

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 16th September, 2009

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

DELAY IN APPOINTMENT OF PPOA DIRECTOR-GENERAL

Mr. Olago: Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Why, in spite of the operationalization of the Act nearly two and a half years ago, does the post of Director-General of the Public Procurement and Oversight Authority remain vacant?

(b) How has the failure to appoint a substantive Director-General impacted on the Authority's national and international operations?

(c) When will the appointment be made?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to answer this Question tomorrow afternoon. There is some information that we are still checking and we have not found it.

Mr. Olago: Mr. Deputy Speaker, Sir, I appreciate the request of the hon. Assistant Minister. However, this issue touches on public procurement and it has been fairly delayed. I would be glad if we dealt with it as soon as possible. I noticed in the Order Paper for this afternoon that the House is likely to adjourn. Judging from the mood of the House, this Motion is likely to pass.

Mr. Deputy Speaker: Do not anticipate what the House will debate. The House may as well decide not to adjourn.

Hon. Assistant Minister, when will you have the answer ready? Did you say tomorrow?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I will have it ready tomorrow.

Mr. Deputy Speaker: Fine, it is so directed.

Mr. Olago: Mr. Deputy Speaker, Sir, I prefer that we discuss it this afternoon.

Mr. Deputy Speaker: The Order Paper for this afternoon is already out and so there is no way. We will defer it to Thursday afternoon.

(Question deferred)

ALLOCATION OF RELIEF FOOD
TO SAMBURU DISTRICT

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

(a) How much relief food has been allocated to Samburu District per month since April 2009 to date and what is the size of the population targeted? Could she provide the breakdown of food distribution per location during that period?

(b) Under what circumstances did some locations like Ngare Narok, Ndonyo-Wasin, Uaso West and Engile Central miss out on relief food for up to four months?

(c) How many locations have received the allocation for August, 2009?

(d) Could the Minister provide the membership of the Samburu District Food Distribution Committee and clarify whether or not it has been operationalized?

Deputy Speaker, Sir, I would like to bring to your attention that I have not received a written answer.

Mr. Deputy Speaker: With regard to Questions by Private Notice, it is not mandatory for a Minister to give you a written answer.

So, proceed hon. Assistant Minister.

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I beg your indulgence. I received this Question this morning and the answer that I was given by my officers does not seem to be satisfactory. I wish I could answer the Question this afternoon but if it will not be possible, I could do it tomorrow afternoon.

Mr. Letimalo: Considering that this is a serious matter and we are experiencing a severe drought in Samburu East, considering that we are particularly concerned that the food distribution in the district is irregular, I think it would be important for the Assistant Minister to answer the Question this afternoon.

Mr. Deputy Speaker: Order, hon. Letimalo. The Order Paper for the afternoon is already out. The earliest that the Assistant Minister can answer this Question is tomorrow afternoon. It is directed that the Question appears in the Order Paper tomorrow afternoon.

(Question deferred)

ILLEGAL LOGGING IN WEST POKOT DISTRICT

(Mr. Murgor) to ask the Minister for Forestry and Wildlife:-

(a) Is the Minister aware of the rampant illegal logging in West Pokot District which is threatening to deplete the forests and that it is the District Forest Officer (DFO) who is authorizing the logging and selling of timber to businessmen with lorries plying the Kapenguria/Lodwar Road?

(b) What urgent disciplinary measures will he take to stop the officer from the destructive exercise?

Mr Deputy Speaker: Is Mr. Murgor not here? Next Question!

ORAL ANSWERS TO QUESTIONS

*Question No.031*EXISTENCE OF EXTRACTIVE INDUSTRY
TRANSPARENCY INITIATIVE

Mr. Deputy Speaker: Hon. S. Abdalla has communicated to the Clerk's Department that her Question be deferred to tomorrow afternoon. She had to attend to the tragedy in Faza. The Question will appear on the Order Paper as and when she is back. She will communicate the same to the Clerk's Department.

(Question deferred)

*Question No.140*CONFISCATION OF LAND FROM TELDET/KIBOROA
RESIDENTS BY GOVERNMENT

Mr. Kapondi asked the Minister for Lands:

(a) whether he could confirm that the residents of Teldet and Kiboroo in Trans Nzoia West bought land and the same was subsequently reclaimed by the Government; and,

(b) whether he could state when the Government will return the land, provide alternative land or compensate the residents.

Mr. Deputy Speaker: Next Question!

*Question No.330*RATIONALE BEHIND POLICY ON LANGUAGE OF
INSTRUCTION IN LOWER PRIMARY SCHOOLS

Mr. Deputy Speaker: Is Ms. Odhiambo not here?
Dr. Eseli!

*Question No.371*CRITERIA USED IN RECRUITMENT OF
APS FROM NYS POOL

Dr. Eseli asked the Minister of State for provincial Administration and Internal Security:-

(a) What criteria was used in the recent recruitment of Administration Police Officers from the National Youth Service (NYS) pool;

(b) Whether the criteria used adequately addressed the issue of fair distribution of recruits among all the districts in the country; and,

(c) Whether he could provide the per-district breakdown of the number recruited.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, this question has already been replied to but if you want, I could go through it again.

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

(a) The qualifying criteria used in the recruitment of Administration Police recruits for the recently completed AP Recruits Course 1/2009 from the NYS required that every prospective candidate must have successfully completed the NYS basic course. In addition, candidates had to possess the following basic requirements in order to be eligible for selection into the Administration Police Force. One, they must be Kenya citizens, secondly, the education qualification (KCSE) must be D+ and above, they must be medically and physically fit. They should have no criminal record. They must have trade test specialization or talent. Their age must be between 18 and 28 years.

(b) The criterion, therefore, was based on NYS units, professional qualifications and individuals' interest to join the Administration Police force; intake was not to be based on districts as with ordinary recruitments.

(c) As for (c), I wish to lay on the Table the breakdown of the recruitment as requested by the hon. Member.

Dr. Eseli: Mr. Deputy Speaker, Sir, if you look at the breakdown per district, you will find that there seems to be a total variation from district to district without fair distribution of the allocations of the recruits from the National Youth Service (NYS) into the Administration Police (AP). This implies that the recruitment from the NYS results in a skewed recruitment. This means that the recruitment into the NYS itself is faulty. When will the AP and the Police Force stop recruiting from the NYS now that it is not representative of the country's distribution?

Mr. Ojode: Mr. Deputy Speaker, Sir, you will agree with me that the NYS does not fall under my docket. This institution falls under the Ministry of Youth Affairs and Sports. We only recruit into the police force the recruits the NYS has trained. That is a good question, but it should be referred to the Ministry of Youth Affairs and Sports.

Mr. Deputy Speaker: But it is your Ministry that recruits from the NYS!

Mr. Ojode: Mr. Deputy Speaker, Sir, it is true that my Ministry recruits those who have been trained by the NYS. If there is need to stop recruitment from the NYS, there is no need to have the regular recruitment that is done at the district level. We take a certain number from the districts based on the population. We should discuss with the NYS and see if we can take the same number of recruits as the ones we recruit from the districts.

Dr. Khalwale: Mr. Deputy Speaker, Sir, in the morning of the recruitment exercise we normally have hundreds if not thousands of recruits. They go through the exercise without any idea as to how many vacancies are available. Does the Assistant Minister intend to advertise and state clearly in future the number of recruits they will take? Why did he recruit only two people from Shinyalu?

Mr. Ojode: Mr. Deputy Speaker, Sir, with regard to the first question, those are some of the reforms which we intend to implement. On the other question about recruitment of two people from Shinyalu, it depends on the number of people who were

recruited from that area. This is because we were not recruiting from the districts in Shinyalu, but from the NYS.

Mr. Deputy Speaker: Last question, Dr. Eseli!

Dr. Eseli: Mr. Deputy Speaker, Sir, now that they have recruited in such a skewed manner to the extent that some districts have many recruits while others have very few recruits, what will the police force do to make sure that the recruitment distribution is equalized following the skewed recruitment? Will they go and recruit per district to equalise the “scenario” that they have created?

Mr. Ojode: Mr. Deputy Speaker, Sir, ordinarily, when we have the regular recruitment we have a uniform number. However, that also depends on the population of a district. It becomes very difficult when you get to the NYS. For example, in the case of Shinyalu where they only have ten recruits, the ten recruits will be trained at the NYS. After one year, we will go and recruit those who passed their basic course. You might find that only three out of ten have passed their course. So, we will, definitely, go for the three who have already gone through the basic course. This becomes a bit tricky on our side. I would have elaborated on the regular recruitment but the NYS recruitment is a bit tricky.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. It is very clear that the recruitment from the NYS is very skewed. Nandi North does not have a single person who was recruited. Is the Assistant Minister in order to avoid answering the question which was: When will he stop recruiting from the NYS and recruit directly from the constituencies?

Mr. Ojode: Mr. Deputy Speaker, Sir, I have no intention to completely stop recruiting from the NYS because I need more police officers. For us to get police officers immediately, it forces us to go through the NYS where they have done some basic courses. We need security personnel in the country. In fact, the hon. Members should have even requested me to go for a double intake because of the situation in the country. I cannot stop recruiting from the NYS.

Mr. Letimalo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading the House? If you look at the breakdown of the AP recruitment from the NYS, you will realise that some districts have 50 recruits whereas others have got one or none? For example, Samburu has only four. Is it justified to continue recruiting AP recruits from NYS instead of getting them directly from the districts? This is unfair to some districts.

Mr. Ojode: Mr. Deputy Speaker, Sir, it is not fair. Where we have recruited few personnel from those districts, we will at least, consider a higher figure in the regular recruitment.

Mr. Deputy Speaker: Next Question by Mr. Mungatana!

Question No.336

STATUS OF HOLA-GARSEN ROAD PROJECT

Mr. Mungatana asked the Minister for Youth Affairs and Sports:-

(a) whether she could provide the status of implementation of the tarmacking of the Hola-Garsen Road;

(b) whether she could account for the Kshs900 million that had been set aside in the previous budget for construction of the road;

(c) whether she could explain why the contractor has taken so long to complete the road and when it will be completed; and,

(d) whether she could consider replacing the National Youth Service and engaging a more efficient contractor in the project.

The Minister for Youth Affairs and Sports (Prof. Sambili): Mr. Deputy Speaker, Sir, before I answer this Question, I would like to apologise to the House and the hon. Member for Garsen for not being able to answer this Question last week on 10th September, 2009. I would like to confirm that the Ministry was aware of this Question and made arrangements to have one of the Assistant Ministers to answer it but, unfortunately, the said Assistant Minister got some urgent message or a personal problem and as such, was not around to answer it when it was called out twice. Further, I would like to confirm to this House that the Ministry of Youth Affairs and Sports is committed to the business of the House. I would also like to assure the honourable House that such a situation will not recur again.

Mr. Deputy Speaker, Sir, having said that, I now beg to reply.

(a) Regarding the status of the implementation of the tarmacking of the Garsen-Hola Road, I would like to point out that although the tarmacking of the road has not been done, the following critical processes of road construction that lead to tarmacking have been completed as shown below.

Regarding the work description and the kilometers covered, road survey has been done for 16-kilometre; bush clearing – 15-kilometre; passage of traffic deviation – 14-kilometre; earthworks to top sub-grade level – 14-kilometre; sub-base processing - six kilometres; dumped gravel materials for base – six kilometers and dumped gravel materials for sub-base - 1.7-kilometre.

This phase of road construction which covers a distance of 17 kilometres was originally scheduled for completion by the end of October, 2009. However, due to the anticipated rains in the month of October, though we are not sure, the tarmacking of this section is expected to be completed by December. That is in case we experience the El-Nino rains we are anticipating.

(b) Accounting for the Kshs900 million that was allocated to the Department of National Youth Service within the Ministry of Youth Affairs and Sports in 2008/2009 financial year - The money was spent as follows: Printed estimates are Kshs900 million. AIEs that were disbursed to the project, Kshs380 million; road construction material, Kshs261,620,527.65; fuel, oil and lubricants, Kshs98,541,845, wages and allowances, Kshs19,837,625.35.

An hon. Member: Table it.

The Minister for Youth Affairs and Sports (Prof. Sambili): I can table it. So, that money totals to Kshs694,335,198. The balance of the money that has not been utilised is Kshs205,664,802 and this money is there. Commitments on the following services were made, but owing to the exchequer issues the same had not been cleared by the closure of the last financial year. The other details I can table them and Members can see.

(c) The contract period for the construction of the road is 36 months or three years meaning that the contractor which is NYS is within the schedule. The apparent delay in

the execution of the work at the expected pace was occasioned by several factors. With your permission, I think it is good that I say them. One, lengthy processing of awarding contracts for installation of culverts to the sub-contractors and long distance of haulage of gravel materials from Merti in Bura to the road construction site for processing. It is about 100 kilometres away. Finally inadequate construction machines and equipment, which has since been resolved by procurement of modern road construction equipment.

(d) The Capacity of NYS in terms of road construction has been enhanced considerably following recent Government intervention which will soon see the Department receiving a consignment of modern construction machinery due to arrive in this country in the next two months. It would have arrived before September, but now we think it will arrive by the end of this month or at the beginning of October.

The Department is also expecting an increased workforce through the recruitment of 200 drivers, plant operators and plant mechanics.

Following these interventions, I am confident that my Ministry will be able to complete the projects within the specified contract period hence no need to reverse the existing contractual arrangement.

With your permission, Deputy Speaker, Sir, I beg to table these documents.

(Prof. Sambili laid the documents on the Table)

Mr. Mungatana: Mr. Deputy Speaker, Sir, you can see how strange it is. I asked a Question about a road and it is being answered by the Minister for Youth Affairs and Sports. It is like there is lack of seriousness as a whole regardingly this road. For 20 years, the Hola- Garsen Road which is the main road that connects Garsen-Hola-Garissa-Nairobi has been suffering because of being allocated to the NYS.

Could the Minister confirm or deny that the Kshs205 million that was returned to the Treasury was because the NYS has no capacity to do this work? This is because if it were a private contractor they would have finished this work. Could she tell us whether it is not true that, in fact, the NYS uses this road as an avenue for training their personnel? They are not doing any work. You can imagine out of 78 kilometres of road, they have only done 17 kilometres. They are tabling these facts before this House and yet, the Ministry returns money to the Treasury. Could she confirm to us that this is not a training ground? Could she also tell us when they will reallocate this road to the Ministry of Roads or to some more serious Ministries? For 20 years, the NYS is doing nothing in that area.

Prof. Sambili: Mr. Deputy Speaker, Sir, I want to confirm to this House that we are not using this road for training. I also want to say that the Ministry of Roads is providing professional advice through their engineers on the construction of this road. I toured this road together with the Minister for Roads who was then hon. Chris Obure. I agree that it has taken very long, but I want to say that before this money was allocated during the last financial year, the project had stalled because there was no proper arrangement. I appreciate that there are challenges, but I want to confirm to the hon. Member that we are serious about doing the road.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I am begging the Chair that you accept to be invited by myself to find the Minister is seriously out of order. The policy of Government is that survey, road design and actual drawings are usually

done before the project is put in the printed estimates. Now she is trying to claim here that 16 kilometres were surveyed in the process trying to divert the Kshs900 million into the survey work. The survey had long been done as the policy of the Government before the printed estimates were captured. She is out of order unless she does not know what she is talking about. I invite that you find her completely out of order.

Mr. Deputy Speaker: Hon. Minister, could you answer the concerns of the hon. Member in that you do the designs and survey and then you undertake the project? I think that is basic knowledge.

Prof. Sambili: Thank you, Mr. Deputy Speaker, Sir. I have not implied that we are doing survey. I read out here as my response to part "a" of the Question that 16 kilometres has been surveyed. The construction work on this road has been ongoing. The hon. Member can be fair to me and inform the House that works on this road has been going on. It is not that we have gone to do survey now. Of course, this a road that has been done as the hon. Member has said for almost 20 years. I have said that the road has been done to different levels, including the sub base processing and providing gravel material. If you count those kilometres, it is not 16. So, it is true that we are using the money for survey. If I communicated like that then I am sorry.

Mr. Gunda: Mr. Deputy Speaker, Sir, for last 20 years, the Ministry of Youth Affairs and Sports has not been able to complete this road. Could we ask the Ministry to admit that they are not able to do that job and give it to the right Ministry to tender it to a contractor who can do it in a shorter period?

Mr. Deputy Speaker: Is it true for 20 years, you have done less than 17 kilometres of tarmac road?

Prof. Sambili: Mr. Deputy Speaker, Sir, it is not true. The hon. Member knows that even a Chinese private company was involved in doing this road.

I want to assure the hon. Member that, really, the National Youth Service (NYS) did not have enough equipment. But now that we are going to get equipment as early as next month or towards the end of this year, we will be able to complete this road within the specified time of 36 months.

Mr. Deputy Speaker, Sir, I think we are all committed in this country to help the young people to participate--- I am not saying that we are using the road as a practice area or a learning area. We would like the NYS to have been trained to do constructive work. So, I confirm, once again, with due humility that we will finish this road when we get this equipment.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House by saying that they did not have money for equipment, yet it is well known that a contract sum includes the equipment; it is part of that amount?

(Applause)

Mr. Deputy Speaker, Sir, is she in order to mislead us further that this road has taken 20 years? Which contract can be extended for 20 years and still be varied up until now?

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

Mr. Deputy Speaker: Let her respond to that point of order!

Prof. Sambili: Mr. Deputy Speaker, Sir, I think the contract that we are talking about now really was not awarded 20 years ago. We are saying that this road has been done for 20 years; but not by the NYS, as far as I am concerned. I am new in the Ministry but I do not think that, really, it has taken 20 years. I think they are talking about the whole road that extends all the way to Malindi.

Mr. Deputy Speaker, Sir, with regard to the equipment, I want to say that when I was asked to table this answer, we bought the equipment and I think I better read it. It says:-

“We purchased new equipment for this road which includes four large tippers at Kshs8.958 million each and we spent a total of Kshs35 million; we bought two excavators, two Isuzu double cabin vehicles. We also bought three water buzzers. We also bought a concrete mixer”. So, we bought the equipment. It does not mean---

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

Prof. Sambili: Protect me, Mr. Deputy Speaker, Sir.

Dr. Khalwale: I have been given the chance.

Mr. Deputy Speaker: Proceed with your point of order!

Dr. Khalwale: Mr. Deputy Speaker, Sir, with all due respect to the Minister, she does not seem to understand Government procurement procedure. When a contract of doing a road is given, a specified period is given, for example, 36 months. If, after 36 months, the contractor has not completed, he applies for extension.

Mr. Deputy Speaker, Sir, I stand on a point of order to request that this matter be deferred until the Minister comes and brings here documents showing how the Government has been extending this contract repeatedly for a period of 20 years. We do not believe her!

Mr. Deputy Speaker: Order, Dr. Khalwale! Ideally, under normal circumstances, the position is put in for a private contractor. But this is the Government doing the project itself. Maybe you need to understand also how the Government works within itself. The procurement rules within the Government might be different from the procurement rules with the private sector.

Proceed, honorable Minister!

Prof. Sambili: Thank you, Mr. Deputy Speaker, Sir---

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

Mr. Deputy Speaker: Allow the Minister to respond! Dr. Eseli, you will have your point of order. Can you allow the Minister to conclude her response?

Prof. Sambili: Thank you, Mr. Deputy Speaker, Sir. I would like to confirm to Dr. Khalwale that the period for this construction; the 36 months, is not over yet. I said that given the efforts that we are putting in, we will complete this particular part of the road within the 36 months. So, it is not yet time to ask for an extension.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Dr. Eseli, what is your point of order?

Dr. Eseli: On a point of order, Mr. Deputy Speaker, Sir. Considering that this is the Ministry of Youth Affairs and Sports, and the Minister confirms that this road is not a training ground; yet the road has been under construction for 20 years; a sum of money was returned to the Treasury – over Kshs200 million – meaning that the Ministry did not have the capacity to absorb the funds; would I be in order to request that this issue be referred to the Public Accounts Committee (PAC)?

(Applause)

Mr. Deputy Speaker: Hon. Members, the Chair has indicated time and again that a matter does not have to be directed by the Speaker to be referred to any Committee and that all Committees are at liberty to undertake any scrutiny without having any reference from the Chair.

Hon. Mungatana, can you ask your last question on this issue?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the portion of the road from Malindi to Garsen was done within time by the Chinese contractors. The portion between Garsen and Hola, going all the way to Garissa and Nairobi is a bit far and remote. It was meant to be an NYS training ground. The Minister has denied this yet we know that, even today when you go there, you will find these people training there. Can the Minister admit that they have not been able to do this work? Can she let this work go to the correct people; either a private contractor or the Ministry of Roads? Can she also apologize to the people of Tana River and Tana Delta for building a road for 20 years? It has become a cash cow; the NYS never finishes the project and everyday money is utilized. They are supposed to be building a road but they are buying vehicles and enjoying themselves – nothing is going on. Can they return this road to the Ministry of Roads so that the people can get the road they deserve?

Prof. Sambili: Mr. Deputy Speaker, Sir, we are not enjoying ourselves. The NYS people, because they are not like the contractors from the Ministry of Roads--- But I think in my previous answer I mentioned that this construction is supervised by engineers from the Ministry of Roads. I want to confirm that even these young people who are doing this road have undergone training. So, they are part of the people that we want to show--- They are committed; they work from 6.00 a.m. to 6.00 p.m. in the evening whereas other contractors from other places work up to 5.00 p.m. These people are committed and I want to assure the hon. Member that this road will be done and the people of Tana Delta will not regret. I want to confirm that we, in the Ministry of Youth Affairs and Sports, actually have decided to go there this coming week to confirm for ourselves. I also want to confirm to the hon. Member that seriousness is being exercised.

Thank you, Mr. Deputy Speaker, Sir.

Question No.364

ALLOCATION/DISTRIBUTION OF
FUEL LEVY FUND

Mr. Lessonet asked the Minister for Roads:-

(a) whether he could table the list showing the allocation of funds from the Fuel Levy Fund for the years 2007/2008 and 2008/2009 in accordance with the provisions of the Kenya Roads Board Act which requires equitable distribution of 24 per cent of such funds to all districts; and

(b) whether he could explain the parameters used in arriving at the distribution.

The Assistant Minister for Roads (Dr. Machage): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I beg to table the list showing the allocation of funds from the Fuel Levy Fund for the year 2007/2008 and 2008/2009 in accordance with the Kenya Roads Board Act, 1999, and the Kenya Roads Board (Amendment) Act, 2007 respectively.

(Dr. Machage laid the document on the Table)

(b) The parameters that are used in arriving at the distribution are as follows:-

- (i) district area;
- (ii) district population;
- (iii) road inventory for the district in kilometers;
- (iv) road surface type (paved or unpaved);
- (v) terrain (mountainous, hilly, rolling or flat);
- (vi) rainfall;
- (vii) economic activities;
- (viii) traffic; and,
- (ix) allocation from other sources, for example, the Roads 2000 Programme for improvement of the district roads.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I have not received any of the documents the Assistant Minister has laid on the Table and yet, they are very important because they will enable the House or me to ask the Assistant Minister supplementary questions. I request the Chair to defer this Question until this afternoon so that we can have time to look at the list showing the allocation of funds that the Assistant Minister has laid on the Table. This will enable us ask supplementary questions.

Mr. Deputy Speaker: Dr. Machage, have you tabled the documents? Part “a” of the Question is asking you to table documents showing the allocation of funds from the Fuel Levy Fund for the years 2007/2008.

Dr. Machage: Mr. Deputy Speaker, Sir, I have done absolutely so.

Mr. Deputy Speaker: Where is the document if you have tabled it?

Dr. Machage: Mr. Deputy Speaker, Sir, it is on the Table of Parliament.

(Laughter)

Mr. Deputy Speaker: Mr. Lessonet, part “a” of your Question says “table”. The basic practice of the House, which is also dignified in my opinion was for the Assistant Minister not only to table the documents, but to also give you a copy in advance so that you can prosecute that Question.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I am even ready if the Chair can allow this Question to be the last one to be asked this morning.

Mr. Deputy Speaker: The Question has already been asked and is being answered. The Chair has a problem ruling in your favour because you asked the Question which says “table”.

Mr. Lessonet: Mr. Deputy Speaker, Sir, you will agree with me that---

Mr. Deputy Speaker: Are you seeking to look at what has been laid on the Table.

Mr. Lessonet: Yes, Mr. Deputy Speaker, Sir. As he tables the documents, he should have given me copies in advance.

Mr. Deputy Speaker: Nonetheless, the Chair directs that this Question appears on the Order Paper on Thursday afternoon, next week.

Mr. Lessonet: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, whereas you have conformed to the provisions of the Question, the Chair directs you to make sure that the hon. Member has a copy so that he can prosecute the Question.

Dr. Machage: Mr. Deputy Speaker, Sir, although your ruling is unfair to the Ministry, I oblige.

Mr. Deputy Speaker: Order, Dr. Machage!

Question No.439

RECONSTRUCTION OF
GIAKANJA-IHITHE-TETU ROAD

Mr. Deputy Speaker: Is Mr. Nyammo present? Could he, by any chance, be out of the country on official parliamentary business? It does not seem so. The Question is, therefore, dropped.

(Question dropped)

Question No.259

STATUS OF CENTRAL ARTIFICIAL
INSEMINATION SERVICES

Mr. Mututho asked the Minister for Livestock Development:-

(a) what the status of the Central Artificial Insemination Services (CAIS) is, considering that over 90 per cent of the semen being dispensed is unreliable, some of it having been harvested from bulls over 20 years ago; and,

(b) what steps he is taking to revamp this service to the status it was in before privatization.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I beg to reply.

(a) The CAIS was set up in 1946 vide a Gazette Notice and mandated to collect, preserve and distribute genetically superior disease-free bull semen for livestock breeding and improvement.

Currently, the station operates as a quasi-Government organization under the Director of Veterinary Services (DVS) funded by Government grants and revenues collected through sales of semen, professional services and Artificial Insemination (AI) equipment. The station has a staff establishment of 122 members out of which seven senior officers are attached to the station by the DVS. The other members of staff are employees of the station, out of which 78 per cent are key technical personnel. In

addition, the station engages casual employees as need arises. The station's physical infrastructure is made of land, buildings, laboratory facilities, motor vehicle and machinery.

The CAIS collects and processes semen for distribution according to the international semen standards where strict quality control is adhered to. In this respect, I would like to state categorically that the semen collected at the station is reliable and of high quality. Indeed, semen produced from the CAIS has been exported to many African and Asian countries such as Rwanda, Tanzania, Uganda, Burundi, Zanzibar, Pakistan and Malaysia.

At the moment, the CAIS supplies 85 per cent of the semen required in the country while we import a supply 15 per cent. The semen demand has reached a level where the CAIS is distributing as fast as it produces and with this kind of demand, the CAIS has no semen of over 20 years in stock for distribution.

However, it is a scientific fact that semen can remain viable indefinitely as long as it is stored in liquid nitrogen at a temperature of negative 196 degrees Celsius. It can even stay for 60 years or 70 years.

(b) The Government formerly provided the AI services at a subsidized cost until the policy of free supply of the AI services was changed in the 1990s under the World Bank Structural Adjustment Programmes (SAPs) which recommended privatization of the AI services in the country. This entailed encouraging private practitioners, dairy co-operative societies and self-help groups to establish the AI services. The Ministry, through the Veterinary Department was left with the role of advising, regulating and supervising the distribution of semen to farmers.

These policy changes had an adverse effect in the livestock sector because most livestock farmers could not afford the cost of the AI. Nationally, this led to a diminished number of insemination in absolute terms from over 0.54 million in 1979 to less than 0.15 million in early 2000. This has led to deterioration of the genetic potential of the national herd as a result of poor selection and use of inferior bulls through natural mating.

(Hon. Members consulted loudly)

Mr. Deputy Speaker, Sir, hon. Members are consulting in loud tones at the Back Bench.

Mr. Deputy Speaker: Order, hon. Chachu and hon. Gumbo!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Deputy Speaker, Sir, to address the following issues, my Ministry, through the CAIS based in Kabete, continues to avail superior disease-free bull semen to farmers in this country. Four years ago, the station liberalised the marketing and distribution of its products through the appointment of 30 agents covering most of the high and medium potential areas.

This partnership between the Government and the private sector has had the net effect of taking A.I services closer to end users, created jobs along the product distribution chain, and stabilised the cost of A.I services. Indeed, since the appointment of the agents, semen sales from the station have increased two-fold within the last four years. In 2008, the station sold 550 doses of semen, of which 85 per cent was used by small holder farmers in the country.

Currently, there are over 750 private A.I service providers throughout the country, who are operating under the supervision of local District Veterinary Officers. The partnership between the Government and private sector players has effectively taken A.I services closer to more livestock farmers.

Mr. Deputy Speaker: Mr. Assistant Minister, your answer is very long. Can you conclude?

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Deputy Speaker, Sir, my answer is technical, just as the issue is technical. We need to give hon. Members more information, so that I can get very few supplementary questions. I am about to finish.

In areas where A.I services privatisation is not feasible or has not taken root, the Ministry of Livestock Development will continue rendering the service on a cost-recovery basis. Efforts will be made to lobby the Treasury for additional funds to operate the service effectively.

Efforts will also be made to enlighten farmers on the benefits of A.I. services through the use of appropriate extension packages in the lowland areas, where beef farming using the East African Zebu is predominant.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Mututho: What is the average age of your bulls, and what safety valves have you put in place to make sure that there is no in-breeding now that the semen lasts forever, to make sure that off-springs from certain bulls are not repeated through daughters, granddaughters and great granddaughters?

Mr. Duale: Mr. Deputy Speaker, Sir, the hon. Member has asked a very valid question. That is why the Director of Veterinary Services and his technical staff have the mandate of supervising and giving farmers a more modern technology in breeding, as much as we want to have our own family in-breeding amongst the Friesian, the Ayrshire, the Jersey and the Guernsey. Our technical staff, who are part of the scientific research team, will make sure that, that is not repeated.

Mr. Chepkitony: Mr. Deputy Speaker, Sir, the Assistant Minister has mentioned that they privatised A.I. services in the 1990s, and farmers were to buy semen and use it themselves but that approach has not been successful in rural areas. It has only been successful amongst commercial farmers. When is the Assistant Minister going to introduce A.I. services in districts where breeding of livestock has gone down and farmers cannot afford to pay, as commercial livestock farmers do? When is he going to give us a subsidised price and have the technical staff in the districts to carry out A.I services?

Mr. Duale: Mr. Deputy Speaker, Sir, as I said earlier, the privatisation aspect of the A.I. service has not reached every part of the country. We only have 750 private A.I. service providers throughout the country, who are mainly in the highlands and medium areas. As the hon. Member said, in terms of subsidy, the production cost is Kshs150 per dose, which we sell to farmers at Kshs145. So, as Government, we are already subsidizing. However, the agents do not transfer this subsidy to farmers. That is why we brought to this House the Livestock Breeding Policy – to address all these issues and make sure that farmers pay a subsidised price for this service.

Mr. Deputy Speaker: Last question, Mr. Mututho!

Mr. Mututho: Mr. Deputy Speaker, Sir, is the Government planning to buy at least one quality bull over the next couple of years, so that we can have quality semen?

Mr. Duale: Mr. Deputy Speaker, Sir, it is not a matter of Government buying bulls. We already have 101 bulls at our farm in Kabete. So, unless he is telling us to add more, we already have 101 bulls for that purpose.

Dr. Eseli: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that they are not going to buy another bull, yet we know that we require genetic diversity? As Mr. Mututho said earlier, continuous use of the same bulls might lead to in-breeding. Is he in order to say that they will not buy another bull?

Dr. Duale: Mr. Deputy Speaker, Sir, I am in order because, out of the 101 bulls at our station, diversity is there because those bulls represent the four dairy breeds we have in this country: The Friesian, Ayrshire, Jersey and Guernsey. I said earlier that the Ministry is doing continuous research on animal breeding systems. I am sure that if we feel that we need more, we will buy some. That is part of our business.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. You heard the Assistant Minister say that they cannot add more bulls because they have four different bulls. What he is essentially saying is that the genetic improvement is static. Is he in order to continue misleading us that he cannot introduce new genetic materials whereas we know that already in-breeding is taking place?

Mr. Duale: Mr. Deputy Speaker, Sir, I did not say that we are not in a position to increase our breeds. I said we are carrying out research on a continuous basis. Indeed, in due course, new breeds will be in place. We are part of the genetic international standards.

Mr. Baiya: On a point of order, Deputy Speaker, Sir. I come from a constituency that relies so much on dairy farming. Is it correct for the Assistant Minister to say that they need to do more research when farmers are not actually receiving enough of quality bulls from CAIS? The demand is not being met. What are they going to do to ensure that there is sufficient supply to farmers?

Mr. Duale: Mr. Deputy Speaker, Sir, on the issue of demand, I want to table a document showing how semen production and distribution has been undertaken over the last five years. The document clearly shows that we must import 15 per cent of the semen needed in the country, which is what we are doing. We produce 85 per cent of the semen needed in the country. We are going to import 15 per cent to cover the shortfall. We are working with farmers on the ground, including farmers in Mr. Baiya's constituency. So, we will take all that into consideration.

(Dr. Eseli stood up in his place)

Mr. Deputy Speaker: Order, Dr. Eseli! This Question has had a long time. We will go to the next Question. We have business that is pending. If, by any chance, you feel that the matter is so important, and that it has not been adequately addressed by the answer given by the Assistant Minister, you can use the relevant provisions of the Standing Orders to bring it up again in the House. So, do not turn a Question into debate.

Next Question, Mr. Edwin Yinda!

Question No.367

NUMBER OF DAMS CONSTRUCTED IN ALEGO
USONGA SINCE INDEPENDENCE

Mr. Yinda asked the Minister for Water and Irrigation:-

(a) to confirm the number of dams the Government has constructed in Alego Usonga constituency since Independence, providing their respective names and specific locations in the constituency; and,

(b) what immediate action she will take to ensure that Obambo area in South West Alego and Randago in South Alego are provided with clean drinking water, considering that the underground water in the region is salty.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) A total of 20 dams and pans have been constructed in Alego Usonga constituency since Independence, and they are distributed in all locations in the division as listed below:-

NO.	Name of Dam	Sub-location	Location	Division
1	Nyamisi		S.W. Alego	Uranga
2	Ochilo	Mur Malanga	S. Alego	Karemo
3	Sandhofu	Karapul	Siaya Township	Karemo
4	Hutro	Mulaha	Siaya Township	Karemo
5	Kalenuok	Kalenuok	C. Alego	Boro
6	Tinga(Obambo)	Obambo	S.C. Alego	Boro
7	Ranyadha	Bar Agulu	S.E. Alego	Karemo
8	Komboga	Masumbi	S.E. Alego	Karemo
9	Randago	Randago	S. Alego	Karemo
10	Nyabnawe	Nyandiwa	Siaya Township	Karemo
11	Gona	Obambo	S.C. Alego	Boro
12	Kamlag	Bar Alego	S.C. Alego	Boro
13	Nyamula	Bar Olengo	S.C. Alego	Boro
14	Ulawe	Hawinga	S.W. Alego	Uranga
15	Lwala Kawuor	Ojwando 'A'	C. Alego	Boro
16	Rapundo	Kochieng 'A'	C. Algeo	Boro
17	Siwendhe	Ulafu	E. Alego	Boro
18	Apidi	Ojwando 'A'	C. Alego	Boro
19	Gangu	Gangu	W. Alego	Uranga
20	Ndisi	Mur Malanga	S. Alego	Karemo

(b) Mr. Deputy Speaker, Sir, Obambo and the surrounding areas will be served with water from the proposed Lake Kanyaboli Intake while Randago will be served by Ongoro Dam once it is rehabilitated. They will also be served from the Sidindi-Malanga main pipeline.

The surrounding areas will be served once the rehabilitation of Sidindi-Malanga Water Project will be completed at a cost of Kshs1.3 billion. I know the hon. Member does not have the benefit of getting the revised answer. Currently, the engineering designs are in progress. That project will also supply water to Siaya Town. The construction will take one and half years, starting from March, 2010 to September, 2011. On completion, about 120,000 people will be served.

Mr. Yinda: Thank you, Mr. Deputy Speaker, Sir. I would like to thank the Assistant Minister for giving me that information. The information is good news for my constituency. Out of the 20 dams, could he confirm how many are in operation, how many need de-silting and when will that be possible?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, only a few dams are in proper working condition. I know a few of them have been de-silted and a number of them have totally collapsed.

I would not give a comprehensive answer right now, but we are aware that they are under various conditions.

Mr. Mututho: Mr. Deputy Speaker, Sir, it is, indeed, very sad because the Ministry is using dams as a political tool. Only those who are politically-correct are given dams. I stand by my opinion! They are using billions of shillings in places like Kitui while Kenyans are dying in places where there are supposed to be dams. In places like Ol Kalou, 85 dams need to be de-silted. That is not in dispute. Lake Naivasha is dying because it cannot be attended to and yet, we are contributing 10 per cent to the Gross Domestic Product (GDP) of this country. It is because we do not belong and conform to their party and political requirements.

Could that particular Ministry be audited, just like the NYS, on the criteria and system it uses to construct dams?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, you know, sometimes, you can express yourself passionately, but with one disadvantage of not having the information. First of all, Lake Naivasha has nothing to do with the Ministry of Water and Irrigation. It does not de-silt lakes either.

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

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we should learn to be patient and listen to the facts.

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

Mr. Deputy Speaker: Can you allow the Assistant Minister to answer?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I am not out of order. I have not breached any rules!

Mr. Deputy Speaker: Proceed, hon. Assistant Minister!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I am telling this House that the Ministry is not in charge of de-silting lakes in this country. It is not responsible for the drying up of Lake Naivasha, Lake Nakuru and other lakes. You know the reason why lakes are drying up. Therefore, it would be very offensive for any Member to insinuate or mislead this House that the Ministry is responsible.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. I sympathize with this Assistant Minister for Water and Irrigation who does not know that Walmart, a body under his Ministry, has licensed people to dig up 18 canals from Lake Naivasha. They are spilling all the water from Lake Naivasha. They collect revenue and put it in their pockets. I sympathize with the Assistant Minister who does not know that they have diverted River Malewa. All the water is going to Nakuru. No water is coming to Naivasha! With all those facts, how could the Assistant Minister stand here and say that they are not responsible? I sympathize with him when he said that his Ministry is not in charge of de-silting and yet, there are 85 dams in Ol Kalou. Those 85 dams are not lakes. If you want to know the lake in Ol Kalou, it is called Ol Bolossat.

This Ministry has the audacity of doing dams on political expediency and it should be censured for doing that because we have---

Mr. Deputy Speaker: Order, hon. Mututho!

Mr. Kiunjuri: Now, the Member of Parliament is very good at sympathizing, Mr. Deputy Speaker, Sir. You know that ignorance cannot be a defence.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Order! You have a duty to use parliamentary dignified language in the House.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have not said who is ignorant. It is either him or me. I have not said who is ignorant. There is nothing to withdraw. I might be ignorant of the facts and, therefore, I have no apology to make.

Mr. Deputy Speaker, Sir, the issue at hand is about lakes and water pans. The programmes that we are undertaking in the Ministry are continuous. We have been in the Ministry for two years and if it is about the issue of where dams have been distributed--- For example, Badasa Dam was there four years ago. I was not the Assistant Minister. Mrs. Ngilu was not the Minister Works. Works on Kiserian and Umaa dams were still going on. Umaa Dam is in Ukambani. That was before Mrs. Ngilu and Mr. Kiunjuri became the Minister and Assistant Minister, respectively.

Therefore, we take offence when one insinuates that we can be censured because of the programmes that are run by the Government, unless you want to censure the Government.

Mr. Deputy Speaker: Order! You cannot be censured just because an hon. Member stands up and says that you should be censured. It must come through a process that is in line with the Standing Orders. Just address the Question. Mr. Yinda, please, ask the last question on this.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we must only be held responsible for what we are responsible for.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! You have made your point.

Mr. Yinda: Thank you, Mr. Deputy Speaker, Sir. I would like the Assistant Minister to confirm to the House when the proposed Lake Kanyaboli Intake will be put in place. It is basically meant to serve the Obambo area that was not covered in your answer. Finally, could the Assistant Minister work out a programme to de-silt the affected dams? He does not have to give me an answer right now. I could, pick that information from his office. I would appreciate that.

Mr. Deputy Speaker: Hon. Kiunjuri, can you give an undertaking to the House? Would you wish to do that?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we are going to start by de-silting two dams in the area, depending on the priority that will be given by the Member of Parliament. He is the one to prioritise. With regard to the intake, once again, we have to re-design it. The designs that we had before could not be able to serve effectively. The work was not complete and was not satisfactory to the Ministry. When it comes to the issue of dams, we shall know the exact amount of money that will be used for the intake.

Question No.383

PENSION DUES FOR LATE INSPECTOR
BENSON JUMA

Mr. Outa asked the Deputy Prime Minister and Minister for Finance:-

- (a) why pension dues to Inspector Benson Juma (APN/PC 214671), who died on 10th January, 2003, have not been paid; and,
- (b) when the payment will be made.

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

(a) The pension claim documents in respect of the late Benson Juma who died on 16th January, 2003 were submitted to the Pensions Department by the Office of the President on 24th March, 2009. Subsequently, a pension file APN/PC214671 was opened in his name to facilitate processing of his death benefits.

(b) The death benefits to the family of the late Juma were paid to the Public Trustee, Kisumu, on 31st August, 2009 through a cheque amounting to Kshs409,413. The necessary forms for the assessment of pension due to the widow, Christine Dorila Akinyi Juma, are being awaited. Once assessed, the following pension benefits will be paid to the family. Five year's pension at the rate of pension due to the late Mr. Juma and Widows and Children Pension Fund for the life of the widow.

Mr. Outa: Mr. Deputy Speaker, Sir, I want to ask the Assistant Minister about this pension scheme. This is the third time this Question has come to this House. When was the money paid to the family? I am just getting some answers which are really not giving me the information that I need. When will this money be paid to the family of the late police officer?

Dr. Oburu: Mr. Deputy Speaker, Sir, I have stated that the money has been disbursed to the public trustee in Kisumu. There are forms which the family needs to fill in order to get the money paid. As far as we are concerned, she should be able to get this money any time she fills the necessary forms at the public trustee's office in Kisumu.

Mr. Mbugua: Mr. Deputy Speaker, Sir, it has been a habit of this Government not to respect senior citizens of this country. When will this Government realize that people who have worked diligently and have committed their lives to working for this country need to be paid their dues on time?

Dr. Oburu: Mr. Deputy Speaker, Sir, this particular Question is not in respect of the senior citizen who is alive. This Question is in respect of a deceased former civil servant whose payments are due to the family. Therefore, it takes time to identify the

beneficiaries. Payment of pension has already been improved through an Act of this Parliament. The automation of processing of pension is in process.

Mr. Outa: Mr. Deputy Speaker, Sir, could the Assistant Minister provide this House or me with the information that he has just given since I do not have any information so as to be able to follow up on what he has said?

Dr. Oburu: Mr. Deputy Speaker, Sir, I undertake to give him all the information about this Question.

Question No.403

PROVISION OF MOBILE TELEPHONE
SERVICES IN NORTH HERR

Mr. Chachu asked the Minister for Information and Communications:-

(a) why Telkom Kenya Limited have not provided mobile telephone services in North Horr Town despite creating a mast one year ago;

(b) when Telkom Kenya will complete the project and provide people of North Horr with Telkom wireless mobile services; and,

(c) what the Ministry is also doing to ensure that Kenyans in rural areas who are not covered by mobile telephone services are provided with the vital communication services.

The Assistant Minister for Information and Communications (Mr. Godhana):
Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Telkom Kenya built a mast in North Horr one year ago. The mast is a repeater station which is used to control traffic of calls to the neighbouring countries and regions. The mast is currently not installed with Orange Fixed Plus CDMA Wireless or Orange GSM equipment.

(b) Last year, Telkom Kenya embarked on an ambitious multi year plan that will eventually see the entire spectrum of Kenya enjoy their services. The North Horr region is being considered in the next expansion phase given its closeness to the CDMA site at Mt. Kulal.

(c) The Government of Kenya, through the Ministry of Information and Communications, has been providing attractive incentives to investors to invest in areas with low income returns on investment.

One such incentive applied by the Communications Commission of Kenya is the 50 per cent discount on the backhaul frequency annual licence fees implemented using microwave links as an incentive to providers to expand links to providers; to expand coverages to the rural locations.

The Government of Kenya has also adopted a more proactive approach to accelerate telephone penetration in rural areas through the Universal Service Obligation Fund (USOF). Other incentives include opening up of telecentres and digital villages to be used by those who cannot afford the services directly.

Hon. Members will also recall that the Government has removed tax on rural telecommunication infrastructure projects as an incentive to investors to venture into

rural areas. My Ministry has also written to leading telecommunication companies asking them to invest in rural areas.

In addition to the above, my Ministry in collaboration with the Treasury is implementing the National Optic Fibre Backbone Infrastructure which will ensure maximum utilization and internet connectivity in all districts in the country by providing reliable and affordable ICT services to all Kenyans majority of whom live in rural areas.

Mr. Chachu: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the response. This is a very standard Government response. "We have an ambitious multi-year plan that will see rural Kenyans being provided with this vital mobile telephone service". There are no benchmarks, timeframes; just this ambitious plan. This is as good as saying that no such service will be rendered to these rural Kenyans in the foreseeable future. If he is serious about providing rural Kenyans with this vital communication service, could he give us the time frame? When is this next expansion phase that will see the people of North Horr enjoy these telephone services?

Mr. Godhana: Mr. Deputy Speaker, Sir, I think I have dealt with this Question adequately in previous sessions. I want to assure the Member for North Horr that I also come from an area which is partly covered by telephone services and another area which is not covered. A Motion was passed in this House, through the Kenya Communications Amendment Act last year. This is the provision of the Universal Subscriber Service Obligation Fund that will give these telephone service providers a chance to invest. It is a process. First, a survey and mapping must be done. Then there is budgeting and implementation. The hon. Member is lucky that there is already a mast there. The connection of CDMA to that mast will be done in the next phase of Telkom Kenya. I am very sure that will all these initiatives---

Mr. Chachu: Mr. Deputy Speaker, Sir, the question I asked was very simple; I wanted to know when the next phase will be.

Mr. Deputy Speaker: Mr. Assistant Minister, when will this be now that you have said that he is lucky he already has the mast?

Mr. Godhana: Mr. Deputy Speaker, Sir, it depends on how fast the survey, mapping and budgeting will be done. The people who are doing it are the telephone service providers. It is not the Ministry. We have urged them to take advantage of the incentives we have given them, so that they can roll out their programme.

Mr. Chachu: Mr. Deputy Speaker, Sir, the Government seems to be providing incentives and facilitation to the private sector to invest in rural areas. Despite all these incentives, the response from the private sector seems to be dismal at best. What has the Ministry done wrong? If you compare us to Uganda, a country with a much smaller economy than ours, the communication services in those rural areas is real in every village and small trading centres. What has this Government done wrong compared to our neighbours like Uganda that up to today, people in rural Kenya are yet to enjoy this vital communication service?

Mr. Godhana: Mr. Deputy Speaker, Sir, I am not very sure of what the hon. Member is saying. We passed the Amendment Act last year. We are now in the process of rolling out the programmes. I wish to request if the hon. Member can avail himself to my office, so that he can walk to the relevant service provider and request to know how far his programme has reached. That will, probably, satisfy the hon. Member

QUESTION BY PRIVATE NOTICE

Mr. Deputy Speaker: Question No.3 by Private Notice.
Mr. Murgor is still not here. The Question is dropped.

ILLEGAL LOGGING IN WEST POKOT DISTRICT

(Mr. Murgor) to ask the Minister for Forestry and Wildlife:-

- (a) if he was aware of the rampant illegal logging in West Pokot district which is threatening to deplete the forests and that it was the District Forest Officer (DFO) authorizing the logging and selling the timber to businessmen with lorries plying Kapenguria/Lodwar road; and,
- (b) what urgent disciplinary measures would he take to stop the officer from the destructive exercise?

(Question dropped)

ORAL ANSWERS TO QUESTION

Question No.140

**CONFISCATION OF LAND FROM
TELDET/KIBOROA RESIDENTS BY GOVERNMENT**

Mr. Kapondi asked the Minister for Lands:-

- (a) whether he could confirm that residents of Teldet and Kiboraa in Trans Nzoia West bought land but the same was subsequently reclaimed by the Government; and,
- (b) when the Government will either return the land, provide alternative land or compensate the residents.

Mr. Deputy Speaker, Sir, I am asking the Question for the second time.

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, first I want to apologise to the House and the Questioner for coming late.

I beg to reply.

Mr. Deputy Speaker: The Chair observes that the same apology has been made by the same Assistant Minister a number of times in the past.

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, that is why I want to take the advantage to answer the Question so that, at least, this matter can be put to rest.

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

(a) A Task Force Report on Land Buying Co-operative Societies in Trans Nzoia of September 2007 provides the following information:

Information from the field indicates that a group called Kiboro a Squatters occupied land in the forest from which they were evicted by the Forest Department in 2002. They have since applied for resettlement land. The group has about 6,000 members evicted from the forest with a promise for alternative land for settlement. No land is

currently available for the settlement but they will be considered along other similar cases when land will be available.

Furthermore, I have tried to plead with the Questioner that I will be visiting Trans Nzoia District on the 7th October for a fact finding mission so that at least these issues of the LRNo.116836950 and 6443 can be resolved on the ground.

Hon. Members: It is a good offer! It is a good offer!

Mr. Kapondi: Mr. Deputy Speaker, Sir, in as much as the Front Bench is saying that it is a good offer, I would like to draw the House's attention to the plight of these people having paid money to the Ministry, the Ministry having acknowledged receipt of this money and the fact the Government moved them out. Currently, they have been reduced to Internally Displaced Persons (IDPs). Some of them live in IDP camps. Considering the fact that the Assistant Minister has accepted to visit the area, could he give an undertaking as to when he will visit the area?

Mr. Rai: Mr. Deputy Speaker, Sir, I intend to visit Trans Nzoia on the 7th of October. I really sympathize with the Questioner but I think a lot of consideration will be put into place. We received the monies from these squatters in 2002 they were again evicted by the Forest Department because the land did belong to the department. So, we will look into these issues. Come 7th October, we will see what can be done to salvage the situation.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, the problem of squatters in Trans Nzoia has been a serious issue. Yesterday, we adopted the Report on the Mau Forest Complex. There have been squatters who were removed from Kiboroa Forest in 1987. There are others who were removed from Chyulu Hills and other parts. What is the Assistant Minister doing to ensure that not only squatters in Mau Forest are compensated but also those from Kiboroa, Chyulu Hills and other parts of the country?

Mr. Rai: Mr. Deputy Speaker, Sir, although that is a different Question, since I will be going to Trans Nzoia, I want to request Mr. Wamalwa to be present so that some of these issues can be addressed on the ground and a lasting solution found.

Mr. Deputy Speaker: Mr. Kapondi, I think you are satisfied or would you like to ask the final question?

Mr. Kapondi: Mr. Deputy Speaker, Sir, I am satisfied. I will be waiting for him on the 7th of October.

Mr. Deputy Speaker: Next Question by Ms. Odhiambo!

Question No.330

RATIONALE BEHIND POLICY ON LANGUAGE
OF INSTRUCTION IN LOWER PRIMARY SCHOOLS

Mrs. Odhiambo-Mabona asked the Minister for Education:-

(a) to explain the rationale behind the policy that the language of instruction in lower primary schools is the local language in rural areas and peri-urban areas, and English in city and town schools; and,

(b) what measures he has taken to ensure that two different sets of national examinations are developed to respond to the realities of each

group, given that the policy gives an undue advantage to children in town schools over the counterparts in rural areas.

Mr. Deputy Speaker, Sir, I want to apologise for coming late. I was caught up in traffic.

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

(a) The rationale behind the use of the local language in rural areas and peri-urban areas and English language in city and town schools in lower primary is based on the following:

The language policy for Kenyan public schools stipulates that the language of the catchment area should be used as the language of instruction from standard one to standard three in rural areas where homogenous communities exist.

In cosmopolitan areas like cities, town, urban administrative headquarters, commercial centres and new mixed settlements where multi-lingual first languages exist, the language of instruction is English and Kiswahili.

The first language is crucial for the child's psychological development. It enables the learners to benefit from a familiar media and in the process build critical thinking skills and cognition which is necessary in the learning process.

As the learning gets increasingly complex in the upper primary classes; standard four to standard eight, children are able to transfer the cognitive skills easily as they use other media of instruction and are also able to comprehend more difficult subject matters taught in the second language, in this case, English.

In lower classes; class one to three, a multiplicity of teaching and learning approach is used. During this period, English is taught as a subject. The use of the language of the catchment area enables a firm foundation in literary, numeracy and life skills development.

The first language improves the quality of education by strengthening the traditional culture, values, ethics and identity towards enhancing patriotism, citizen participation in public and national affairs in the formative years. It is consistent with the Kenyan Constitution in the preservation and promotion of our diverse and rich cultural heritage and traditions.

This policy has been tested and is in line with the research and studies conducted by the United Nations Educational Scientific and Cultural Organization (UNESCO) and the Ministry of Education. It also borrows from the experiences of other countries like Ethiopia, South Africa, Indonesia and China, where the use of the local language is emphasized and implemented at early stages of life for laying the foundation necessary for achieving quality education and homegrown national development.

(b) The Ministry has no plans for developing two sets of examinations for children in urban and rural areas. In fact, pupils from rural schools have continuously performed better or at par with urban counterparts in the Kenya Certificate of Primary Education (KCPE) national examinations.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for a very comprehensive answer. From the content he has given, I agree with most of what he states except the core issue. Can we attain these principles through a different mechanism other than using the local language as a medium of instruction? It is against the Constitution of this country, and especially the provision on

discrimination. Could the Assistant Minister clarify that we can use other means, for example, teaching the local language as a subject instead of using it as a medium of instruction?

Mr. Mwatela: Mr. Deputy Speaker, Sir, I appreciate the concerns of the hon. Member but in teaching, there has to be an entry point like in any other activity. Children start from the known to the unknown. So you have at the entry point to use the language that is most effective for the child.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I would want to indicate that because the Assistant Minister gave me a very comprehensive answer, I did not complain that I just received it a few minutes ago. We have had discussions with him that because we are concerned about the best interest of the child under the Convention on the Rights of the Child and under the Children's Act we need to look into this much further. Therefore, I have also spoken to the Chairman of the Departmental Committee on Education, Research and Technology and following on your earlier ruling, we have agreed that we refer this matter to that Committee for further investigation. What, perhaps, I would request is your direction on when the Departmental Committee can give that.

Mr. Deputy Speaker: The Chair incidentally cannot direct. The Departmental Committees are at liberty to bring their reports as --- If you see the order of business on the Order Paper; Papers Laid, they will lay the Papers.

Mr. Assistant Minister, unless you have something to say, that is not a question.

Mr. Mwatela: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Order!

BILLS

Second Reading

THE OFFICES OF MINISTER BILL

(Mr. Ethuro on 9.9.2009)

(Resumption of Debate interrupted on 9.9.2009)

Mr. Deputy Speaker: Is there any other hon. Member wishing to contribute on the Private Member's Bill by Mr. Ethuro?

(Mr. Ojaamong stood up in his place on the left side of the Chamber)

Mr. Ojaamong, you are an Assistant Minister! Proceed, if you want! Do you still intend to contribute on this Bill? Go on because you are entitled to it.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, I wish to contribute to this Bill and say that this a very tricky Bill considering the political scenario in Kenya and considering how the national resources have been dished out.

Looking at one section of the Bill, Mr. Ethuro is saying in the Memorandum that the Bill also seeks to enhance the autonomy of the Legislature in performing its oversight

role by protecting it from depletion by the Executive through the appointment of an excessive number of Ministers. The Executive has been appointing majority of the Members to the Cabinet because it needed some powers. The way it has been put in this Bill, and there is no provision for assistants here, we shall be having only 24 Ministers against what we shall be having; over 250 hon. Members in the next Parliament. In the circumstances, I foresee a situation where the Executive will be so much besieged that even the running of this country will come to a standstill.

Just look at a scenario where maybe hon. Members or the National Assembly disagree with the President and he has only a battalion of 24 Ministers - I do not know how Mr. Ethuro will address that situation because he has not provided for Assistant Ministers - whom he should count on to support him in this Parliament. Will any Government business pass here? I foresee a situation where we shall be having a President who is all the time besieged. He will be having sleepless nights. I cannot agree with this Bill if our Constitution is amended to provide for might be a Parliamentary system kind of Government and a devolved system of Government. So, it is my feeling that we need a lot of consultation over this Bill to ensure that we have a smooth running of this Government.

I do not have any doubt about the responsibilities or the qualifications of being a Minister. The issue of being a Member of Parliament is quite reasonable but outside there, you will find that the civil society are also fighting very hard that we delink Members of Parliament from being Ministers. This might carry the day when we review our Constitution. So what happens now if the President appends his signature on this Bill and it becomes law and we undertake constitutional review and later on the public and members of the civil society say that members of the Cabinet or Ministers should be sourced from outside Parliament; they should be professionals? So, I see that we shall be trying to pursue something that will be defeated.

If you look at the scenario of the current Cabinet or before even we come to this current, the previous one; the former President could not downsize his Cabinet even to the level of 32 Members of the Cabinet. Why was it so? It is because of the political design at that time. The political scenario and landscape, in total, cannot allow unless we have a very good new Constitution I foresee that Mr. Ethuro is trying to set this country on fire because we shall be having a President and Ministers who will not be able to govern this country as members of the public would like it governed or the President himself would like it governed. So, when he says, again, that this should be implemented in the next Government, what are his intentions? If he is brave enough and if this Parliament is brave enough, let us implement this thing in this Parliament. Let us not postpone a problem where we shall not be. So, let us legislate so that if the current Parliament agrees - I know the public wants the number of Ministers downsized - why should we, as hon. Members of the current Parliament pass a law that will only be implemented in the next Government when we might not be there? Let us make our bed and sleep on it. So, I propose that during the Committee Stage of this Bill we make certain amendments to align ourselves with what we used to have in the Bomas Draft which was rejected and in tandem with the current political scenario in our country.

I do not want to support but I just wish to contribute to this Bill, with those few remarks.

Thank you.

Mr. Deputy Speaker: Are you supporting or opposing the Motion?

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, I am in between. I am neither supporting nor opposing the Motion. I think I want to abstain.

The Minister for Education (Prof. Ogeri): Mr. Deputy Speaker, Sir, I would normally have a lot of sympathy with this Bill. However, there are many inconsistencies and it will not be good for this House to pass a Bill for the sake of passing it. In the first instance, this is a constitutional Bill, and it requires a very exhaustive study in order to align it with the current Constitution. This Bill is citing Section 16 of the Constitution of Kenya with regard to the appointment of Ministers. The same Bill has a provision for the appointment of the Vice-President amongst the 24 Ministers. The Bill is completely oblivious of the current National Accord and Reconciliation Act, which was entrenched in the Constitution. That Act says the Government shall consist of the President, the Vice-President, the new addition of the Prime Minister and his two deputies and, of course, Ministers and other Ministers.

The Constitutional amendment which was taken by this House and accepted as such is a fact of life. Therefore, to try and amend substantive constitutional arrangement through a Bill of Parliament would be asking too much of this House to accept this Bill in the present form in which it is. No wonder the hon. Member had some difficulty in not knowing whether to support it or not. He is right. How do you support a Bill which, itself, ignores the current existing arrangement? The latest arrangement resulted in a National Accord and the Reconciliation Act, which has now established additional responsibilities---

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to persistently mislead this House, that first the Bill is not constitutional and two, that it is ignoring the national arrangements of the National Accord and Reconciliation Act? Even so, the National Accord and Reconciliation Act talks about sharing of Ministerial position 50 by 50. So, even if we had ten Ministers, each party would bring five.

Mr. Minister, stop misleading the House; you have a responsibility to the nation!

The Minister for Education (Prof. Ogeri): Mr. Deputy Speaker, Sir, I want to refer hon. Ethuro to his own Bill, Part II, which talks about establishment of offices, Section 3(4). It says that the President shall appoint the Vice-President from among the Ministers. There is no reference in the appointment of the Prime Minister. I think he should be aware of this. That is what this Bill says which is different from the way the current Constitution stands today. You cannot read it in the absence of that article itself which is in the Constitution. I know the rule on the 50-50 arrangement. Even if we had 24 Ministers, the rule of 50 by 50 would also apply. Therefore, I want to urge this House that it is important that we take this into account; the hon. Member has not even established which offices exist in the Constitution. He has just started off with the President and the Ministers and in between, he inserted the word "Vice-President".

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I still maintain that hon. Prof. Ogeri is misleading the House. The Constitution, under Section 15(1), says that there shall be a Vice-President of Kenya who shall be appointed by the President. Two, the President shall appoint the Vice-President from among the Ministers who are elected Members of the National Assembly.

Mr. Minister, do your homework. I did mine!

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, yes, I am aware of Section 15 and I am also aware of the recent amendment which creates the Office of the Prime Minister and the two Deputies, whom we have ignored. Therefore, there was no need for a point of order. Let me be allowed to make my comments.

I think it is important for him to recognize the fact that we cannot pass this Bill the way it is now without bringing on board the recent amendments. You have not even made an attempt on how all this will be distributed in terms of the Prime Minister, the Deputy Prime Ministers and the rest.

The next point that I want to dwell on, and hon. Ethuro is my good friend, is that he should look at the Constitution. There is already an assumption, and it is wrong to make an assumption on the impending possible legislative mechanism that will come before this House. I have no intention of anticipating debate. Supposing the Committee of Experts and the Parliamentary Select Committee on Constitutional Review comes to this House and says that we will have a particular type of Government, whether it is Parliamentary or Presidential or a hybrid of the same and establishes various offices, where will these amendments stand in the context of the impending Constitutional review, which is currently on? One of the things that was to happen after the National Accord and Reconciliation Act was entrenched in the Constitution was that we were to speedily, in the next 12 months, have a new constitutional dispensation in place.

We are trying to take a short-cut and have this Bill in-between and scuttle what is expected to come to the Floor of this House. I think, even with the best intentions of the Mover of this Motion, it will not serve a useful purpose at this stage. It is too early for this Bill to be on the Floor of this House. I want to convince my colleagues that this Bill will stand enriched after we will have passed the Constitutional review process, and after we know what kind of system of Government we will have in place. After that, this Bill will have its place on the Floor of this House, and we will have enriched the debate. It may be possible that what hon. Ethuro is proposing at this stage can be accommodated with regard to the limitation of the number of Ministers. There are several reasons why you should limit the number of Ministers. However, at this stage, to try and just plug in a figure under a certain mathematical formula that he used--- We have increased the administrative regions in this country. There is a likelihood of increasing the number of constituencies in this country. Therefore, there is need for fixing the figure of the numbers of Ministries based on a particular mathematical formula, or at least give a reasonable explainable process that everybody can understand. The figure of 24 sounds perfect; it is divisible by two throughout and sounds reasonable. However, unless we just want to follow practices where people say that there shall be 12 Ministries or 13 Ministries---

I want to beseech the Mover that this Bill has come early, and it is anticipating many things and ignoring the obvious.

I have just said that we have ignored the existing positions now. It is a fact that the Prime Minister and Deputy Prime Ministers' positions exist. I am talking about when the Accord was entrenched in the Constitution under Section 3A. That is how you claim constitutionality in the Office of the Prime Minister. Therefore, to single out only the

Vice-President and give him the roles is ignoring the other services. I think we must accept that position.

I would like to support this Motion 24 months from now when a new Constitution is in place and we know where we stand and the number of offices that the Constitution provides for.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. This Bill, at its current stage, has gone through the House Business Committee. It is surprising that at the end of it, the hon. Minister is explaining to us how it is against the Constitution. Truly, this is a Bill this Government should have moved long time ago. His argument is not in good taste. Is it in order to allow this kind of argument at this stage?

Mr. Deputy Speaker: The Bill is in Second Reading and at this stage the hon. Minister can raise the issues that he is raising. Indeed, the hon. Minister is raising issues that you really have to be careful about and try to understand, because they might be good for the Bill.

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, I am not a Member of the House Business Committee but I am definitely, a Member of Parliament and this is the right place to raise such matters. I am within my purview in raising such issues. By the way, I am raising serious matters and I am not just arguing against the Bill for the sake of it. I am raising fundamental issues based on the law that we have. Therefore, before we try to move faster because of the numbers, I think we should ponder slowly. We do not want to create another amendment or a new law that is directly at loggerheads with the existing Constitution. I think it cannot stand the test of time when you are oblivious of the other offices within this Constitution.

As I said earlier on, it is important that we bear this in mind. If you agree with me, the best that the Mover should do at this stage is to postpone this Bill.

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

Mr. Lessonet: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Bill.

Mr. Deputy Speaker, Sir, I rise to support the fact that this country can only afford 24 Ministers. In fact, I thought that Mr. Ethuro should have come with a number as small as 12, so that we can have Ministers who are busy and have substantive roles to perform, unlike the current scenario where we have Ministers who run small departments and sections of Ministries. A good example is that of the former Ministry of Health which Kenyans still know. However, they have been told that we now have the Ministry of Public Health and Sanitation and the Ministry of Medical Services. The same applies to the Ministry of Education which has been sub-divided until we even do not know who to deal with, as Members of Parliament, when we follow up matters of our constituencies. We have the Minister for Education who has just spoken and another one who is responsible for Higher Education. Very soon we might be told that we have a Minister for Early Childhood Education. We want this Bill to definitely define the roles for each and every Minister in this country.

We would like Kenyans to get value for their money. The only way they can get value for their money is by having fewer vehicles carrying Ministers on the roads. We do not want to be told that we need vehicles of less carrying capacity. We also need fewer offices which are being occupied by Ministers. I think we have almost 50 Ministers. I have even lost count. If you looked at the budget, the cost that went to refurbishment of

the new offices so that those Ministers may stay comfortably, you will be surprised. You might even be aware that this Government wants to spend close of Kshs700 million to refurbish the Office of the Prime Minister this year. Those are excesses which this country cannot afford.

Mr. Deputy Speaker, Sir, we are aware of the fears some Ministers have that if we reduce the number, they will lose their positions. Anybody who opposes this Bill does so because he or she is scared to sit with us at the Back Bench. We know that most of them have succeeded, because of the large number of Ministries they have served in since Independence. In fact, some of them could have even served the Colonial Government as Ministers, and they still want to continue serving this country as Ministers. This is the case and yet they are aware that they have been unable to deliver on their roles. The more the number of Ministers, the more the number of Permanent Secretaries we have.

The Minister for Education (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir. It is not that I want to stop my honourable colleague. I need the direction of this House. Even the Schedule of this Bill on page 404 on Offices of Minister of the Government of Kenya starts with the Prime Minister and Deputy Prime Minister and there is no President and Vice-President. Are we truly not in contradiction of our Constitution and yet this matter is being allowed to be debated before the Floor of this House without reference to the President and Vice-President who are Ministers of this House? Could I, therefore, be in order to request for a Communication from the Chair on this very crucial issue on the matter of the Constitution?

Mr. Lessonet: Mr. Deputy Speaker, Sir, I still want to continue with my contribution. It is true that whenever we, as a country, do elections, we have always elected a President. I do not think this Bill is telling us how to create the Office of the President.

Mr. Deputy Speaker, Sir, while I was contributing, I mentioned that a high number of Ministers implies that you must have a similar number of Permanent Secretaries. At this special time where we have the National Accord, we must have an equal number of other officers. We have even seen others going an extra set and appointing officers referred to as Chiefs of Staff. You can see what the current scenario entails to this country. I am very sure that if we pass this Bill and have 24 Ministries, this country will save every financial year, in my view, not less than Kshs10 billion which would have otherwise gone to travel expenses for these extra Ministers, Permanent Secretaries and Chiefs of Staff. You will realise that their costs are actually irrelevant to our people. We, as country, must truly support a maximum of 24 Ministers. A huge country like United States of America, the most powerful country in the world, has only 15 Ministers. How can a poor country like ours afford more than 15 Ministers? We cannot afford more than 15 Ministers.

With those few remarks, I beg to support.

Prof. Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this wonderful Bill which I strongly support. This is creation of the Offices of Ministers.

Mr. Deputy Speaker, Sir, from the outset, I want to say that one of the worst things that ever happened to Kenya is to have a coalition Government. We wish we had a clear win, so that our positions of Ministers could have been better than what it is currently.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) took the Chair]*

The Coalition Government led to the separations of Ministries which have never been clear to the Ministers and even their Permanent Secretaries. It is unfortunate that we separated Ministries such as Environment, Forest and Lands. How do you separate them? This has created a lot of conflict between the Ministers and Permanent Secretaries. We have also separated health and public health. How do you separate our health and public health? This has created a slow pace in our development and caused embarrassment. We have had situations where we have had conflicts between Ministers. Sometimes we have had conflict between Ministers and their Permanent Secretaries. The only reason is that nobody seems to understand the roles.

Madam Temporary Deputy Speaker, it is even more embarrassing that sometimes we send Questions to Ministries and Ministers have come here to tell us those Questions are not in their dockets. They request us to send them to the right dockets even when they understand the dockets of their neighbours. That is why we supported the Motion by hon. Mungatana that Ministers must be given clear training and guidelines on where there are serving. We said there is also a mix-up in the way the Ministers are appointed in this country. Anybody becomes a Minister for anything. For example, a lawyer can easily be appointed as a Minister for Health. That is unheard of. It is one thing that we must learn from Rwanda. We, as Kenyans, always say we do not want to be compared with Rwanda. However, when it comes to the Cabinet, we must learn from Rwanda. There is no mix-up. They have clear definitions of who is a Minister and who should occupy that position. It is my hope that when we come to the Constitution review, we will be able to move these issues of Ministers out of this House. We should have Ministers who are nominated from outside Parliament who should be people who can serve because of the professional qualifications that they have.

This Bill also brings in the issue of qualifications. We have many Kenyans with very good qualifications. So, it is important that we actually remove the issue of Ministers out of Parliament, so that people do not have divided loyalties; loyalties to the Ministry and loyalties to their constituents. So it is very important we define who should be a Minister and what offices can be held as Ministries.

Madam Temporary Deputy Speaker, the embarrassing thing about performance of our Ministers has been shown since last year. It is even more embarrassing that we are discussing this Bill when the Front Bench is empty. I think we have only one Minister and two Assistant Ministers. How can we be discussing this? It tells you the level at which our Ministers do not even take their work seriously. How can we have 40 Ministers and have only one in the House when we are discussing a Bill that should be so sensitive to them? I think it is very important that when Kenyans entrust us with positions, we take our work very seriously. So, I agree with the hon. Member who spoke before, that this issue of not defining who a Minister is and how a Minister is appointed seems to have reduced both the quality and seriousness with which our Ministers are taking their positions.

There are many Ministries that have been separated or split. I have talked about the Ministry No.15 in the list of the Bill, Lands, Environment and Forestry which should never be divided in any way because of the overlap. You talk of Ministry of Education and then you have the Ministry of Higher of Education. Which education is which? All of it is education. We need to synchronise our programmes right from pre-unit to the highest level. There is no reason we should have two Ministers serving in that level.

Recently, we brought a Motion in this House that we should support not just higher education, but also colleges. But then, there were queries on who was going to handle those colleges because this is where we have Higher Education Loans Board (HELB). Are we going to create another one called Lower Education Loans Board (LELB)? The confusion is not coming from the loans Board, it is coming from the structure of our Ministries. We need to restructure and reorganize ourselves in a manner that we do not create confusion even among ourselves. The Ministry of Agriculture, Fisheries and Livestock has historically suffered. We have had the separation of “livestock” and “agriculture” over and over and they are re-merging. Every time they are re-merging, somebody loses a job. There is a creation of disunity within Ministries just because we keep shifting people back and forth. The days when we used to have one director for Livestock and Agriculture are long gone. Then we moved to having two directors and they merged again. I think it is very important that we have a law that governs the creation of these Ministries, so that people can protect it even as individuals because they are Kenyans. When we hire them on trust, we cannot continue confusing their positions just because we keep creating and recreating. So, if we have a law that establishes these positions, we will always know what structures to have in place. The positions of Ministries will dictate how the structure is downwards to the extension units or interaction between Ministries and the public.

It is also important for accountability purposes that communities on the ground get to know what livestock or extension officer is supposed to be communicating in relation to what the agricultural officer is supposed to be. Many a times we have sent very confusing messages because an agricultural officer who has also studied livestock is not supposed to be handling livestock issues. This creates confusion at the farmer’s level.

The training of an agricultural officer is exactly the same as a the training of a livestock officer. The universities have not been able to distinguish between training an agricultural officer and training a livestock officer. But the extension level, they are the same human beings. Animal Health and Industry Training Institute (AHITI trains the same human beings and yet we come to separate them. We say the issues to be handled by the agricultural officer should not be handled by livestock officer because the Ministry of Livestock has its own extension staff. This is confusion that we have created.

Madam Temporary Deputy Speaker, I support this Bill and, I believe all hon. Members are going to support it. This Bill is going to restructure the Government in such a manner that we can deliver both at this level in the House and also at the extension level, because the Ministries are supposed to give services to the communities.

So, Madam Temporary Deputy Speaker, I do not want to repeat what other hon. Members have said. I support this Bill very strongly and I support that we actually fix it so that it is known how many Ministers we will always have and we remove this unnecessary cost to Kenyans. If you look at how the Ministers have delivered in relation to the cost, you will sympathize with Kenyan taxpayers.

With those few remarks, Madam Temporary Deputy Speaker, I beg to support.

(Applause)

The Temporary Deputy Speaker (Mrs. Odhiambo-Mabona): Is there anybody wishing to contribute?

Mr. Mbau: Thank you, Madam Temporary Deputy Speaker. I wish to contribute on this very, very important Bill of ensuring that public resources are rationally utilized for the benefit of Kenyan taxpayers, subject to some certain amendments. I believe that will come at the Committee Stage. I would be willing to support this Bill.

Madam Temporary Deputy Speaker, I want to join my colleague, Prof. Onger, in telling this House that this Bill needs to work for Kenya and I want to thank the Mover for finding time to put sense in a Bill that can come to the Floor of the House, so that it can meet our views and our contributions.

Madam Temporary Deputy Speaker, first and foremost, the current position where the Government can comprise of more than 40 Ministers, and as the current situation stands, as many as double the number of Assistant Ministers and equally huge number of Permanent Secretaries, only means that we are running a bloated Government. But suffice it to say, for political expediency, to address the situation currently obtaining, we may wish to say that bringing the number of Ministers to a lesser level may not be advisable. But this Bill is talking about putting or operationalizing the stipulations of the Bill when it is enacted for the next Government and not for the current situation.

Madam Temporary Deputy Speaker, this Bill will help the country to save colossal resources which will go towards other more needy services for the country. The Bill talks about the need to ensure integrity of Ministers as well as the level of enlightenment and education that should be in keeping with the current needs of governance.

Madam Temporary Deputy Speaker, I would want to talk about or to call for parameters, criteria or guidelines that will spell what we mean by integrity of persons who shall be regarded as Ministers or who shall be appointed as Ministers. I talk about this because we currently have many officers holding positions of authority and responsibility in the Government; many of them who have tainted images in the eyes of the public, but only because there has not been evidence to prosecute and to ensure that such persons are properly sanctioned, they continue to hold positions of responsibility even when they do not merit.

Madam Temporary Deputy Speaker, it is true, and my colleagues have said, that we have many other countries in the world which have huge economies and huge populations and whose Cabinet size is only about 15, 20 and, at most, 25 like Israel, the USA, New Zealand and others. Kenya cannot continue to be a country that is developing; that will want to keep on wanting, to seek donor financing and yet the financing is coming to run recurrent expenditures that can easily be avoided. When you look at certain Ministries, for example, the Ministry of Planning and National Development and the Ministry of Finance, they should essentially be one Ministry. If you look at the Ministry of Medical Services and the Ministry of Public Health and Sanitation, for heaven's sake, those, essentially, should be one Ministry. The Ministry of Roads and the Ministry of Public Works should also be one Ministry. That would ensure that we ease

the clashing of Ministers and Assistant Ministers when they come to answer Questions or when they issue policy statements.

Madam Temporary Deputy Speaker, many a times, I have seen Questions asked in this House and Ministers not knowing exactly who should come to respond to such Questions, only because the Ministries and the responsibilities have become too thin to know who is responsible. I would want to call for the combination of various Ministries so that we are able to address such issues collectively and so that even those Ministers who are appointed and given these responsibilities feel the worth or feel they have substance or something to chew, unlike when they find situations where even being a Minister or an Assistant Minister loses that glow that should go with these positions of authority in our country. And, of course, you all know that when a Minister goes out of this country, he goes to represent the country as a whole.

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) left the Chair]*

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, time has come for us to ensure that the Ministers that are given positions remain in those positions; there should be only one Minister in that position for a period of between three to five years so that Kenyans whose children, the public and the countries where they go to visit get to be acquainted to such a person; there is consistency and there is confidence building and Ministers are able to pursue their duties with consistency and achieve results and targets.

So, Mr. Deputy Speaker, Sir, this Bill is good and it has a lot of merit and I would wish to call on my colleagues who feel it has gaps to bring up those areas that require to be supplemented during the Committee Stage, rather than trying to oppose it just for the sake of opposing it; rather than saying: "Because everybody wants to be a Minister or Assistant Minister, we should have as many as possible", because that is burdening Kenyans.

Mr. Deputy Speaker, I beg to support.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I stand to support this unique Bill. This is the time for Ministers to be counted. Gone are the days that Ministers used to be appointed just because they are Members of Parliament. Ministers should have the necessary qualifications and expertise. Assistant Ministers should be Deputy Ministers or Ministers of State. I know what I am saying has been repeated by my colleagues. However, the more we say this, the more emphasis we are making. It is time that Kenya took the lead in East Africa by having a maximum number of Ministers, say, 24 and a maximum number of Deputy Ministers.

Ms. Noor: On a point of order, Mr. Deputy Speaker, Sir. Could I be in order to request the Chair to call upon the Mover to respond because even the Member on the Floor has accepted that he is repeating himself? Many hon. Members have been repeating themselves by giving us reasons that have been given before.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I will sit down if my dear lady friend and colleague can read my mind. It is honest to say that we are repeating some of these things, but they are of essence and we need to make emphasis.

We should ensure that not all Ministers are appointed from Parliament because Ministers should be able to contribute outside Parliament.

Ms. Odhiambo: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to refer to an hon. Member as a lady friend? Could he withdraw?

Mr. Deputy Speaker: Mr. Shakeel, the hon. Member is an hon. Member and not a lady friend!

Mr. Shakeel: I beg your pardon Ms. Shakila Abdalla---

(Laughter)

I meant Sophia. I beg her pardon.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. You know you can only withdraw when you fail to substantiate. Maybe, Mr. Shakeel could substantiate his remarks.

(Laughter)

Mr. Shakeel: Mr. Deputy Speaker, Sir, I am really sorry. I did not mean anything by that remark. She is an hon. Member. My flow of thought has been interrupted by the frivolous and unnecessary points of order.

However, Members of the Cabinet do not necessarily have to be Members of Parliament. Furthermore, Members of the Cabinet can be drawn from professionals on the ground as is the case with nominated Members of Parliament.

Mr. Deputy Speaker, Sir, to be honest, my flow of thought has been disturbed. I do not want to waste time by saying anything more. I do not want to repeat myself.

Thank you.

(Laughter)

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise to lend my support to this Bill. We have tried in the past many years in this Parliament to control the size of Cabinet. I would like to thank Mr. Ethuro for coming up with this Bill. I do not think this Bill is adequate yet, but I will support it because it is a step in the right direction.

There is no reason whatsoever, for Kenyans to live without food and yet the country accommodates a Cabinet of 95 people. This beats any logic or reason. It means that we must do it in law. I agree with the hon. Members who have said that this country should think seriously about the look and the nature of the Executive which we want to have in the upcoming Constitutional Review exercise. Do we want Members of the Cabinet to be Members of Parliament? The contradiction is too big that it is high time we looked outside this House for Members of the Cabinet.

It is my conviction that for Members of Parliament to be Ministers is too much work for one individual. Secondly, it promotes tribalism. Therefore, Kenyans should agree in the new Constitution that we have a President with a Cabinet which comprises of people who are not Members of Parliament so that there can be proper checks and balances on the Executive. It is difficult for a Back Bencher to stand here and interrogate a Minister and beyond that door, the same Back Bencher begs the Minister for a nurse or a police officer to be posted in his or her area. That contradiction does not work for this

country. We now have enough people who can support the Executive, even if they are not politicians.

It has happened in the past that people go and plunder the resource of this country and the next stop is Parliament. This is because when they are in this House, they are big people. That is the imagination. So, there are people out there who aspire to be politicians and yet they have questionable backgrounds. Those people do this because they think they will get protection from Parliament. The Cabinet must be lean, small and vetted by Parliament so that we can begin to live within our means.

I support this Bill.

The Minister for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Thank you, Mr. Deputy Speaker, Sir, for giving me this chance. First, I would like to thank Mr. Ethuro for bringing this Bill which I support whole heartedly. This country requires serious consideration in the way we conduct our affairs. Many people have said that it is good to have a lean Cabinet but I think this Bill is more than that in terms of what it seeks to do. This Bill will harmonise functions and allow predictability so that when a child is in secondary school, he or she will know which Ministry does what functions. Those of us with my hair style and have been around for long know that there was a time when every primary school child knew every Minister, Permanent Secretary and Ministry and what they did.

So, it will allow predictability, which is good for many things. It is good for business and efficiency. It will save a lot of money in itself. Probably, we will not be saving money in terms of salaries because all the functions that are being performed are necessary, but the level of lack of harmony is very expensive. Therefore, I support this aspect. I also support this Bill, knowing that we are reviewing our Constitution.

Therefore, the debate that we are having on this Bill, once we pass it, will inform the new Constitution, so that we can anchor it right in the Constitution to make sure that the conduct of the Executive, the number of Ministries and their functions and the functions of the Ministers are made very clear. This Bill will also make it easy for Ministries to be sufficiently stable and able to reach all parts of this country.

Mr. Deputy Speaker, Sir, once the Ministries are known, they can plan for 20 years. With Ministries that are formed every five years and shuffled around, planning for the long-term becomes very difficult. Recently, I was with Hon. Gumo in Tathia. We found a project that has been going on for over 45 years, which was meant to improve a region like northern Kenya that was left behind. With successive changes of Government, it was not implemented. They have done over 1,000 kilometres of irrigation. They have 40 years added to their plans. So, this Bill will allow that kind of planning. Of course, this will save taxpayers money because, currently, there is a substantial number of duplication.

With those few remarks, I beg to fully support the Bill.

Mr. Deputy Speaker: Do you want to contribute, Mr. Kabando wa Kabando?

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well! Proceed!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion.

The fact that we really need to create a system that will ensure that the Government is lean has been stated very eloquently by the contributors. It is agreed that it will reduce wastage of resources and ensure that there is a clear focus on public policy.

Mr. Deputy Speaker, Sir, I want to focus on the current situation as compared to the expected situation tomorrow. This Coalition Government has a bloated Cabinet that is, of course, based on the National Accord to ensure that both sides of the political divide, namely ODM and the PNU Alliance, are represented, and that this country gets back on track to focus on development. However, the experience that we have had for the last one-and-a-half years is a manifestation of a disjointed, ill-supervised and very malfunctioning National Accord.

The simple question that was before the House even yesterday on the Mau Forest Complex is not clear whether it is the Ministry of Environment and Mineral Resources or the Ministry of Forestry and Wildlife that is supposed to handle it. I go to functions across the country. As late as last Saturday, I was in Konoin Constituency, after Kilgoris, and I was being referred to as the Assistant Minister for Gender and Sports. There is not a clear demarcation in the people's mind as to whether we are in charge of the youth, who are aged between 16 and 35 years, or whether our mandate, as the Ministry of Sports and Youth Affairs, includes children below the age of 16 years.

Mr. Deputy Speaker, Sir, we have various instances of misappropriation of public policy. The Public Officer Ethics Act, and the National Accord itself, in relation to the role of the Prime Minister to co-ordinate and supervise Government operations, is sufficient reason to instigate our logic to support this Motion. For instance, there have been issues critical to this country about mismanagement in various Ministries.

I conclude, in my own understanding, that the Office of the Prime Minister is today incapable to ably co-ordinate and supervise Ministries because the Ministries' very existence is not representative of the focus that is necessary to have the precision of a surgeon and the focus of a pilot towards Vision 2030. Therefore, I hope that during the Committee Stage of this Bill, we will have the opportunity to move amendments to provide for the emphasis to have professionals harvested externally to participate in Government. That way, we will minimise the wastage that we experience today.

Mr. Deputy Speaker, Sir, as an Assistant Minister of Government, I am sometimes unable to officiate or even represent the interests of my constituents because I am involved in a lot of other issues. Just last week, we had a Question for my Ministry. All of us in my Ministry were engaged in public duty. My Ministry was sanctioned, and we hope to clear that today. Due to our involvement in Mukurweini, Mogotio and Kathiani as Ministers in this Government, we are sometimes unable to execute a mandate that is constitutional and necessary to ensure that the Business of this House proceeds in a way that will make our focus towards Vision 2030 succeed.

We have issues of rationalisation of public policy, Executive briefs and operationalisation of the Public Officer Ethics Act. For instance, the fact that there is a lot of ethnic and regional interest in the Cabinet as constituted today, the President and the Prime Minister are unable to execute a basic law, that is the Public Officer Ethics Act. They are also unable to execute with courage, a law that calls on a retired President not to engage in active politics.

Mr. Deputy Speaker, Sir, today, we hear the former President addressing villagers in his ethnic backyard – not in Nyanza or the large Rift Valley or Coast Provinces. He is

actively campaigning against implementation of a Cabinet resolution. Tomorrow, we are likely to hear him talking about the very passage of the Motion on the Report that was before the House yesterday. The Prime Minister cannot move with courage to intervene because he is a hostage of a certain region. He cannot touch them because he is a captive of forces of megalomania and greed. The President may not move to intervene because he does not want to annoy his old friends. Therefore, the public---

Mr. Ethuro: On a point of information, Mr. Speaker, Sir.

Mr. Deputy Speaker: What is your point of information, Mr. Ethuro? Does the Assistant Minister accept your information, in the first place?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I would appreciate information from Mr. Ethuro.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I would actually like the Assistant Minister to inform us. What does the word “megalomania” mean?

Mr. Deputy Speaker: Order, Mr. Ethuro!

Mr. Assistant Minister, proceed!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, let me oblige. Mr. Ethuro is my friend. He is a very good student. As a political scientist, I need to inform him that when you are a hostage of megalomania, you are actually a captive of greed. You are suffering from an incurable disease: The incorrigible condition of someone who is a slave of material occultism. You worship materialism at the expense of the anatomy above your neck. That is what it means, but I volunteer to offer him some further lessons when we go to the library.

(Laughter)

Mr. Deputy Speaker, Sir, I was saying that it is impossible, because of ethnic interests, for Members--- That is why this morning, there was a national outcry because of fears that this House could be acting on interests that are narrow. In fact---

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister did not clarify whether it is the President or the Prime Minister who is captive of this fantastic word called megalomania and whether it is mendacity that has caused him to say this. Could he clarify who is actually the captive?

Mr. Deputy Speaker: Order, Mr. Shakeel.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I feared that Mr. Shakeel would be a key pioneer and captive, but since he is wondering, I am pleased to know that he may not be a captive.

The Public Service Code of Regulations (PSCR) states that there is a legal framework that drives public service delivery, public servant engagement and public service charter. This is in the larger framework of the strategic plans that are being rolled out by the various Ministries in order to hedge on Vision 2030 which we seek to achieve.

Mr. Deputy Speaker, Sir, with the sort of confusion that is found in the Government where I serve, we are unlikely to achieve Vision 2030. The PSCR is very clear about responsibilities of Ministers and Permanent Secretaries. Many a times, we witness troops from various Ministries going to the office of the Prime Minister where

Permanent Secretaries and their Ministers are not in agreement and where their engagements are not clear.

You have also witnessed in this House when I rose to disagree with my colleague in the Ministry because of a very critical issue affecting the department of sports. These are incidents that can easily be avoided if the political interests are reduced and we harvest talent externally.

If you go to Harvard University, a head of a certain department is a Kenyan. If you go to the State University of New York at Buffalo, the head of law department is another Kenyan. Just the other year, the head of the engineering department at the University of Oxford was a Kenyan. If you go to the State University of California at Berkeley, the Head of the Literature Department is Prof. Mbugua Thiong'o. If you go to Syracuse University, you will find Kenyans.

Kenya is replete with talents. We are endowed with professional skills. It is only by way of engaging these professionals as Executive Heads of Ministries that we will terminate the inertia and misappropriation of resources pursuing today by having ethnic barons and their hostages, surrogates and puppets pushed into Cabinet in order to appease those narrow ethnic interests and to broaden somebody's territory.

If today, we had the scenario as stated by this rational Bill, I am sure, His Excellency the President would be the first to put a pen and create a reduction of the size of the Cabinet. I am also confident that the Prime Minister would move boldly and create a scenario where he does not continue being a hostage of interests that threaten to reduce his numbers in this House.

I want to conclude by urging my colleagues, let us remain united on national causes. Let us not be like Esau and Jacob in the Bible, and the mother torn between. Let us not behave like Lenana against ole Ntau for Maasailand in the colonial era. Let us not engage in the Russian behaviour of times gone, to demarcate and part with their territory for transient interests which decades later, would be proved to be a loss to that country.

It is important that we seek to refresh public policy enunciation, public policy implementation and public policy development. That cannot be realised if we support Bills like this. It can only be realized if we, as Members of Parliament, refuse to be extensions of surrogates of one or two who may influence our regions.

Mr. Deputy Speaker, Sir, we are called upon by the young generation--- The critical mass that we have been warned of as Members of Parliament by my Ministry. Those who constitute 70 per cent of the population and who are less than 30 years of age. The children in primary schools. The children you see coming to visit Parliament. The children who are watching you. The children who are studying civics will interrogate and ask what you did when the time comes.

When I was in Standard Two, I knew every Minister of Government by name. I knew who the Minister for Education or the Minister for Water Development was. I can recite that Cabinet. I used to read newspapers from my late father when I was in Standard Two. Today, even Ministers sitting with me on this side of the House are unable to recognize their colleagues in the Cabinet.

Just the other week as we were debating the Mau Report, one of the many affected Ministers was asking me the names of Assistant Ministers seated on the other side. Is that not exemplification of confusion? Is it not a fact that we are losing focus.

With those very many remarks, I beg to support.

Mr. Musyimi: Mr. Deputy Speaker, Sir, I beg to support. They say that necessity is the mother of invention. In our case as we were creating Cabinet positions or struggling to put the country together after the post-election violence, necessity became the mother of wastage, confusion and exaggeration. I think we all now appreciate that we have a very bloated Government and costly Executive. We are operating instruments that really take their toll on the tax payer.

One of the things that was quite apparent during the Budget scrutiny process in pretty much all the Ministries was the relationship between the Development and Recurrent Expenditure. It is a point that has been made here before. It was very much lopsided most of the times, with a lot of money going to Recurrent Expenditure to pay salaries, run vehicles and not as much money going to the Development Vote.

If we are going to move this country and spend the hard earned money of the poor taxpayer that is the Kenyan, we must reverse those percentages, so that more money goes to Development and less money goes to Recurrent Expenditure.

My final point has to do with the decision that I hope we, as a country, will be able to make in the not too distant future. In terms of the architecture of the Executive, whether we favour the parliamentary system or the presidential system, I have always argued for nearly two decades that I have been out there arguing for a new constitution that what I thought would help this country is a purely presidential system.

I have no doubt that there are others who hold a different view. My experience as a Backbencher in the last one and a half years has left me absolutely convinced that if we will help this country, we might have to take more seriously the need for a purely presidential system and do it in earnest.

One of the things I found very difficult is that you stand here as a Backbencher, you disagree with a Minister or an Assistant Minister and then you have to go to his office to ask him to help you with a particular project in your constituency. That does not quite work. It erodes and undermines your authority as a Member of Parliament. I hope when the time comes, we shall separate the Executive from the Legislature so that the Legislature legislates and holds the Executive accountable. We should consider going outside of Parliament to get members of the Cabinet to run our Ministries. They too should be accountable to the people through the elected leaders.

Mr. Deputy Speaker, Sir, if we adopt that system, I would be the first one to argue that we want a lean Cabinet. We want a small Cabinet because then we have people with Executive authority accountable to the people through the Legislature, who do nothing else. They do not carry responsibilities in the constituencies. The constituencies are a huge responsibility. I admire Ministers who are able to run Cabinet positions and still find time for their constituencies. I do not know how they do it. I am not sure that I could do it myself. I am totally full of admiration for these people. So, if we are going to help this country, let us prepare ourselves to be professional, make bold decisions and think in terms of what would help the country to move forward. If we take that view, I would be prepared to argue for a smaller Cabinet because then, the people running Executive business in Kenya will not have other responsibilities of running constituencies.

If however, we end up with this mixed monster that we have today; this two headed system of Parliamentary and Presidential, I really do not see how you are going to sustain the argument for a small Cabinet. You will end up overloading people who are

Members of Parliament. You are asking them to carry huge responsibilities of big Ministries. I just do not see how the two add up. I cannot see how it works.

As I conclude, I would be all for a small Cabinet but I think it will only work if we want to be professional; if that Cabinet is headed by people outside of Parliament. If, however, that Cabinet is headed by Members of Parliament, I am afraid it will have to be a little big so that people can run their constituencies and not have portfolios that are too overwhelming.

With those few remarks, I beg to support.

The Minister of State for Public Service (Mr. Otieno): I rise to support this Bill and, in fact, congratulate my brother Mr. Ethuro for taking the courage to bring it to this House. It is a timely move because as of now, political expediency is in the process of destroying so many of our institutions. It is time we took steps as Parliament, to control ourselves from our own tendencies. We are right now in the process where every tribe is going to ask to have a Cabinet position. We are right now at a stage where the big tribes are going to ask for Cabinet positions in proportion to their populations or number of seats in Parliament. We have difficulty deciding on which system of Government, precisely because Members of Parliament want to be Ministers and so you cannot have a Presidential system. Kenyans want to elect their President for purposes of stability and their safeguards as communities, but then that conflict forces us to go hybrid. In the course of going hybrid, we are risking political expediency going to destroy more and more of our institutions.

Mr. Deputy Speaker, Sir, I have come to learn the hard way in this House that people in power tend to behave in the same way under power. Therefore, we cannot be insulated from these practices any time in future. Political expediency is such that we are making contradictory decisions in this country. Today we accept this, tomorrow we accept the opposite and the explanation is political expediency. It is time this Bill is supported. As the Mover has carefully drafted it, it should be in force come next Parliament, whether we have the new Constitution or not. I would like to congratulate the Mover, that this is very ideal.

Mr. Deputy Speaker, Sir, I do not know how we save ourselves from these interventions. You accept that the politics of the day demands something even when you see it is going to be a very serious abuse of very cardinal principles that would lead to improper governance in a society. As we exist now as a country, we are like a ship floating without radars. You expect any decision to be made either way. We may be accused of over-legislating by supporting this Bill. However, it is a necessary over-legislation because of the recurrent abuse of privilege and discretion in the exercise of governance decisions in this country.

I wholeheartedly support this Bill. The earlier it is passed the better.

COMMUNICATION FROM THE CHAIR

CONSTITUTIONALITY OF DEBATE ON OFFICES OF MINISTER BILL

Mr. Deputy Speaker: Hon. Members, before the Mover replies, I have a small Communication.

Prof. Onger, had asked the Chair on the Constitutionality of the debate on the Bill. Without any prejudice to either the Constitutionality or un-Constitutionality of the Bill, I think the Bill will go to the rightful Committee and if there are any amendments to be made or issues of its Constitutionality to be addressed, it will be addressed at that stage. For now, let us conclude debate on the Bill.

Could the Mover reply?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I want to begin by thanking the whole House for their overwhelming support to this Bill. Indeed, this country and House have come of age. A Bill like this one has been considered purely on its own merit. There is nothing to do with party affiliations, Cabinet positions or the Back Bench.

Mr. Deputy Speaker, Sir, many contributors raised the cardinal points we wanted to raise. We were exercising a very simple procedure. For clarity, I would wish to restate what I had stated when moving the Motion. This Bill is already constrained by the Constitution. So, you cannot really claim that it is unconstitutional. Section 16 says:-

“There shall be such offices of Ministers of the Government of Kenya as may be established by Parliament or subject to any provisions made by Parliament by the President”

Yes, the President is the appointing authority. The President has the Constitutional obligation to do it, but the Constitution anticipated a situation where Parliament would help the President in determining the numbers and portfolios.

Mr. Deputy Speaker, Sir, for almost the last 46 years, this Parliament in particular, did not live to that constitutional obligation. This is what we are waking up to. The Constitution has already given us the proviso and we are just going to make use of it.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kamar) took the Chair]*

Madam Temporary Deputy Speaker, the issue of the constitutionality of the Bill does not arise. There is Prof. Onger, who I think is the only dissenting voice plus my good friend, the Member for Amagoro, Mr. Ojamoong who admitted that he was confused which way to move. For Prof. Onger, I will only quote the words of the late Michael Kijana Wamalwa. When there was one dissenting voice on the House Business Committee (HBC), he said: “It is obvious that he did not understand the Motion”.

Madam Temporary Deputy Speaker, it is completely embarrassing for a Minister in charge of basic education, in the presence of children in the Public Galleries, to display total ignorance on the Floor of the House. I have no apologies to make for people who do not prepare themselves. We train our children to be educated, to do their homework and research, so that when we come to the Floor of the House or any other undertakings, we do it with the kind of candid commitment and authority as the Minister for Public Works here, a man I respect completely. I agree with him completely, part of the reason why we want to trim this Cabinet is so that sloganeering by a Government of “*haki bora*”--- What is the slogan, Waziri? That it is your right to be served properly.

The Minister of State for Public Service (Mr. Otieno): On a point of information!

Mr. Ethuro: I will allow that information.

The Minister of State for Public Service (Mr. Otieno): Madam Temporary Deputy Speaker, first, I am the Minister of State for Public Service and not Public Works and the slogan is “*huduma bora ni haki yako*”.

Mr. Ethuro: Thank you, I stand corrected!

Madam Temporary Deputy Speaker, *huduma bora ni haki yako!* If you are going to save about Kshs350,000 that Ministers get plus another Kshs250,000 that Assistant Ministers get, you are talking of about Kshs600,000. When I was visiting Kipkelion Constituency on Constituency Development Fund (CDF) projects, they did two classrooms with Kshs500,000. You can imagine every month, a reduction of the number of Ministries by a half will be able to do every month about, because this is 42 and we are reducing to 24, we are going to do another 40 classrooms every month. It does not take more than a year for us to complete our basic infrastructure and our kids will go to school and we will be consistent with the free primary education policy that the Government has embarked upon.

There are definite issues hon. Members have raised that touch on the constitutional review but it is not for this Bill. Those issues will be dealt at the time of constitutional review. One of them is the question whether the Ministers should come from Parliament or outside. As the Constitution currently stands, you must be, first and foremost, a Member of the National Assembly to be appointed a Minister. Even when the President wishes to get somebody from outside Parliament, he must nominate that particular person to be an hon. Member first in order to become a Minister. So, we could not deal with that matter in this Bill. That is for another day.

Another concern that was raised was whether we should not wait for the constitutional review. I made a very good treatise on this matter last week; that we have been waiting on that Constitution for so long and even now when we have put the framework in place, there are no guarantees. So, we cannot be waiting on what we have been waiting upon for too long. But as optimistic I am that we will realize that Constitution in the life of this Parliament - that is my wish and prayer. I think that is a commitment we have made as the Tenth Parliament – if it comes, there is nothing difficult with that. Just like any other law, a constitution will be drafted, once a new one is in place, then the rest of legislation will abide by the Constitution. Where it is inconsistent, there will be transitional arrangements to redeem those inconsistencies. So, this kind of argument can only really come from people who are not interested in making progress in this country. That can only come from people who are direct beneficiaries of a bloated Cabinet, of a confused political system; of a system that for 46 years of an independent country, has more than 50 per of its population under poverty. Some of us came to Parliament to make a difference to this nation and business cannot be as usual. This country must move on. This country must tackle the kind of issues that we feel that are extremely important to this nation.

Madam Temporary Deputy Speaker, it is very rare to get very good Press reviews. I want to commend the members of the media: On this one, they got it right. In fact, by the time this Bill was being published by the Government Printer, I got to learn of its publication through the media because they published it immediately. They have been on and on. It shows how important this issue is to the public. It shows how important this issue is to the country. The Press being the people who read the public mindset have put

this one on the right course and I wish to thank them for doing a good job in publicizing this Bill. I wish they also expose those enemies of development and progress that use the benefit of their positions to continue working and doing nothing to merit their lofty positions.

Hon. Members have made suggestions about gender in terms of appointments and I think these are valid arguments. These are issues that my good friends of the Kenya Women Parliamentary Association (KEWOPA) should be at liberty to look at the Bill and make proposed amendments at the Committee Stage. I will have no problem with such, including arguments like the Ministry of State for Development for Northern Kenya and other Arid Areas, on whether it should not become the Ministry for ASAL.

The Official Government Responder, Mr. Lesrima, responded last week and the Government is supporting this. The Motion itself last year was responded to by the Ministry of Justice, National Cohesion and Constitutional Affairs and the Government supported even at that stage. So, I want to thank everybody and I do not want to spend a lot of time on this; the Committee of the House, just to tell people who think that this has not even gone to the Committee, has already made a report which was tabled on 29th July, 2009 on the Floor of the House. All these are documents available to anybody who really cares to do their homework. One thing we refuse in this House is to come and teach people who are not willing to be taught. This is a House of debate; this is a House of ideas and this is a House where also Parliamentary business can be transacted through Bills and here is one Bill that is trying to fix our political mess. Here is one Bill that is trying to say: The place to sort your political problems is not in the Cabinet. This is a Bill that says that the rule of law; let us give the President a working number so that I do not come from my community and say that I want a certain position. Another one comes from another community and says the same. Our President will be able to say that his hands are tied by the law. There is no greater society than one that operates on the basis of law.

The other mischief that we are trying to address more fundamentally – we are not denying people opportunities to be Ministers – but as we said, you need to be a Minister and a Member of the Cabinet; that when you step in this House, we can all be able to say; yes, here comes Mr. Minister because you are a Minister of distinction, integrity and a Minister who has demonstrated extreme competence and professional qualification and knowledge that you can stand, not only within our land but outside this country and the whole world recognizes that here comes a Kenyan Minister. Ministers have admitted on their own volition that even they cannot recognize themselves. Indeed, when you have a classroom for a Cabinet and you have two classrooms for the entire Cabinet that would include Assistant Ministers, then you know even when we go for voting of the Electoral Commission of Kenya (ECK), you need a number of streams and more presiding officers, not just one appointing authority.

Madam Temporary Deputy Speaker, there was an issue about the Vice-Presidency and the Prime Minister and the law on this Clause is very clear. The position of the Vice-President is established by Section 15 of the Constitution. I tried to read this to the hon. Member who raised this issue but he could not understand. Let me just make the reference and I am not repeating.

Section 17 says that there shall be a Cabinet consisting of the President, Vice-President and other Ministers. That Section has been amended since we came up with the

National Accord. The Cabinet now includes the Prime Minister and the Deputy Prime Ministers. The rest is intact. The National Accord cannot override these matters because it made its own exit and put a sunset clause. There are three grounds on which that Accord can collapse anytime. The Accord will collapse if one party walks out of the Coalition, if a new Constitution is obtained and if Parliament is dissolved. Although some of us were at the negotiating table apparently, they were not aware of what they negotiated. Some of the complainants who raised these frivolous points of order do not seem to have understood their negotiations. They were there but you and I were not there. Maybe. that is why we followed the negotiations.

So, we have taken into account all these positions. In fact, the Bill is so elaborate in that in Clause 33A. we have even repeated that the Office of Minister shall include the Office of the Vice-President, the Prime Minister and the two Deputy Prime Ministers in order to be consistent with the Constitution and avoidance of doubt because Kenyans are very interesting people. They will ask: "Why did you not anticipate it?" Here, we have fixed you.

We have also said under Clause 33B that the number shall not exceed 24. We have gone further and said that we will propose portfolios but the President is at liberty to create his portfolios and configure them the way he wishes. We have said under Clause 3(1) that there shall be such offices of Minister of the Government of Kenya as specified in the Schedule or as the President may establish in accordance with sub-section 2. What is the simple understanding of "or" in the English language? It is an alternative. We are trying to make the number and the proposed schedule. We have even been magnanimous to allow one more position. In fact, they could be three, because the two Deputy Prime Ministers should be substantive Ministers. So, there are three positions that the President can nominate on his own volition. We wanted to be sure that nobody thinks that we are penalizing them. We also wanted to be sure that we give good notice, because we want to practice good manners in this country.

The only good thing that I like about President Kibaki's administration is the fact that Ministers are not fired during lunch time when they are having lunch. At least, these days, you can even anticipate this to happen at 8.00 p.m. or 9.00 p.m. when you have retreated to the privacy of your bedroom, just like Mr. Kajwang' was appointed the other day and he told us about it. There is a bit of decorum in the way we conduct public affairs. This is the principle we want to invoke.

Madam Temporary Deputy Speaker, I do not want to explain more. I just want to thank the House for the opportunity it has granted me, a son of a peasant from Turkana Central to serve the Republic through this Bill.

I beg to move.

(Question put and agreed to)

BILL

Second Reading

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

Eng. Maina: Madam Temporary Deputy Speaker, I beg to move, that the Price Control (Essential Goods) Bill be read a Second Time.

Madam Temporary Deputy Speaker, I moved a Motion in this House regarding price control. I just want to reflect to this House where this Bill has emanated from. Out of that Motion, which went through this House, the Government acknowledged the need for price control in this country. The Government did what was to them an honourable thing. On 10th December last year, this House was relieved when the Government came here and acknowledged that, indeed, the common man in this country was on the verge of starvation. To resolve the problem, it supplied two sets of maize flour. They declared that there would be two different sets of maize flour selling at Kshs52 and Kshs72, respectively. The Kshs52 packet flour was for the ordinary man. Today, in this country, ten million Kenyans are on the verge of starvation. So, the matter ended there and we took it that the Government had taken action.

Madam Temporary Deputy Speaker, I want the Members of this House to note that we, as Members of Parliament, were faced with many questions from our constituents regarding the availability of the Kshs52 packets of maize flour. It is unacceptable, inconceivable and intolerable for Kenyans to go hungry when the Government has made a promise that enough food would be supplied. Immediately thereafter, there was some reaction from the market and price had come down to about Kshs70. They started the upward trend with no reason or explanation. Today, we are back where we were.

There is need for the Government to feed its own people. There is need for the Government to control the prices of essential commodities, so that the ordinary man can have a decent living and does not spend all his or her income on essential goods.

Madam Temporary Deputy Speaker, let me state here that the development we are pursuing will be evasive, unless we do something to curb the rising cost of goods without justifiable grounds. My ideal target is the basic commodities which the common man needs for survival. It targets maize, maize flour, wheat, wheat flour, rice, cooking fat and oils, sugar, paraffin, diesel and petrol. Today, as a nation, we are all aware of the serious and dangerous situation the country is in because of these commodities. Therefore, the need for this Bill.

Madam Temporary Deputy Speaker, let me start from the onset to inform this House that there are others who will tend to argue that this Bill is against what we call the law of supply and demand. I want to state here that our economy does not have the environment for the law of supply and demand. For example, once again going back to maize meal, sugar and fuel, we deal with a few individuals – 70 per cent of the maize flour is supplied by about three millers. The suppliers of oil are extremely few in number. We are aware of the attempts by the Minister for Energy where he has stated again and again that he may be forced to control fuel prices.

Madam Temporary Deputy Speaker, talking of sugar, it is the same story. It is not excusable. This House will not be excused by our people if we allow our people to continue suffering from the exploitation that they are going through.

Madam Temporary Deputy Speaker, just to throw a bit of piece to the critics, I want to state here that there is no country in the world that will allow the market forces or even capitalism to have a free day without regard to social responsibility. The only organ that can carry social responsibility is this House and the need for this Bill.

Madam Temporary Deputy Speaker, the other day when I was being interviewed by the media, they cautioned me that there would be forces against this Bill. I told them that I am working for Jesus. As the situation is, there will be people who will work for others, but the God of good always wins. I told them that I was confident that this Bill will be supported by this House.

Madam Temporary Deputy Speaker, we, Christians are aware that the need for justice on prices and standards is in the Bible we read. I beseech any of us to make reference to that noble book before we carelessly voice our opposition to a matter which concerns the survival of our people. It is the same for our Muslim brothers in their holy book, the Quran. It places responsibility on us to ensure that the common man is not subjected to exploitation as is the case now.

Madam Temporary Deputy Speaker, the need for control of prices and wages in a country need not be over-emphasized. In this country today, the normal wage for a common labourer is about Kshs100 a day. With that meagre earning, it is inconceivable how our countrymen are surviving. Therefore, we need price control. In the late 1990s and early 2000, there was control, not in written law, but there was a Government that controlled the prices of the essential commodities. Even during the hyperinflation when this country suffered aid freeze from international agencies, we still maintained the price of a packet of maize flour at Kshs30. So, the forces of the Government must come into play and this is what this Bill calls for.

We cannot talk about the law of supply and demand in an environment of cartels and where there are no strong consumer organizations to voice the rights of the consumer. That is the reason this Bill has come into being.

Madam Temporary Deputy Speaker, I would like to refer the critics of this Bill to the greatest Western nations of this world. The country that we regard as the best example of free market economy, that is, the USA, has had times in history including, today when it ensured price controls. So, I would like to refer the graduates of modern schools of economics to presidents Roosevelt, Nickson and Obama. President Roosevelt had to introduce both price and wage control on essential commodities during the Second World War to curb inflation and stop the exponential rise in prices in the USA. That is how he ensured economic recovery and development.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Eng. Maina, you will have the right to 45 more minutes when we resume next time!

Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.