THE COMMISSIONS OF INQUIRY (AMENDMENT) BILL, 2009

A Bill for

AN ACT of Parliament to amend the Commissions of Inquiry Act to give the National Assembly an oversight role in the conduct of the activities of commissions of inquiry and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Commissions of Inquiry (Amendment) Act, 2009.

2. Section 7 of the Commissions of Inquiry Act is amended by deleting sub-section (1) and substituting therefor the following new sub-sections—

   (1) It shall be the duty of a commissioner, after making and subscribing the prescribed oath, to make a full, faithful and impartial inquiry into the matter into which he is commissioned to inquire, to conduct the inquiry in accordance with the directions contained in the commission and on completion of the inquiry, to report to the President and to the National Assembly, in writing, the result of the inquiry and the reasons for the conclusions arrived at.

   (1A) The report of a commissioner under sub-section (1) shall include a full record of the proceedings of the commission.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Commissions of Inquiry Act (Cap 102) in order to require a commissioner to report the results of an inquiry to the National Assembly.

In the history of our country, numerous inquiries have been commissioned by the President in exercise of the powers vested by section 3 of the Commissions Inquiry Act. The reports of such inquiries have, in terms of section 7 of the Commissions of Inquiry Act, been submitted to the President. In a good number of cases, the results of such inquiries have remained unknown to the public. This despite the fact that inquiries are constituted to interrogate matters that are of a public nature and which directly affect the public. The public are usually active participants in the proceedings and deliberations of such inquiries. Additionally, the inquiries are funded by the public. It is therefore an anomaly that the public would remain clueless as to the results of a large number of inquiries that have been commissioned.

To address this anomaly, this Bill proposes an amendment to section 7 of the Act. The proposed amendment would require a commissioner to report the findings of an inquiry to both the National Assembly and the President. Submission of a report of an inquiry to the National Assembly would afford the public, through their elected representatives, an opportunity to deliberate the results of the inquiry. The amendment would also ensure transparency and accountability in the functioning of the inquiry system.

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 5th August, 2009.

JOHN OLAGO ALUOCH,
Member of Parliament.
Section 7 of Cap 102 which it is proposed to amend—

7. **Duties of commissioners**

(1) It shall be the duty of a commissioner, after making and subscribing the prescribed oath, to make a full, faithful and impartial inquiry into the matter into which he is commissioned to inquire, to conduct the inquiry in accordance with the directions contained in the commission, and, in due course, to report to the President, in writing, the result of the inquiry and the reasons for the conclusions arrived at; and also, if so required by the President, to furnish to the President a full record of the proceedings of the commission.

(2) A commissioner may, and shall if so directed by the commission, include in his report recommendations as to any matter into which he is commissioned to inquire or any matter arising out of or connected with his inquiry.