no house was given to the DC, but it was the Constituencies Development Fund (CDF) management that identified a house and

repaired it for allocation to the DC? Could he also clarify whether it is normal for a DC to reside in a different district, while overseeing a different district or this is only unique to Eldoret East District?

**Mr. Lesrima:** Mr. Speaker, Sir, on the first question, it is true that the DC identified a house within the housing pool and moved in.

On the second question, Eldoret---

**Prof. Kamar:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House? I am saying that we paid and repaired a dilapidated house for the DC. He is not taking the information seriously.

**Mr. Lesrima:** Mr. Speaker, Sir, she should allow me to even open my mouth. I said that I agree with her that the DC moved into a Government house. Eldoret is a very unique place; it has three districts converging into the Municipality of Eldoret. Seventy-five per cent of the houses are located within the hon. Member's constituencies. These houses are in a Government pool. They are allocated by the Ministry of Housing just like they are allocated in other places. I agree with the hon. Member, Eldoret East is extremely unique in the sense that we also have another Government house which is State House. All the District Commissioners reside within the municipality and move towards their districts to work.

**Mr. Kigen:** Mr. Speaker, Sir, could the Assistant Minister also shed light as to what should happen in the newly created districts where DCs have been posted and there is no house even to rent? What arrangements does the Ministry have to provide them with houses?

**Mr. Lesrima:** Mr. Speaker, Sir, the District Commissioners will have to look for other rented facilities to accommodate themselves within or at distances closer to the districts which the hon. Member has requested be created.

**Mr. Kioni:** Mr. Speaker, Sir, while the Assistant Minister was answering this Question, he gave a list of the assets that were handed over. He did mention the issue of the IDPs. However, he did not indicate that the list of the IDPs was handed over to the incoming DCs. How will they handle the issues of IDPs if they were not given the records?

**Mr. Lesrima:** Mr. Speaker, Sir, the DCs were appointed in the course of the last financial year. With new resources now being supplied in the new financial year, the respective DCs will now deal with the IDPs. As of now, no funds were handed over. It was not found necessary to hand over the activities that the other DC was carrying out on behalf of the other one, in the middle of the financial year.

**Mr. Kiuna:** Mr. Speaker, Sir, under what circumstances was the Anti-Stock Theft Unit from Mau Division in Molo Constituency withdrawn? What measures will the Ministry take to make sure that the Anti-Stock Theft Unit is returned to that particular area because right now, many people in that area are worried about cattle rustling?

**Mr. Lesrima:** Mr. Speaker, Sir, that appears to be a new Question for which I do not have a brief. However, I am willing to answer it on Thursday if it is properly directed to our Ministry. I am also willing to discuss with him outside the House.

**Mr. Speaker:** Fair enough! Your answer is acceptable that it is a different Question, so you were not ready for it. Mr. Kiuna, could you make time to consult with the Assistant Minister, so that he could give you an answer or, perhaps, a way forward?

**Mr. Kiuna:** Yes, Mr. Speaker, Sir.

**Prof. Kamar:** Mr. Speaker, Sir, you have heard the Assistant Minister say that the new District Commissioners are handling all the IDP issues. He has also said the records on IDPs are with the outgoing District Commissioners. How will the IDPs be identified? Currently, we have IDPs who have not been paid anything. The custodian DC wants to know who have been paid and those who have not been paid. Why would a DC hoard a list which is very genuine?

**Mr. Lesrima:** Mr. Speaker, Sir, I was not aware that there was a serious problem over a list. I will undertake to ensure that every DC deals with the list of the IDPs under his or her jurisdiction together with the Ministry of State for Special Programmes. I do not think we have any disagreement as to handing over of the list of IDPs at all.

**Mr. Speaker:** We will go back to Question No.1 by Private Notice.

### QUESTION BY PRIVATE NOTICE

#### RETRENCHMENT OF PYRETHRUM BOARD EMPLOYEES

**Mr. Kioni:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister inform the House the criteria that was used in terminating employment of the 162 employees of the Kenya Pyrethrum Board in August, 2009?

(b) Could the Minister provide a list showing the retrenched employees as well as those that have been retained, respectively?

(c) When will the Minister pay terminal dues to the workers whose employment has been terminated?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, I apologise for not being here when the Question was asked the first time.

**Mr. Speaker:** Apology accepted.

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, the following is the criteria that was used in terminating employment of 162 employees of the Pyrethrum Board of Kenya (PBK) in August this year.

- (i) Basic professional and academic qualifications of each employee was assessed,
- (ii) The length of service based on the principle of first in, first out or last in, first out,
- (iii) Age was a criteria where majority of the employees who were beyond the 45 year age were considered for retrenchment. Those rendering services that were earmarked for outsourcing were also targets of retrenchment because it was considered prudent that there would be no need for employees to continue being on the payroll in the case where some of the services could be outsourced.
- (iv) Disciplinary cases: We had employees who had various disciplinary cases and this became a ground for assessing the individuals who would be retrenched.
- (v) Competency based on recent appraisal of or by the immediate supervisor. There is a continuous exercise of appraisal and individuals that were considered below average in the performance of their responsibilities were considered for retrenchment.

(b) I have tabled two lists; one for those who were retrenched and another for those who were retained.

(c) The Ministry will pay terminal dues to the retrenched workers when funds are made available in the revised estimates of March/April next year.

*(Mr. Samoei laid the documents on the Table)*

**Mr. Kioni:** Mr. Speaker, Sir, there was a report that had been prepared by the Directorate of Personnel Management (DPM). I remember tabling that report in this House. Why did the committee that was sent by the Minister ignore the recommendations of that committee? The terminations that have resulted from the action that has been taken have nothing to do with the recommendations that were contained in that report.

**Mr. Samoei:** Mr. Speaker, Sir, when I took over the Ministry of Agriculture, the PBK was grounding to a halt. It became necessary for me to take remedial measures to ensure that the ship does not capsize with all the employees, assets and the pyrethrum sub-sector in totality. I, therefore, appointed a task force chaired by Mr. Okodhe who came up with the recommendations that I have read out this afternoon. We looked at it as a Ministry and thought it was reasonable because it was an in-depth analysis, complete with a revival plan of pyrethrum sub-sector in our country. It is on the basis of this task force report that we took the actions.

**Mr. Njuguna:** Mr. Speaker, Sir, as we acknowledge the response given by the Minister, it is quite clear that 162 people have had their jobs terminated. Could the Minister confirm that these being jobless people, with families to support, will not be kicked out or evicted from their current accommodation not until their terminal benefits have been paid?

**Mr. Samoei:** Mr. Speaker, Sir, I admit that this was a very painful decision, especially even for me, considering that many Kenyans look at the Government and other institutions to provide employment. Hard as it was, it became necessary in order to sustain the Pyrethrum Board of Kenya (PBK). It was necessary that we take the decisions we took.

On the issues raised by the Member, we are discussing with the Treasury with a view of bringing forward allocations in the budget so that we can re-allocate some money to pay off these employees so that they do not wait till next year. We should be able to pay them ahead of time. I want to confirm that they will not be removed from their houses until this exercise is concluded.

**Mr. Chepkitony:** Mr. Speaker, Sir, the Minister declared some employees redundant when he was not ready. He never provided, in the current budget, to pay them. Why does he declare people redundant when he has not provided for their payment in the budget as a priority? These are people who need money for food and other needs---

**Mr. Speaker:** Order, Mr. Chepkitony! Do not explain why you are asking a question! Let the Minister answer!

**Mr. Samoei:** Mr. Speaker, Sir, it may look like we did not consider the facts. However, I want to assure the Member that we did. These are people who have been on a payroll for the last three years. They were being paid without doing any work. After sometime, it became difficult even to pay salaries. We had arrears of up to eight months. So we had people on the payroll, who were not doing anything. Arrears accumulated and

it, therefore, became prudent that we pay all the monies that were outstanding. To avoid any further accumulation of arrears, we had to terminate their service with a clear understanding that at some point in time they will be paid their terminal dues.

**Eng. Maina:** Mr. Speaker, Sir, it cannot be admissible that people are sacked and just told to wait for their dues. Could the Minister give a date when he is going to pay these people their dues? He could do this through re-allocation in his budget.

**Mr. Samoei:** Mr. Speaker, Sir, I think I have answered that question. I have said that we have a firm date of April next year. However, we are looking at how we can bring forward that date by discussing with the Treasury on whether we can re-allocate some of the money so that we can exit these employees and pay their terminal dues.

**Mr. Speaker:** Member for Ndaragua, last question!

**Mr. Kioni:** Mr. Speaker, Sir, when we have been recruiting people even on the Floor of this House, one of the criteria that we have used is regional balancing. Why did the Minister not find it necessary to use the same criteria when sending people home? Why did he not balance the regions?

**Mr. Samoei:** Mr. Speaker, Sir, to all extents possible, the exercise was done in a very balanced manner. Unfortunately, some departments were completely abolished. Therefore, whoever was in that department, like the Department of Laboratory and Logistics--- We decided that it was not necessary to have a research department at the PBK because we can do research in a research institution and just transfer information that is necessary to the Board. So all the people who were working in the Research Department; who were about 30 were retrenched.

Mr. Speaker, Sir, some departments were out-sourced like those of planting material and development of seed. Therefore, persons working in the Seed Development Department were all retrenched. To a great extent, the issue of regional balance was considered.

**Mr. Speaker:** Fair enough! We will now take the next Order!

### MINISTERIAL STATEMENT

**Mr. Speaker:** Hon. Member, we will allow the Minister for Lands five minutes to give a Ministerial Statement and that will be it!

Please, proceed!

#### STATUS OF SOLIO RANCH SETTLEMENT SCHEME

**The Assistant Minister for Lands (Mr. Bifwoli):** Mr. Speaker, Sir, I wish to read the Ministerial Statement on Solai Ranch Settlement Scheme as requested by Mr. Eugene Wamalwa, the Member of Parliament for Sabaot.

Mr. Speaker, Sir, Soloi Settlement Scheme measures approximately 15,000 acres comprising of LR.Nos.11591/3/4/5. The bulk of the land actually lies within Laikipia East District in the Rift Valley Province while only a small portion, to the South-West is within Kieni West District, close to Nyeri – Nyahururu Road.

The land was purchased by the Government through the Settlement Fund Trustee (S.F.T) in 2007. The offer given by the vendor on 26<sup>th</sup> October 2006 was Kshs100,000

per acre while the initial valuation report by the Chief Valuer was set at Kshs50,000 per acre giving a total of Kshs750 million. However, following the sub-division of the 15,000 acres into three portions of 5,000 acres each, the valuation was raised to Kshs85,000 per acre. The effect of the reduced area into three equal portions was an increase in the value per acre due to the increased demand making the final sale value to be Kshs1,275,000,000. The funds to purchase the land was provided by the Treasury.

The Kenyan taxpayer got value for money because the scheme was established to settle 2,984 ex-forest squatters who were evicted from Mt. Kenya and Aberdare forests in the 1980s and early 1990s. After eviction, the squatters settled on roadsides in the following villages among others; Hombe in Mathira Constituency, BelleVue in Kieni West, Ndathi in Kieni East, Witima in Othaya and Zauna\Kabage in Tetu.

The offer of a sizeable land comprising of 15,000 acres from Solio Ranch coupled with availability of services for connectivity and proximity to the intended beneficiaries made the land to be the most suitable under the circumstances. This also served as the criteria for the choice of the land.

All the squatters previously living on the roadside have now been resettled in Solio Ranch. Consideration was also given to vulnerable and needy people living on public utilities in Kyeni, Othaya, Nyeri Municipality, Mathira and Mukurweini municipalities. Other needy people who were settled in the scheme include landslide victims from Gakanga in Kyeni and Kihuri in Othaya as well as poor and landless people from Majengo, Witemere and Chania and Muringato slums in Nyeri Municipality. This last group of beneficiaries was identified after consultations between the district leaders and the Provincial Administration after the target group, the roadside squatters, had been exhausted claims of irregularities leading to allocation of land to undeserving people are, therefore, not proven.

On the issue of establishment and current status, the scheme was planned to consist of seven residential villages of half-acre plots surrounded by four-acre agricultural plots. This was to facilitate ease of provision of essential services such as infrastructure. The first village has 420 plots; Village Two, 587 plots; Village Three, 517 plots; Village Four, 511 plots; Village Five, 226 plots; Village Six, 428 plots; Village Seven, 295 plots and the total is 2,984 plots.

I hereby lay on the Table the list of the beneficiaries as requested.

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

Identification and verification of genuine squatters as stated above was coordinated by the Provincial Administration in liaison with the district leaders and the committees elected from among the squatters, in the above mentioned roadside villages. All beneficiaries were subjected to a balloting exercise between 5<sup>th</sup> December, 2008 and 27<sup>th</sup> January, 2009. This is how each of them obtained his or her respective plot number. Around 90 per cent of the beneficiaries have already taken possession of their plots on the ground and constructed shelters. Primary schools have been established in each village, seven water pumps put up and a health centre, among other developments. Out of the 2,984 beneficiaries, 2,949 have been shown their plots save for 35 who are pursuing succession cases.

For the future settlement, during the last financial year, the Government managed to settle 17,662 landless families and has plans to settle 12,000 poor landless Kenyans during this Financial Year 2009/2010 in the following schemes: Coast Province, Chakamain Malindi; Taveta, in Taveta; Mbuguni in Kwale. In Rift Valley we have Chepchoina Phase II in Trans Nzoia and in Eastern there is Musavani in Kyuso; Masyungwa in Kyuso and Mitamisyi in Kyuso.

**Mr. Wamalwa:** Thank you, Mr. Speaker, Sir. The Assistant Minister has indicated that in the current financial year, there was an intention to settle about 14,000 squatters. However, we notice that there was no allocation for settlement of the landless in the current financial year. The last financial year is when a provision was made. When does he intend to settle squatters? Apart from those who were evicted from Mt Kenya and Aberdare Forest, there were squatters who were evicted from Kiboroa Forest in Trans Nzoia and some from Kyulu Hills to cater for the Mzima Springs and other water catchment areas in the Eastern Province. There were some in the Coast Province. What plans do you have to settle these squatters now that we know that there was provision in this financial year?

**Mr. Speaker:** Order, Mr. Assistant Minister! Take your notes. Anybody else interested?

**Dr. Eseli:** Thank you, Mr. Speaker, Sir. Could the Assistant Minister also tell us what they are doing to resettle the squatters who are all over the wider Bungoma District and were displaced from Mt. Elgon in 1991 through 1997?

**Mr. Ochieng:** Mr. Speaker, Sir, could the Assistant Minister inform this House the sizes of those plots?

**The Assistant Minister for Lands (Mr. Bifwoli):** Mr. Speaker, Sir, to start with Mr. Wamalwa's question, with the issue of Malindi in Coast Province; we have Government land which we are trying to settle squatters from the coastal area. On the second issue, it is true that the Ministry was not allocated money to settle squatters. However, we are using the little money we raised from the Settlement Fund Trustees. We use it to purchase land and settle squatters. We are moving at a slow rate just because the Government has not allocated us money. As you know, we cannot allocate money to ourselves.

With regard to the squatters from Mt. Elgon, I want to agree that there are many people who left Mt. Elgon and are living in Kamukuywa Market and Sikhendwa. They are spread all over Bungoma. However, as I have said, our Ministry does not have the money. We have identified some land in Trans Nzoia. If the Government allocates us money, we will buy the land and settle squatters. We even have the list of those squatters.

**Mr. Ruto:** The Assistant Minister keeps on referring to the Government, saying that the Government allocates us money--- Who is he representing here? Is it the Government or himself?

**Mr. Speaker:** Mr. Assistant Minister, that is a legitimate point of order. Please, proceed with brevity!

**The Assistant Minister for Lands (Mr. Bifwoli):** Mr. Speaker, Sir, I said that it is the Treasury that allocates money to our Ministry. That is what I wanted to correct.

On the size of the plots, we have two sizes, half-an-acre plots for settlement and two acres for agricultural farms.

**POINT OF ORDER**DISPOSAL OF ASSETS OF  
LOSS-MAKING PARASTATALS

**Mr. Mungatana:** Mr. Speaker, Sir, I would like to request for a Ministerial Statement from the Deputy Prime Minister and Minister for Finance. It concerns the special issue of the *Kenya Gazette* Notice dated 14<sup>th</sup> August, 2009 in which the Minister has given the notice of his intention to dispose the assets of 26 parastatals. I wish to lay on the Table that Gazette Notice for use of reference for the Minister. I have very quickly a few clarifications I wish to seek from the Minister. First of all, the whole issue of disposing of public assets is based and premised on the fact that there are some loss making public enterprises. Amongst the list of those proposed to be disposed of include KenGen, Kenya Pipeline Company Limited, Kenya Ports Authority, Eldoret Container Terminals, Stevedoning Purposes, the National Bank of Kenya, Consolidated Bank of Kenya and Development Bank of Kenya.

The Minister should clarify to us whether there is a fiscal burden that KenGen or those other profit making State enterprises are imposing on the Treasury and whether there is any justification for their disposal.

Secondly, the Minister should clarify whether there are any private companies that have been formed on the sideways waiting to take over those Government assets that belong to all of us. We know that there is a power shortage in Kenya today. He should clarify to us why he intends to sell isolated power stations under 26, together with KenGen and yet, we know that obviously, with the higher demand for power, money can be made there.

He should also clarify how he will ensure that strategic assets and participation of the Kenya Government in the energy sector is not compromised by that disposal. What amount of money does he expect to raise from that sale? He should also clarify what that money is intended to do. Is it going to benefit Kenyans whose assets are being sold with new social protection measures, for example, a new health scheme, or are they just going to dispose of the public debts that Kenyans incurred without their knowledge?

Mr. Speaker, Sir, the Minister should clarify what protection measures he is giving to all the people who are going to be laid off. The moment he sells off KenGen and others, people will be fired. What protection measures has he put in place? Could he tell us whether the Cabinet has tried to build consensus on the disposal of public assets? In particular, have they followed the provisions of the Privatization Act, Cap.202 of 2005, which requires amongst other things, to be transparent enough and to advertise in the daily newspapers for the nation to know what of their assets are being sold and for what purpose? Could he also clarify whether given the concern that this House has shown, they will go back and confine themselves to selling only the loss-making parastatals, for example, the Numerical Machining Complex, whose assets are idle? They should strictly confine themselves to selling only the loss-making parastatals, so that public assets are not wasted.

Could the Minister also undertake not to proceed with the sale of public assets until he has come to this House, so that Kenyans can know that their assets are safe? We



want the Minister to know that this country is not ready to sell the silver of the family to profiteers, whom we suspect are all in the wings waiting.

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

**Mr. Speaker:** Mr. Konchella, what is it? Note that I have no notice! If you cannot satisfy me that you have drawn my attention to that matter in the last one hour, I will not allow it.

**Mr. Konchella:** May I apologize, Mr. Speaker, Sir. It is a matter of concern to the people of Nairobi.

**Mr. Speaker:** Order, you have rules which this House resolved to comply with. If you have not lived within those rules, I am afraid, you cannot make that request. It is that simple.

Order! The Minister for Finance needs to indicate when he will avail that Statement on privatization. Can somebody hold brief for him?

**The Minister of State for Defence (Mr. Haji):** Mr. Speaker, Sir, I undertake to communicate that to the Minister.

**Mr. Speaker:** Can the Statement be available on Thursday this week? It is a very urgent matter and it has already been gazetted. That means that the Minister is in the process of selling those parastatals.

**The Minister of State for Defence (Mr. Haji):** Mr. Speaker, Sir, is the day after tomorrow not so early?

**Mr. Speaker:** Thursday. It is so ordered because of the urgency of the matter!  
Next Order!

## PROCEDURAL MOTIONS

### EXTENSION OF SITTING TIME

**Mr. Midiwo:** Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding provisions of Standing Order No.20(2), this House resolves that the adjournment time of today's sitting be extended from 6.30 p.m. until the business appearing in the Order Paper is concluded.

Mr. Speaker, Sir, we are expecting to go on recess and if you look at the Order Paper, you will see that we have only gone up to Order No.13. On Order No.14, as the Chair ruled last week, he is going to give a ruling. So, until we get the ruling of the Chair on the issue of the Mau Taskforce Report, we cannot discuss that issue. We will go through the Appropriations Bill and we also have Order No.13, which is the approval of names being proposed to the Political Parties Dispute Tribunal. Then we will discuss the Adjournment Motion.

With those few remarks, I beg to move.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

**The Minister of State for Defence (Mr. Haji)** seconded.

*(Question proposed)*

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I stand here to oppose that Motion. If you look at the Order that hon. Midiwo has cited, it says:-

“Unless for the convenience of the House, the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business---”

That indicates who should adjust the timing for us to go away. I would like to state that it is not for the convenience of the House that we should extend today’s sitting until we finish because we have no intention of going away until matters which are pending here are resolved. I want particularly to mention one particular issue. There has been an appointment of the Kenya Anti-Corruption Commission (KACC) Director without regard to the legality, this House or the Departmental Committee on Justice and Legal Affairs. The appointment has been made without regard even to the Advisory Board that is supposed to undertake the advisory role on the same Director.

Mr. Deputy Speaker, Sir, if you look at the Act, it says that the Advisory Board is supposed to set the terms and conditions of service of the Director and the Assistant Directors. If they did not appoint those people, under what terms and conditions will they work?

Mr. Deputy Speaker, Sir, we will not accept this Procedural Motion. I stand here confidently on behalf of the whole House to oppose this Motion.

*(Applause)*

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I stand to support this Motion. The issues raised by the Mover are substantive and we need to clear them before we adjourn today. We need to extend the Sitting from 6.30 p.m. in order to complete the business on the Order Paper. That is all that this Motion is about.

My friend, Mr. Mungatana has said, “for the convenience of House---” We are saying that we should not adjourn until we finish the business on the Order Paper.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to say that it is Mr. Mungatana who has said that it is for the convenience of the House when “convenience of the House” is set out clearly in the Standing Orders?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, that is exactly what I am saying. I have said that Mr. Mungatana quoted the Standing Order that refers to the convenience of the House. It is for the convenience of the House that we do not want to adjourn at 6.30 p.m., but extend the Sitting until we finish the business on the Order Paper. That is what the Mover of the Motion is saying. I do not understand why the hon. Member is opposing the extension in order to clear the business on the Order Paper and yet we are paid to do this. The business of the House is in today’s Order Paper! That is exactly what we are saying. We should not adjourn today until we have completed the business on the Order Paper. So, I do not see why my colleagues are busy opposing the Motion, and yet we are paid to sit until we finish the business on the Order Paper!

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

**Ms. Odhiambo:** Mr. Deputy Speaker, Sir, I rise to oppose this Motion. As much as the hon. Assistant Minister, in his contribution, has said that we seek to deal with the issues on today's Order Paper, there are very weighty issues, especially the appointment of Justice Aaron Ringera irregularly, unlawfully and without regard to Parliament. The Executive is trying to undermine Parliament and we cannot allow it. If there are issues on the Order Paper today, we can discuss them tomorrow.

I beg to oppose.

**The Minister of State for Defence (Mr. Haji):** Mr. Deputy Speaker Sir, I support the Motion as a matter of principle. We have been elected by the people of this country not to only sit in the House and stay in Nairobi, but also to visit them and know their problems, particularly at this time when we know there is severe drought in this country, people are hungry and there is no water. This is the right time for this House to adjourn so that we can go, see the problems of the people and share with them. We should not stay here in Nairobi in air conditioned houses, sleep in good hotels or houses. We have not been elected to stay only in Nairobi.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. The Motion was moved and seconded by Mr. Haji. Is the Minister in order now to speak in support of the Motion when he was the Secunder?

**Mr. Deputy Speaker:** Order! Order! Mr. Haji did not contribute to the Motion. He just bowed. There are traditions and precedence in this House! It is fair that hon. Members also acquaint themselves with the traditions. He did not contribute. He just bowed. The tradition is that if he has just bowed, he can contribute again.

Proceed Mr. Haji!

**The Minister of State for Defence (Mr. Haji):** Thank you, Mr. Deputy Speaker, Sir. I think hon. Members should listen to me since I sat and listened to them.

We have been given the business of the House in today's Order Paper. The Mover of the Motion has proposed that we work beyond 6.30 p.m., which means that we will be able to finish the business on the Order Paper. I do not see any good reason for us to refuse to adjourn the House, in view of the fact that the people who elected us---

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

**Mr. Deputy Speaker:** Mr. Haji, have you concluded your contribution?

**The Minister of State for Defence (Mr. Haji):** No, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Could you complete?

**The Minister of State for Defence (Mr. Haji):** Mr. Deputy Speaker, Sir, I urge the House---

**The Assistant Minister for Information and Communications (Mr. Khaniri):** On a point of order, Mr. Deputy Speaker, Sir. I have a lot of respect for Mr. Haji but I am afraid to say that he is anticipating debate. We are discussing the Procedural Motion that was moved by Mr. Midiwo and yet Mr. Haji is discussing the Motion for Adjournment. Is he in order to do that?

**Mr. Deputy Speaker:** Mr. Khaniri, you are in order and out of order! You are in order in the sense that what you have raised is valid and legitimate, but you are out of order because you are an Assistant Minister. A Back-bencher should raise that point of order!

Proceed Mr. Haji! You cannot anticipate a Motion or debate!

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to anticipate debate?

**Mr. Deputy Speaker:** Mr. Minister, you are out of order! You cannot anticipate debate!

**The Minister of State for Defence (Mr. Haji):** Mr. Deputy Speaker, Sir, this arose from the fact that the hon. Member who opposed the Motion, started by anticipating that the House should not adjourn and I now oppose what he has said. I think I have every right to give my views on the issue because it touches on the integrity of this House. We cannot continue staying in Nairobi, as I have said earlier on. We need to go to the people and know their problems.

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

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to suggest that it is only after adjournment that Members of Parliament meet their constituents, when we meet them every weekend?

*(Question put and negatived)*

**Mr. Deputy Speaker:** Order, hon. Members! Mr. Olago, and for the benefit of the majority of hon. Members who are freshmen, Standing Order No.85 says:-

“Upon a Motion, other than a Motion by way of amendment to a Question proposed by the Speaker, a Member may second by rising in his or her place and signifying acquiescence by bowing the head, without speaking, and such Member shall thereby reserve the same rights of speech as the Member would have had if some other Member had seconded such Motion.”

REDUCTION OF PUBLICATION PERIOD  
OF APPROPRIATION BILL

**Mr. Midiwo:** Mr. Deputy Speaker, Sir, I wish to move the following procedural Motion:-

THAT, pursuant to the provisions of Standing Order No.107, this House orders that the publication period of the Appropriation Bill (Bill No.13) be reduced from seven to five days.

Mr. Speaker, Sir, this is because the Appropriation Bill which is in the Order Paper was only published on Wednesday night and in order to debate it, if we do not go through this Motion, we would have to wait for two more days. I want to plead with my colleagues that let us debate and pass the Appropriation Bill because the Government must move on and we must do what is required of us.

I beg to move.

**The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry)** seconded

*(Question proposed)*

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I stand to oppose the Motion. Among the Votes that we will be voting for in the Appropriations Bill is Vote No.34 which deals with Kenya Anti-Corruption Commission (KACC). Earlier today, the Committee on Justice and Legal Affairs met and resolved that the appointment that was announced was illegal and unprocedural. The Committee will be of the view that in the event that the House holds that as the case, it would be inappropriate to vote on that Vote and appropriate funds to that Commission until that illegality is corrected. We will, at the appropriate time, therefore be moving that the entire Vote be withheld until that matter is sorted out. It will, therefore, give the House the opportunity to discuss this matter further and to allow for the full notice of terms of the Bill to be expired before this Appropriation Bill is moved.

With those few remarks, I oppose the Bill.

**Mr. Ogindo:** Mr. Deputy Speaker, Sir, I stand to oppose the Motion. The whole essence of giving seven days notice is to enable this House to exercise its cardinal role which is oversight. The seven day period is to enable us go through the Bill. By shortening it, will deny this House that cardinal role. To that extent, I want to oppose this Motion and urge that the full maturity of this Bill be guaranteed by this House.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I beg to support this Motion because all the reasons that have been given, especially by those who oppose, are not reasons to deny Kenyans the opportunity to begin getting services by various Ministries.

Mr. Deputy Speaker, Sir, Mr. Abdikadir has mentioned issues related to the appointed of Mr. Aaron Ringera, and I think he has made it quite clear to this House that those issues are being handled by the appropriate Parliamentary Committee. That being the case, why would we want to oppose a procedural Motion---

**Mr. Mungatana:** On a point of order, Mr. Deputy Speaker, Sir. Is the Deputy Prime Minister and Minister for Finance in order to mislead the House that Kenyans are going to be denied services when, in fact, we have already voted half the Budget to them? So, they could not have finished that half by now. Services are not going to stop.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, we are still providing services but there are amounts that we do need to disburse. We all know that this country is being faced by famine. There are monies which need to be released for famine. This House is equally aware that we have just concluded a census. The bulk of that money was required to pay the various enumerators. Those are monies that are required. Like I am saying, there are appropriate instruments that this House can use to show its displeasure at the issues that Mr. Abdikadir has put forward. But we do not need to really hold the nation's Budget at ransom as a result of those issues. This House and indeed, various Committees under the new Standing Orders, have had an opportunity to go through the Budget, first, at Committee stage in detail and secondly, through debate on the Floor of this House. Reducing the number of days is purely a signal that this House up to Guillotine stage had an opportunity to debate the various Bills. The Appropriation Bill is merely putting together what this House had already debated and approved. So, it is giving authority thereafter to incur expenditure. So, there is no additional real debate on the Appropriation Bill. I would plead with my colleagues to allow us to proceed, conclude the

Appropriation Bill and indeed use other instruments that are available to this House to show their displeasure at whatever it is that they wish to show their displeasure at.

I beg to support.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I rise to support the Motion and to appeal to hon. Members that it may not be necessary to throw the baby away with the bath water. As the Deputy Prime Minister and Minister for Finance has stated, the House has had an ample opportunity to debate the allocation of resources to the Government so as to meet public expenditure. The hon. Member, Mr. Abdikadir raised an important issue as to whether the House should give the Government resources to support KACC when the House is apprehensive about the appointment of the Director.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Since even the hon. Minister, the learned professor, is repeating himself, I call upon the Chair to put the Question.

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

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, repeating myself, I never did unless the hon. Member is not properly listening to what I am saying. I was making the point---

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. I have a lot respect for Prof. Anyang'-Nyong'o, and I do not want to interrupt him. But as we are debating this, do you notice that Mr. Midiwo and Mr. Thuo are very busy doing something in the House?

*(Mr. Midiwo and Mr. Thuo consulted on the Floor)*

**Mr. Deputy Speaker:** Order! If you have to consult, then consult in very low tones. If you can do it in silence, it would be better.

Proceed, Prof. Anyang'-Nyong'o!

**The Minister for Medical Service** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I can quite understand that the opposite benches are in fighting mood, but that is fine.

Mr. Deputy Speaker, Sir, I was making the point that hon. Abdikadir is raising is, indeed, valid. The House does have the right to withhold part of the Appropriation Bill, if they do think that it is proper to do. But that is no reason to throw out the Bill as a whole. Indeed, I think that the best thing to do will be to use the five days---

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House by suggesting that we are intending to throw out the Bill when all we are saying is that the Bill should go through the seven days?

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): That is not a point of order. It is a point of argument. I can interpret the hon. Member's mistake.

Reducing the Bill debate time from seven days to five days has merit. The merit is the following. One, the House has, indeed, had time to debate the allocations to the Government, Ministry by Ministry. Two, indeed, if the House can make an argument today that more points would be made in seven days than five, that would be merit enough to stick to the seven days. But in the judgment of the Deputy Prime Minister and

Minister for Finance and this side, it would be expeditious to save both on the expenses of the House and the nation to reduce the debate time to five days. It would be in the interest of the nation and the House. I do not think any Member on the opposite Bench has made any convincing argument that extending the debate to seven days is any meritorious. I think the gist of the matter is not to say that we should not reduce it to five when the point that we are making is to expedite the debate to make it more efficient. Indeed, I am convinced that were the House to meet as we have been meeting during the debating of the Ministries, to nine o'clock, we might, indeed, do this thing even in two days.

I think it is upon the House to convince the nation that we can use our time much more efficiently by extending the debate and debating in a much shorter time rather than by lengthening it. Lengthening unnecessarily can make us stand accused that we are using our time inefficiently. So, I think the opposite side has the responsibility to convince the nation that, indeed, extending the debate to seven will be more efficient than doing it in five days.

So, I would like to appeal to the opposite side that they should listen to arguments and not be too anxious to interrupt without any reason.

With those few remarks, I beg to support.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I would be, indeed, very brief. I am very surprised by the trend of argument by the Professor. It is not up to this House to convince the Deputy Prime Minister and Minister for Finance that we should have the debate in five days, instead of seven days. It is the Ministry to prove to us that, indeed, Order No.107 stipulates that it is seven days and, therefore, if there is to be an exception, that must come from the Ministry.

This House approved 50 per cent of the Budget not too long ago. We have only two months since that period. From 1<sup>st</sup> of July to 31<sup>st</sup> of August is two months. I remember asking the Minister to tell us how he had spent last year's money in order to prove that he deserves 50 per cent. He did not do so, in his contribution. Today, I am very sure that he will not be able to tell us, how much of the 50 per cent that we approved has been spent so far. Two days is not going to make a difference. Therefore, we should go by the Standing Orders of this House. If we have to make an exception, there must be compelling reasons. At the moment, there are no compelling reasons.

I beg to oppose.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion. I would like to, perhaps, say the following things. The Order Paper is a document prepared by the House Business Committee when it puts business of the House by virtue of Standing Orders. The anger that hon. Abdikadir and Mungatana have spoken about is also driven by an application of an instrument of this House. That is anti corruption law.

Mr. Deputy Speaker, Sir, I think in seeking to oppose the Motion now on the Floor, we are mixing clean water with dirty water for purposes of short term benefits while ignoring the serious nature of the business on the Floor of the House as determined by the House Business Committee. What it simply amounts to is if in anger out of the actions of the Executive arising from the anti corruption law, we ourselves start refusing to accept business of the House put on the Order Paper, it amounts to technically cutting ourselves at the knees.

**Mr. Alouch:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Minister to talk about mixing dirty water with clean water without indicating which is dirty and which is clean?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I am afraid it is quite possible that because of global warming and destruction of forests, clean water has disappeared from his constituency. Therefore, he does not know what it looks like. But to the ordinary Kenyan, I just raise this bottle. This is clean water. Dirty water would look otherwise.

All that I am saying is that the House as the supreme lawmaker under Section 30 of the Constitution and Section 37, has a right to act in anger if it suspects the law it has passed may not have been applied. That is one thing. That is the suspicion that I see in the faces of my colleagues. But on the other hand, that is what we would call muddled water. Until such a time as evidenced and proper evidence is produced to suggest that the anti corruption law has been violated or something wrong has been done, it is not right to mix up the anger arising from that act with the duty of this House to make sure that we allow the debate on the Bill that is on the Floor and whose expedition is being sought.

As the Minister responsible has said, this a matter that touches on the hearts and minds of the Kenyan people. They are hurting. In case we have forgotten, people do not have food and jobs. Yet the monies governed by the Appropriation Bill are the monies that will attempt in a small measure, to put Kenyans on the right path of addressing those issues like hunger, lack of water, lack of employment and infrastructure and many others.

I want to plead with my colleagues that the Motion on the Floor is fair and it be heard. By waiting another two days, that Appropriation Bill will not change by a comma or a full stop. Why? Because we have already debated and passed each individual vote all the way to the guillotine.

Therefore, it is fair; it is legitimate for the Kenyan people that we do our work for the welfare of Kenyans and in due course, at the right opportunity, we address the suspicion, anger and disquiet that, legitimately so in some respect, accompanies the extension of the term of the Director of the Kenya Anti-Corruption Commission (KACC). I plead that we should not mix the two.

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

**Ms. Karua:** Mr. Deputy Speaker, Sir, I rise to oppose and to say that the Government seems to be missing the point. When the Government seeks leave to shorten the publication period, they are seeking indulgence of the House. If the House is displeased by the actions of the Executive, the House is entitled to refuse to give indulgence.

*(Applause)*

The Executive has shown that it has no respect for the rule of law and in case the Minister for Justice, National Cohesion and Constitutional Affairs is not aware of which provision has been violated, it is a Section of the Economic Crimes and Anti-Corruption Act; Section 8(3) for his ease of reference which clearly stipulates that when the term of the Director or the Assistants expires, it is the Advisory Board that recommends to the Executive and Parliament must approve that recommendation before appointment. That is the debate! The debate, therefore, is simply: Parliament is not reckless. We are aware we



passed the Vote on Account; half the amount which is enough for six months. It is only two months since we passed that Vote. We are not saying that the Appropriation Bill should not be discussed; we are just saying that another two days while we ponder over the events---

With those few remarks, I beg to oppose.

*(Applause)*

*(Question put and negatived)*

**Mr. Deputy Speaker:** Hon. Members, under the circumstances, we will have to skip Order No.10, Order No.11 and Order No.12 and go to Order No.13!

*(Orders No.10, 11 and 12 deferred)*

*(Applause)*

## MOTION

### APPOINTMENT OF POLITICAL PARTIES DISPUTES TRIBUNAL MEMBERS

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to Section 5(2) of the Political Parties (Act No.10 of 2007), this House approves the following persons, proposed by the Chief Justice, to be appointed as the Chairman and Members of the Political Parties Disputes Tribunal:

Mr. Sankale ole Kantai, Advocate (Chairman)

Mr. Chacha Odera, Advocate

Rev. (Mrs.) Jessie Mutura

It will be recalled that Act No.10 of 2007 is the Political Parties Act of 2007. That Act was passed by this House and assented to by the President on 22<sup>nd</sup> October, 2007. Under Section 1A of the Constitution of this country, Kenya is a multiparty democratic State. It is because of the recognition of that section that this House, in its wisdom, resolved to pass the Political Parties Act for the first time in the history of the country. Political parties are, therefore, an integral part of our democracy. They are the tools, vehicles and items that this country uses for its democratization. It would be recalled that until this law came into force on 1<sup>st</sup> July, 2008, political parties had been registered under the Societies Act since 1969. During that period, political parties went through an enormously bad history by which even to get a party registered was extremely difficult. I will always remember when in order to get the registration certificate for the ODM party, I together with Prof. Anyang'-Nyong'o and Mr. Kajwang' had to climb the gates at the Attorney-General's Office and go and knock at his door to get a certificate of registration. Even when we did so, we did not succeed because the Attorney-General had locked his

office and gone away. Later, the certificate was sent to us through the mail. It is because of the country's desire to overcome those problems that this law was passed.

Mr. Deputy Speaker, Sir, when Parliament was passing this law, the Office of the Registrar of Political Parties was established. Under Section 5 of that law, Parliament decided and enacted that there is established a tribunal to be known as the Political Parties Disputes Tribunal. One of the reasons for this was because of the long and bad history of political parties interaction with the Government; a Government that did not want to support multiparty democracy. It is because of this that an enormous amount of court cases were filed. They went to the courts and the courts' judges were left to make determination on issues that ideally should not concern judges; that is the principles of management of politics, the management of vehicles for democracy. Therefore, under that section, we are required to have a Political Parties Disputes Tribunal.

I want to salute my colleague because recently, he asked for a Ministerial Statement on the appointment of this Tribunal because as a lawyer, he understands that this tribunal is very important because of the role it will play in determining disputes between members of one political party like we are witnessing in some of the political parties I will not mention and also between parties themselves. This Tribunal would be able to help the country in some of the issues that have beleaguered the Grand Coalition itself in situations where it appears that both sides of the Grand Coalition are taking opposing views and sometimes are engaging in unnecessary wrangling when it can be avoided. Similarly, in the political parties themselves, we have witnessed in the recent past, serious disputes erupting that force leaders of the political parties to appear always on the run from their members and even hon. Members. Therefore, this is an extremely important Tribunal.

Following the request of my learned friend, the Chief Justice has now appointed, as he is required to do, members of the Tribunal. Allow me because I am required to do so to tell the Speaker to tell this House who these people are.

Mr. Deputy Speaker, Sir, the Chair is a very distinguished lawyer known as Sankale ole Kantai, who has been practicing law for a long time. That gentleman has the distinction of having written very many articles and---

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Minister is purporting to give us some *curricula vitae*. Could he possibly lay them on the Table so that we can have a look at them or refer them to the relevant Committee?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Yes, Mr. Deputy Speaker, Sir. I have no problem laying the *curricula vitae* on the Table as soon as I finish referring to them. I think I will do so. Then, Mr. Speaker, Sir, with your permission, they can be referred to the relevant Committee. Fortunately for me, the Chair of the Committee responsible is no less than a distinguished lawyer himself. He knows of the gentleman I am talking about; the gentleman called Sankale ole Kantai. In fact, quite apart from his illustrious career---

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. I wish to seek your direction before the hon. Minister goes on with the names of the possible appointees because two weeks ago, I asked for the appointment of the Tribunal. But under Part III Section 5 of the Political Parties Act, the setting up of the Tribunal is subject to approval by Parliament. That, notwithstanding, among the Committees of this House, it is the Departmental Committee on Justice and Legal Affairs, which I have the privilege of

serving, which should deal with the matter. The mandate of that Committee is constitutional affairs, administration of law and justice, judiciary, police and prisons *etc*; public prosecutions, elections, ethics, integrity, anti-corruption and human rights.

Mr. Deputy Speaker, Sir, I wish to say here, for avoidance of any doubt that the Departmental Committee on Justice and Legal Affairs has not had the privilege of going through the names that are being tabled before the House. Under these circumstances, I wish to seek your direction if it is in order for the hon. Minister to proceed with the Motion before referring this matter to the Departmental Committee on Justice and Legal Affairs.

(Applause)

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, hon. Olago is a man of high esteem and an extremely well qualified and experienced advocate. The Act he has read is clear. Before seeking the approval of Parliament, as a matter of fact, the appointing authority is the Chief Justice. He is not even required to forward it to the Minister - that is myself. He is not required to forward this list to anyone else except to Parliament, which is what the Chief Justice did. Arising from hon. Olago's question--- I have paid tribute to him for waking us up and waking up the Chief Justice for this purpose.

So, therefore, Mr. Deputy Speaker, Sir, I am satisfied that I am completely in order---

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. Mr. Olago has read the law clearly that it is upon approval of Parliament. If, indeed, the Chief Justice forwarded the names to Parliament, could Mr. Deputy Speaker confirm that the Clerk of the National Assembly then forwarded them to the Departmental Committee?

(Applause)

Mr. Deputy Speaker, Sir, the reason why we are asking this is because we cannot sit here as 220 hon. Members to look at the three *curricula vitae*. If there is anything wrong with the three *curricula vitae*, it would be wrong for us to tear these three Kenyans apart in this House. This is work that is done by the Committees, which should approve or not approve.

Is it, therefore, in order, Mr. Deputy Speaker, Sir, that we continue with this debate without those three *curricula vitae* being referred to the Committee to avoid any eventuality where we have to discuss any of those three Kenyans without giving the Committee a chance to go through the nitty gritty?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I thank the hon. Member and, once again, I would like to reiterate, subject to your ruling, that I think I am on the right track. Let me explain, Mr. Deputy Speaker, Sir, for the benefit of the House---

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Sure, I welcome your information.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I know the hon. Minister is learned, but I wish to inform him that Parliament does not just mean the Sitting. It means the entire institutions that have been set up, including the Committees. Parliament does not mean yourself! Therefore, you cannot receive the names and bring them to us to approve in a Sitting!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I do not know where that information came from. That is because I sincerely do not need it. I am well aware, but I am a very polite man. Allow me, kindly, to put the record straight.

Mr. Deputy Speaker, Sir, on 18<sup>th</sup> August, 2009---

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Please, let me finish?

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

**Mr. Olago:** Mr. Deputy Speaker, Sir, I thought I would be understood clearly by the hon. Minister. But in view of his insistence to go on, thereby trying to force the House to debate the names of those honourable Kenyans here, tear them apart and traumatize them here; because of that intransigence, I am now compelled to ask that, under Standing Order No.25(1), that we adjourn debate on this Motion.

(Applause)

**Mr. Deputy Speaker:** Order! You do not invoke that provision when the Motion is being moved. Let the Motion be moved, seconded, and then you participate. Any hon. Member can rise from his position and invoke that Standing Order. Proceed, hon. Minister and complete moving the Motion!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Thank you, Mr. Deputy Speaker, Sir. I thought that is where I was going. I was just trying to--- If the honourable House notices, I have left the *curricula vitae* for the time being in order to give support to what the hon. Deputy Speaker has directed. I am going on a slightly different target to enable the House to come to the correct decision. I wanted to say this for the record.

Mr. Deputy Speaker, Sir, on 18<sup>th</sup> August, 2009, the hon. Chief Justice wrote to the Speaker, hon. Kenneth Marende, forwarding this list. Thereafter, it will be recalled that the Speaker, on his own, put this Motion on the Order Paper under the Office of the hon. Attorney-General. The Attorney-General then drew the attention of the Speaker to the fact that political parties fall under my docket. That is when I was requested to move the Motion myself.

I believe, Mr. Deputy Speaker, Sir, that the correct procedure is as follows, and I wait to be guided by you. Since we are the ones who passed this law and I have no intention whatsoever, to subject my learned friends and the Reverend to “a tearing apart”, a language I do not like at all, my view is that I would like you, Mr. Deputy Speaker, to make a ruling on this. Would I be in order to suggest that I move the Motion, it is seconded and, at that point, before it is debated, it can be referred to the relevant Committee for purposes of investigations?

*(Applause)*

Under those circumstances, I will feel that I have satisfied the law, as I understand it, and I will also have satisfied the respect that this House deserves to be allowed, through its organs, to help the House. Would I be in order to suggest that I finish moving my Motion, it is seconded by my learned friend, the Chair, and then it be referred to the relevant Departmental Committee?

**Mr. Deputy Speaker:** Order, hon. M. Kilonzo! Under the circumstances, the Chair will suggest that you move an amended Motion or another hon. Member moves an amendment. Proceed!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, would I be in order to request my learned friend, the Chair of the Departmental Committee to move that amendment?

**Mr. Deputy Speaker:** Order, hon. M. Kilonzo! You have already moved the Motion. Now, conclude moving the Motion and any hon. Member can stand in his place and move an amendment.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Thank you, Mr. Deputy Speaker, Sir. I accept that guidance.

**Mr. Deputy Speaker:** Hon. Abdikadir, can you---

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, subject to the conditions set out, I support.

**Mr. Deputy Speaker:** Order, Mr. Abdikadir! Proceed Mr. M. Kilonzo!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kilonzo): Mr. Deputy Speaker, Sir, I think I have done my work which is to tell this honorable House, as the final organ in legislation and the approving authority of this Committee, that the hon. Chief Justice has done his duty. He has forwarded the names and I would like to move that those names be approved. I subject and surrender myself into the hands of the House through its Departmental Committee and other organs for the purpose of the disposal of the Motion.

I beg to move and request my learned friend who is the Chair of the relevant Departmental Committee to second the Motion.

**Mr. Deputy Speaker:** Are you sure you want Mr. Abdikadir to second the Motion? You wanted him to move the amended Motion. Could you have somebody else to second the Motion?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kilonzo): Mr. Deputy Speaker, Sir, I would like my learned friend, Mr. Olago to move the amendment to the Motion.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I am sorry, I have to decline because I have not gone through it carefully and thoroughly.

*(Laughter)*

**Mr. Deputy Speaker:** Order, hon. Members. Mr. M. Kilonzo, any Member, including Members from the Government side can second your Motion and then the amendment can be moved later.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kilonzo): Mr. Deputy Speaker, Sir, Prof. Anyang'-Nyong'o will second my Motion.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I beg to second the Motion. As I second it, I will move an amendment. However, before I move the amendment, I would like to say the following.

I would like to congratulate the other side of the House for defeating us on the previous Motions. I hope that they will not defeat us in this one, rather they will join us. I assure them that I will buy them a bottle of whisky today at the bar.

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

*(Laughter)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kilonzo): Mr. Deputy Speaker, Sir, I beg to second.

**Mr. Deputy Speaker:** Order, Mr. Minister. Order, hon. Members! For the benefit of all hon. Members, including Prof. Anyang'-Nyong'o who has been in this Parliament for a long time, Mr. M. Kilonzo has already moved the Motion as it is. Anybody who would like to second it, can do so as it is. Any other Member can then propose and move an amendment.

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. Now that the Motion was moved and the hon. Minister was unable to get a Secunder, is shopping and the Secunder is being conditional, we seek your direction because the proper position is that this Motion has collapsed on its own for lack of a Secunder. Could you give us direction?

**Mr. Deputy Speaker:** Order, Ms. Karua! Prof. Anyang'-Nyong'o, could you proceed and second the Motion?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kilonzo): Mr. Deputy Speaker, Sir, Ms. Karua thinks I do not look like a Secunder, but I am.

I beg to second.

The history of political parties in this country, especially prior to and following the second liberation, is a very important history. I speak as one who was responsible for--

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Minister in order to second his own Motion? He is now seconding him after moving it? Secondly, did you hear him say that he will buy whisky to Members of Parliament, even when we are all devoted Christians and Muslims? Is that not an insult? It is the other side that takes whisky most of the time and that is why they flout all the rules!

**Mr. Deputy Speaker:** Prof. Anyang'-Nyong'o, could you second the Motion?

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I do not know through which orifice the hon. Member listens. If it is through the one that we are seeing, I hope he is listening properly. However, if he uses another orifice, I cannot be responsible.

I beg to second.

The history of political parties in this country is very important. This is because the Political Parties Act, for which we are today establishing a tribunal, is a landmark in the history of political struggle in this country, especially the tribunal. When we formed

the National Democratic Party in 1990 and sought its registration, we were oppressed by the authoritarian regime and the party could not see daylight. Those were the days when you could speak about Opposition political parties in whispers. It is the sacrifices that we made that has extended the frontier of freedom to the hon. Members I see in this House, especially those on the opposite side who must be grateful to the warriors of the second liberation for bringing them here.

Mr. Deputy Speaker, Sir, when we tried to form the Forum for the Restoration of Democracy (FORD), it was an uphill task. Most of us spent many hours in police cells. It was even very difficult to get a court to exercise justice. As we sit here today and we are establishing a tribunal which will arbitrate among political parties in a country that is struggling to break the chains of authoritarian rule, it is a matter that we must take very seriously. From now on, we will have institutional mechanisms of regulating the affairs of political parties so that our democracy can grow and be mature. This will make us speak within the context of law and order and the rule of law.

The Political Parties Act, for the first time, lays down a road map for the organization, the development, discipline and productive work among political parties. For the first time, we shall have a possibility of distinguishing between briefcase political parties and people's political parties which derive their power from the people and not the purse or the briefcase. I am very happy for the hon. Members who would like to subject the names proposed here to through scrutiny by the Departmental Committee on Justice and Legal Affairs. I agree with the hon. Members that it will be very difficult for all of us to go through the Curricula Vitae (CVs) and evaluate the extent which the persons named here are competent and capable of being in this tribunal.

However, I would like to take the Minister for Justice, National Cohesion and Constitutional Affairs for his word. For the Chief Justice to bring these names here, they must have thought carefully and made sure that they do not want to shame the Minister by bringing to this House men and women---

**Ms. A. Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. Did you hear Prof. Anyang'-Nyong'o say that he hopes that the Minister has the appropriate confidence in the list from the Chief Justice? Is he in order to second this Motion when he has not read the CVs of the listed persons?

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I have always reminded Members to distinguish between points of argument and points of order. That is a point of argument.

The point I am making is very valid and I hope that the hon. Member will listen carefully. It stands within reason that as this House is sitting here today, all of us cannot look at those CVs. I have not been privileged to look at those CVs. However, I believe that the Minister for Justice, National Cohesion and Constitutional Affairs is within his right to look at those CVs and make a decision that he is competent enough to bring to this House for further scrutiny. That is the point I am making. I, however, agree with the House that these names should be subjected to the scrutiny of the relevant Departmental Committee so that when they are brought to the House, it will be convinced that we have had yet another body to vet and bring facts bear to the House. Better listen to two people rather than one. We shall have listened to the Minister for Justice, National Cohesion and Constitutional Affairs and then we get feedback from our Departmental Committee.

In the mean time, it will be good to treat the deliberations in the Departmental Committee as part and parcel of discussing this Motion.

So, what I would propose, as the Minister for Justice, National Cohesion and Constitutional Affairs did, is that the amendments that we are expecting will be part and parcel of the Motion. After we refer the Motion to be discussed by the Departmental Committee, it will be returned for the House to continue with discussion on it as amended. That is the point I am making. I think it is reasonable. It is a compromise between the two sides, and it will make us move forward, rather than split hairs.

Mr. Deputy Speaker, Sir, even in our Coalition Government, we established a Coalition Management Committee. That Coalition Management Committee, I would say, will do very well if it observed the rules laid down in the Political Parties Act regarding arbitration on conflicts amongst and between political parties. The reason for this Act is to make it easier for political parties to settle their disputes and affairs within the realm of interaction amongst political parties, rather than take them to courts of law.

This House knows that, as Members of Parliament, we are extremely dissatisfied with the way the court system runs in this country. It is better to establish an institution that is to manage the affairs of political parties, rather than surrender that responsibility to the courts.

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

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

THAT, the Motion be amended:-

(1) by deleting the words “approves the following persons” in the second line and substituting therefor the words “orders that the following names”; and,

(2) by inserting the words “be referred to the relevant Departmental Committee” immediately after the word “Tribunal” on the fourth line.

Mr. Deputy Speaker, Sir, I urge Mr. Olago to second the amendments.

*(Question of the first part of the amendment,  
that the words to be left out be left out, proposed)*

**Mr. Deputy Speaker:** Order, Mr. Abdikadir! You have moved your amendments. You now argue your case for the amendments, explaining why you are proposing them.

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, it is so clear. I do not wish to make any further point on that matter. The reasons have already been given.

**Mr. Deputy Speaker:** Order!

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, the reasons were indicated by the Minister while moving the Motion.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. ole Lankas:** On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member read to us his new statement?

**An hon. Member:** We want to know the terms of the amended Motion!

**Mr. Deputy Speaker:** Order! Order! I do not know whether we will have to turn this into a class for procedures. The procedure is simple. The Minister moved the Motion that is on the Order Paper. The Motion was seconded by Prof. Anyan’g-Nyong’o. Mr.



Abdikadir has moved amendments to the Motion. This is now the time to debate the amendments.

**An hon. Member:** It has not been seconded!

**Mr. Deputy Speaker:** Order! There is no seconding of an amendment. It is the debate on the amendment that follows. Any hon. Member can rise right now and show the merits as to why the Motion should be amended.

Order! Order! Mr. Olago, proceed and second the amendments, please.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I rise to second the amendments. I wish to say that these amendments are in consonance with the issues that we addressed earlier on. In my humble view, this is a proper procedure. It marries the two views - the one from the other side and the other one from our side. I do not have to say more. That is the way we should go.

*(Question of the first part of the amendment, that the words  
to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words  
to be inserted in place thereof be inserted, proposed)*

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I beg to support the amendment that has been proposed by the Chairman of the Departmental Committee on Justice and Legal Affairs and seconded by Mr. Olago Aluoch.

Mr. Deputy Speaker, Sir, I do not want to repeat what has already been said. Mine is just to say that the political parties have a lot of issues that need to be resolved. As the Member of Parliament for Garsen elected on a Nark-K ticket, and as the Secretary-General of Nark-K, I would like to say that we have a lot of issues that are pending, and which need to be resolved seriously within the Coalition that we supported before the formation of the Grand Coalition Government.

Other hon. Members who were within the ODM fraternity have issues that have even come to the public. The ODM-K also has intra-party issues. We know, for a fact, that people do not want to go to court, because when we go to court we waste a lot of time, yet we need to resolve our issues.

Mr. Deputy Speaker, Sir, the reason why we need to support this Motion is that it is a first step towards completion of the formation of that Tribunal. There is one man who has not been very good to this House - the Attorney-General of the Republic of Kenya. Even if the Departmental Committee on Justice and Legal Affairs goes through these names, without a Secretary to this Tribunal, still the Tribunal will not be complete.

So, today, I stand on the Floor of this House to challenge the Attorney-General to exercise his powers under the Political Parties Act, now that the Chief Justice has done the right thing; it is for him to appoint the Secretary to the Tribunal, so that we can start handling the issues that are bedeviling our political parties. Therefore, I ask the Attorney-General to do the right thing: Stop flying all over the world, and not do what he is supposed to be doing.

He should come down from the sky and do what he is supposed to do. He should appoint the Secretary to this Tribunal as soon as possible.

With those remarks, I beg to support.

**The Minister for Lands** (Mr. Orengo): Mr. Deputy Speaker, Sir, I rise to support the amendments, not on the substance of the formation of this Tribunal, but on the basis as to why these amendments are necessary.

In history, the struggle between peoples and their rulers have necessitated the appointment of parliaments over the ages, because the Executive's power must be restrained and controlled. I have served in Parliament at a time when Motions and Bills would be brought to this House and passed within 15 or 20 minutes.

I think that the changes that have taken place in this country should put us in the Government on the alert that we no longer have a Parliament which will accept every Executive decision without scrutiny. The earlier we begin to accept that position the better.

Mr. Deputy Speaker, Sir, we cannot have a situation where the names are brought to Parliament and we expect Parliament to deliberate on those names and make a decision there and then. There should be reasonable opportunity given for scrutiny of those names.

I want to confess that one of the persons proposed is a lawyer that I know very well and actually comes from my constituency. I would not have any doubts as to why he should belong to that committee.

Mr. Deputy Speaker, Sir, one of the things that is going wrong in this country, is that the Executive of which I am a Member, has not come to live by the fact that democracy requires consultations and debate on every issue that involves the Government. That debate cannot take place if people are taken by surprise.

It has been said that political parties are the fourth institution of Government. There is nowhere in the world today, other than Uganda for some period when they tried to carry out an experiment to have governments which are not based on political parties. Political parties are tools of Government. Tribunals which will sit over political parties must be looked at seriously and the persons appointed must also be scrutinized by the representatives of the people.

As I was coming in, I was delighted to hear, with tremendous respect to my learned friend whom I asked whether he had opposition to the amendment, and he gave me the good news that he was not opposed to the amendment.

The time has come for Parliament to put its foot down. I have been in this Parliament long enough to know that things have normally gone wrong in this country when the Executive has taken Parliament for granted. Today, Parliament is asserting itself and for that I congratulate hon. Members of this Parliament. We need time for this matter to go to the relevant committee. We need to look at those names and then come back here and have an informed debate on this issue.

I beg to support the amendment.

**Ms. A. Abdalla:** Mr. Deputy Speaker, Sir, I wish to support that amendment. The request for the Ministerial Statement by Mr. Olago was as a result of a finding by the Committee on Delegated Legislation of the delay by the Executive and the Judiciary on matters that are delegated to them such as this Tribunal.

The raising of this is a wakeup call to all the Members of the Front Bench and the members of the Judiciary that we will raise those delegated pieces of legislation that you are not bringing to the House in a timely manner or that are inconsistent with the current legislation.

On that, I wish to take the opportunity to put Prof. Anyang'-Nyong'o on notice that the next time he seconds a Motion that he has not read the CVs of the persons involved, we will report him to the Implementation Committee. He shall then answer whether those are points of order or points of argument. I am just putting him on notice, given that he is a senior.

Mr. Deputy Speaker, Sir, I support this referral to the departmental committee. The fact that we are talking about approval does not mean we rubberstamp anything that the Executive or the Judiciary brings to this House.

So, Prof. Anyang'-Nyong'o, much as you are doing collective responsibility, take note that what you are seconding was rubberstamping something that should not be rubberstamped.

With those few remarks, I wish to support.

**Mr. Deputy Speaker:** Hon. Members, there seems to be unanimity. Could we dispose of this Motion?

**Hon. Members:** No!

**Ms. Karua:** Thank you, Mr. Deputy Speaker, Sir. I want first to thank the Minister for Justice, National Cohesion and Constitutional Affairs for being gracious enough to agree to this amendment. It is embarrassing that a matter emanating from the Chief Justice through the Ministry of Justice and having passed by the Attorney-General's office can come this far for amendments to be made.

I want to call upon the Government while supporting this Motion that the Government must now wake up. No more short cuts. Parliament is not to be taken for granted. We want the rule of law to prevail. We do not want impunity by the Executive.

I beg to support.

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I want to say that I support the amendment completely. I welcome the sentiments of the House. I believe this is the first time a Tribunal of this nature has been set up. It is not correct to imply that the Chief Justice's communication went either to the Attorney-General or to me. It came directly to the office of the Speaker and it is the Speaker who then put this on the Floor of the House.

I think the country is better off because of the debate.

I support the Motion as amended. I want to salute my learned friend Mr. Abdikadir, Mr. Olago, Ms. Karua and those who have spoken. The time to put this country on the right path in terms of political parties and thereafter, major democracy is now.

I beg to support.

**Mr. Namwamba:** Mr. Deputy Speaker, Sir, I want to support the Motion as amended. As a Member of the House departmental committee on Legal and Constitutional Affairs, we have established a very good working relationship with the Ministry of Justice, National Cohesion and Constitutional Affairs. A lot of the

appointments have been done in recent times, including recent appointments to the KACC Board. We have done these appointments in a very consultative manner. I would want to urge the Minister and the Government that we should sustain and maintain this trend. This will avoid a lot of acrimony and tussles.

Mr. Deputy Speaker, Sir, we, of course, get concerned when processes are short circuited in the manner that this process was done. When processes are short-circuited in the manner that the re-appointment of the director of the KACC has been short-circuited, we raise unnecessary acrimony.

In supporting this Motion, I also want to join my colleagues in applauding the statute that has given birth to this Tribunal, the Political Parties Act. I do believe that this statute will go a long way in streamlining and strengthening political parties as the building blocks for our emergent democracy. This tribunal should be a Godsend in the prevailing circumstances when we see so many flashpoints across the political parties terrain.

Personally, I look forward to seeing this tribunal in place. I would like to see this tribunal hit the road running and handling a lot of the issues that have emerged in the various political parties.

With those remarks, I beg to support.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, pursuant to Section 5(2) of the Political Parties Act (Act No.10 of 2007), this House orders that the following names, proposed by the Chief Justice, to be appointed as the Chairman and Members of the Political Parties Disputes Tribunal be referred to the relevant Departmental Committee:-

Mr. Sankale ole Kantai, Advocate (Chairman);

Mr. Chacha Odera, Advocate; and,

Rev. (Mrs.) Jessie Mutura.

**Mr. Deputy Speaker:** Hon. Members, we will have to skip Order No.14. The Chair is evoking the provisions of Standing Order No.36 because the Chair is still studying the invocation of *Sub judice* or otherwise.

ADOPTION OF REPORT ON CONSERVATION  
OF MAU FOREST COMPLEX

THAT, this House adopts the Report of the Government's Task Force on the Conservation of the Mau Forest Complex laid on the Table of the House on Wednesday, 12<sup>th</sup> August, 2009.

*(Motion deferred)*

Next Order!

### MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN  
THE NEXT NORMAL SITTING DAY

**Mr. Thuo:** Mr. Deputy Speaker, Sir, for pragmatic as well as technical reasons, I do not intend to move the Adjournment Motion.

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. Is the Chief Whip in order to give those excuses for not moving this Motion when we know very well that he was supposed to have moved it at 3.30 p.m. but he did not and so it has been overtaken by time?

**Mr. Deputy Speaker:** Order, Dr. Eseli! The Mover of the Motion can withdraw the Motion.

*(Motion Withdrawn)*

### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, that brings us to the end of the business on the Order Paper. The House, is therefore, adjourned until tomorrow, Wednesday, 2<sup>nd</sup> September 2009, at 9.00 a.m.

The House rose at 5.45 p.m.