

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 11th May, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Hon. Members, I have two Communications to make this afternoon.

PRESIDENTIAL ASSENT TO SUPPLEMENTARY APPROPRIATIONS BILL

First, I make this Communication regarding a return on a Bill received from the honourable Attorney-General pursuant to the Standing Orders.

Standing Order No.125 requires that the Attorney-General presents to the President, within 14 days of receipt from the Clerk, every Bill passed by this House. Thereafter the expiry of 14 days, the Attorney-General is required to file a return to the Speaker indicating the time and the date that the Bill was presented to His Excellency the President.

The return received indicates that the Supplementary Appropriations Bill of 2011 which was passed by the National Assembly on 13th April, 2011 was presented by the Attorney-General to His Excellency the President for assent and was duly assented to on 21st April, 2011 at 1.15 p.m.

I thank you. Hon. Members at the Bar may want to walk in.

(Members at the Bar entered into the Chamber)

Hon. Members, the second Communication is as follows:-

REFERRAL OF IEBC BILL TO CIOC

As you are all aware, the Departmental Committee on Justice and Legal Affairs has had some challenges that have adversely affected its operations. Despite my previous rulings and pronouncements from the Chair on this state of affairs, the issues facing the Committee have yet to be resolved and the timely passage of the legislation required under the Constitution, and which should be considered by the Committee, will inevitably be affected.

The House Business Committee (HBC) during its sitting held yesterday, Tuesday 10th May, 2011, expressed concern on the inability of the Departmental Committee on Justice and Legal Affairs to consider Bills referred to it and other matters within its purview and requested the Speaker to explore other ways of facilitating business in the House, including the study and review of the Independent Electoral and Boundaries Commission (IEBC) Bill which has not been attended to by the said relevant Committee.

In the light of the above, and after consultations with and the concurrence of the HBC, pursuant to Standing Order No.1, I direct that the Independent Electoral and Boundaries Commission (IEBC) Bill, 2011 be committed to the Constitutional Implementation Oversight Committee (CIOC) for study and review and that the Committee should report to the House not later than 23rd May, 2011.

In taking this decision, I have taken cognisance of the fact that the CIOC is charged, amongst other things, with addressing any impediments to the process of implementing the Constitution pursuant to the provisions of Section 4 of the Sixth Schedule of the Constitution. Given that the number and Membership of the Committee is constituted as it is, I have no doubt that the Committee will address adequately issues pertaining to the Bill.

I once again request all Members who may wish to propose amendments to the Bill to now submit them to the CIOC for consideration along with the ones that had earlier been submitted to the Office of Legal Counsel.

I thank you.

(Applause)

Ms. A. Abdalla: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Members! That Communication is clear as far as I am concerned. Those hon. Members who have issues with it will need to take time to acquaint themselves with the Communication and raise those issues later.

Ms. A. Abdalla: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Ms. A. Abdalla: Mr. Speaker, Sir, I would like to welcome your directive to take this matter to the CIOC, but my point of order is in relation to your description that the Committee is unable to resolve the matter and yet, it is in your privy that the Office of the Deputy Speaker has been unable to resolve the matter. We know that Standing Order No.166 does not allow for Members to call for meetings when the Chair has not called one. I think it will be unfair for the Chair to keep repeating that it is the Members of that Committee who have refused to resolve the issue and yet, our letter to that office is two months and 20 days old. So, it is important that the right office be blamed for that impasse.

Mr. Speaker: Hon. Members, I take that point of order raised by hon. Amina Abdalla very kindly. But I am afraid, like I intimated, there is need for Members who have issues with this Communication, as made this afternoon, to take time to acquaint themselves with the details before they can raise issues.

Hon. Amina Abdalla and, indeed, all hon. Members present in the House this afternoon, I have not blamed the Committee. I have only said that the Committee has met with challenges that have inevitably affected its work.

(Applause)

I am so clear in my choice of words as, indeed, I always am. I would just urge the Committee to comply with the directions that I had earlier made. I am conscious that I directed the Committee to hold a meeting. After the meeting, in that Communication, I said it should report to the Liaison Committee. As I speak this afternoon, I have not received a report from the Liaison Committee. So, obviously, the implementation of the Constitution in so far as passage of relevant Bills by the House is concerned, is being delayed. So, I am saying that we will refer this matter to the CIOC to expedite the process of the House in enacting that Bill. I am not saying that we will not refer other business that may come hereafter to the Departmental Committee on Justice and Legal Affairs.

I wish to be clear on this one and I hope I am heard. I thank you.

Mr. George Nyamweya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Hon. Nyamweya, I am afraid I will not allow any further addresses on this matter. I am certain that I am clear in that Communication. I have no doubt!

Next Order!

QUESTIONS BY PRIVATE NOTICE

REVOCATION OF NOMINATION OF COUNCILLOR. JAMES MURIITHI KANGARA

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Under what circumstances was the nomination of James Muriithi Kangara as a nominated Councillor in the Kirinyaga County Council revoked?

(b) Could the Minister Table supporting documents to prove that the councillor was nominated by the Party of National Unity (PNU) and that the Interim Independent Electoral Commission (IIEC) did advise on the revocation?

(c) Could the Minister give an undertaking that the revocation will be reversed with immediate effect?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

I revoked the nomination of James Muriithi Kangara of the County Council of Kirinyaga as a nominated councillor after I received a letter from the Interim Independent Electoral Commission (IIEC) dated 28th January, 2011 which stated that NARC(K) Party, which nominated him, had requested that his nomination be revoked.

(a) I wish to table a letter dated 28th January, 2011 from IIEC to prove that the councillor was nominated by NARC(K) and it requested his nomination to be revoked.

(b) Given the above facts, the nomination of the councillor will not be reversed.

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, I have a letter here which was written by the Minister. It reads thus:-

“This is to notify you that your nomination as councillor in the County Council of Kirinyaga has been revoked. This revocation is done on the advice of the nominating

party, the IIEC and in exercise of the powers conferred upon the Minister by Section 40 of the Local Government Act.”

Mr. Speaker, Sir, my problem is the issue of the nominating party. I wish to table the letter from the Party of National Unity (PNU) - where I happen to be the Vice-Chairman - which nominated that particular person on 18th February, 2008.

(Mr. Jamleck Irungu Kamau laid the document on the Table)

I would like to ask the Minister to table the document that he purports shows that NARC(K) nominated this particular candidate.

Mr. Mudavadi: Mr. Speaker, Sir, I would like to communicate here. I have a letter here - a copy of which I will also table - from NARC(K) signed by the Secretary General, hon. Mungatana dated 18th January. It is addressed to the Chairman of IIEC. For the benefit of the House, I would like to read it. It reads:-

“Dear Chairman,

NOMINATION OF COUNCILLORS

The above matter refers.

We write to inform that Councillor Muriithi Kangara currently serving as a nominated councillor in Kirinyaga County Council courtesy of NARC(K) in the PNU Alliance of 2007 has contravened Article 5(b)(2) of the party’s constitution and Article 17(4) of the Political Parties Act by openly declaring support and engaging in activities which support another party. In lieu of the aforementioned facts, we request that his nomination be revoked with immediate effect and we further recommend Mr. Cyrus Murage Gichara, to be nominated in his place.

Mr. Speaker, Sir, I am tabling in response---

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Speaker, Sir. The letter which the Deputy Prime Minister and Minister for Local Government have read is written by NARC(K), specifically to say the nomination of Mr. Kangara be revoked. However, the question which I asked him and which he has not responded to is: Can he tell this House and Kenyans in particular, who exactly nominated this particular councillor? I have a copy of the letter from the PNU that nominated this councillor in 2008. For any revocation to take place, it has to originate from the party that nominated this particular councillor.

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

Mr. Speaker: Let the Deputy Prime Minister and Minister for Local Government respond to the point of order raised by the Member for Kigumo first.

Mr. Mudavadi: Mr. Speaker, Sir, I am reading a letter written to the Chairman of the IIEC, and equally I have a letter from the IIEC telling me to revoke the nomination of that councillor.

If you follow the procedure of nomination, political parties nominate. I cannot degazette any councillor unless that channel of going through the IIEC has come to me.

So, if, indeed, there is anything contrary to what I have here, because the issue that comes up is that the letter I tabled here written by the IIEC confirms that we should revoke---

Mr. Olago: On a point of order, Mr. Speaker, Sir. With all respect to my very good friend, Commissioner Jamleck Kamau arising from his supplementary question, and the answer given by the hon. Deputy Prime Minister and Minister for Local Government, it appears to me that what is in dispute is clearly an inter-parties issue that can properly be disposed of by the Political Parties Tribunal.

Mr. Speaker, Sir, I am just wondering, under those circumstances, is it in order for this dispute, which is between the parties and the PNU coalition to be referred for resolution by the House?

Mr. Speaker: Order! The Deputy Prime Minister and Minister for Local Government has not raised any concern over whether or not he should answer this Question. So, I rule that out of order.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. Listening to the Deputy Prime Minister and Minister for Local Government, he has said that this particular councillor's position was revoked because NARC(K) complained that he had migrated to PNU. Is he in order to mislead this House, because even Ms. Karua herself is in another party called NARC(K) and her position in this House has not been revoked? The precedent he is trying to set here is that all those NARC(K) members are actually in a different party and not PNU?

Mr. Speaker: Order! Order! That sounds like a question and you stood on a point of order.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: The Deputy Prime Minister and Minister for Local Government, do you want to be informed?

Mr. Mudavadi: Yes, Mr. Speaker, Sir.

Mr. Speaker: Okay, proceed, hon. Githae.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir and thank you, Deputy Prime Minister and Minister for Local Government for agreeing to be informed.

Mr. Speaker, Sir, I am the one who recommended the nomination of Councillor James Muriithi Kangara. I was elected on a PNU ticket. Hon. Martha Karua herself was elected on a PNU ticket. The letter forwarding the names of the nominated councillors was from PNU party.

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): Let me finish the information.

Mr. Speaker: Order, Member for Nyakach. Hon. Githae is on a point of information.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, we are shocked that in this era of transparency and accountability this is happening. How does NARC(K) come in, in this matter? This is simply Kirinyanga politics! The only crime that James Kangara has committed is being in PNU. This information is with the IIEC. We do not understand how this has happened. It is a shock to us. Even more, we are told that six more nominations are going to be revoked by

NARC(K) and yet, they were all elected on a PNU ticket. So, we do not know what is happening. This thing is more serious than just the revocation of James Muriithi Kangara's nomination. There are six more on the way.

(Several hon. Members stood up in his place)

Mr. Speaker: Order! Order! Deputy Prime Minister and Minister for Local Government you have that information from your colleague in the Cabinet. Is it helpful to you?

Mr. Mudavadi: Mr. Speaker, Sir, I was responding to this Question on the basis of the official communication we have received at the Ministry of Local Government. The first one is here and I have tabled it. This is a letter from NARC(K) to the IIEC. In accordance with the law, the second letter is the official communication from the IIEC confirming that the nomination of that councillor should be revoked. The position that we hold is that since we have not received any contrary information through the IIEC, the last communication that I have is the one that is removing that particular councillor.

If, indeed, there is any other communication that will come from the IIEC, then I shall respond to it when I receive it. But as of now, this is the letter that says that they have revoked the nomination.

(Mr. Mudavadi laid the documents on the Table)

Mr. George Nyamweya: Mr. Speaker, Sir, as I stand here, besides being a nominated Member of Parliament I am also the National Vice-Chairman of the PNU in charge of these very affairs of elections, nominations and so on. There is a point that was raised by the Member for Ndia. Indeed, you are the custodian of all the coalition instruments. There are parties which are affiliated to the PNU recognized by your own office and the Office of the Registrar of Political Parties. The NARC(K) happens to be one of the affiliate parties of the PNU.

Mr. Speaker, Sir, I was responsible for the nominations of all those listed nominees that we sent to the IIEC. I can vouch that councillor Muriithi Kangara was nominated by PNU. Could the Minister tell us if he could single handily revoke and dismantle coalition arrangements? I can say without fear of contradiction that what he is planning to do is set the foundation for dismantling the Grand Coalition itself. If he is going to allocate himself such powers without reference to the nominating party---

Mr. Speaker: Order, hon. George Nyamweya! It is Question Time. Could you, please, ask your question?

Mr. George Nyamweya: Mr. Speaker, Sir, I am sure the Deputy Prime Minister and Minister for Local Government heard me clearly. Does he have any communication from the PNU recommending the revocation of this councillor? Unless your office is being mismanaged, you would know that he comes from the PNU. Could you, please, table information or recommendation from the PNU itself?

Mr. Mudavadi: Mr. Speaker, Sir, I cannot even attempt to arbitrate on the issues of PNU.

(Applause)

What I said very clearly is that the procedure is simple. The nominating party communicates to the IIEC – and that is the law that is laid out – saying that they want to alter the nomination of Mr. “X” for “Y.” Once that is done and the IIEC verifies and communicates, I can only act on the basis of the letter from the IIEC. Up to this point in time, if the PNU feels that there is an issue here, the first stop should have been at the IIEC so that the IIEC can, in turn, write to withdraw their letter if there is an error in it. It is after that, that we will take corrective action. But as of now, the official communication is that Mr. Kangara’s nomination is being revoked because the nominating party, which they have recorded as NARC(K) has refused to sustain him as a nominated councillor.

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! I want to come to you for the last question.

Mr. Jamleck Irungu Kamau: It is just a point of order, Mr. Speaker, Sir.

Mr. Speaker: Proceed!

Mr. Jamleck Irungu Kamau: Thank you, Mr. Speaker, Sir. Is it in order for the Deputy Prime Minister and Minister for Local Government to continuously mislead this House that the nominating party is NARC(K) when he cannot be able to table any evidence whatsoever to prove that? I have evidence here that it is actually PNU which nominated this candidate?

Mr. Speaker: Order! Yes, Mr. Deputy Prime Minister and Minister for Local Authority!

Mr. Mudavadi: Mr. Speaker, Sir, when the communication comes, it goes first to the IIEC. Is the letter that Mr. Jamleck Irungu Kamau has referred to addressed to me or is it addressed to the IIEC?

Mr. Speaker: Order, Mr. Deputy Prime Minister and Minister for Local Government! Ministers answer Questions, they do not ask questions!

(Laughter)

Mr. Mudavadi: Mr. Speaker, Sir, I fully appreciate and I oblige. But sometimes does a rhetorical question also not constitute some form of an answer? I stand to be guided!

(Applause)

Mr. Speaker: Our rules are simple, Mr. Deputy Prime Minister and Minister for Local Government. I am certain that you understand what the position ought to be. Are you satisfied that you have responded to the point of order raised by the Member for Kigumo? If you are, then we will leave it there.

Mr. Mudavadi: Thank you, Mr. Speaker, Sir. I am satisfied.

Mr. Speaker: Okay. Ask the last question, the Member for Kigumo!

(Several hon. Members stood up in their places)

What is it the Member for Naivasha?

Mr. Mututho: Thank you, Mr. Speaker, Sir. Is the Deputy Prime Minister and Minister for Local Government in order to constantly avoid the issue of who wrote the initial letter of nomination? Because going by what has already been tabled here, the letter is addressed to the Chairman of the IIEC and the first letter of 2008 by PNU is addressed to the same body. Where is his letter of 2011 nominating this councillor, from the PNU?

Mr. Speaker: Order, Mr. Mututho! You know that just amounts to a question once again in simple pure form! You should have stood to ask a question at the opportune moment. I am afraid I cannot allow that for a point of order!

(Mr. George Nyamweya stood up in his place)

What is it Mr. Nyamweya?

Mr. George Nyamweya: Mr. Speaker, Sir, permit me to table the letter from PNU indicating that James Muriithi Kangara was actually nominated by PNU. If the Deputy Prime Minister and Minister for Local Government has any letter from NARC(K) nominating this person, the question and the demand is that he tables it so that we can know when this was done.

Mr. Speaker, Sir, I wish to table the letter.

Mr. Speaker: Order, Mr. George Nyamweya! Even before you table that letter, you know you have to live within the rules of the House and the Standing Orders. If you wanted the Deputy Prime Minister and Minister for Local Government to answer whether or not he received a letter from PNU, you should have asked that question when you caught my eye to ask a question! At the point that you asked the question, Mr. George Nyamweya, you should have tabled that letter. That would have been procedurally correct. So, I am afraid that at this point I will rule you out of order!

Mr. George Nyamweya: Mr. Speaker, Sir, perhaps, I will submit to that ruling. Let me leave it at that.

Mr. Speaker: Thank you very much! Just live within the Standing Orders and it will be simple!

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

What is it, Prof. Anyang'-Nyong'o? Is it a point of information? Are you standing on a point of order?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, it is a point of information.

Mr. Speaker: Does the Deputy Prime Minister and Minister for Local Government accept your point of information?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): I am sure he accepts my information, Mr. Speaker, Sir. Could I inform the House? I think Mr. Olago made a very important point, that this issue can be handled by the IIEC because quite honestly the issue that Mr. George Nyamweya is raising is, it is quite possible that the IIEC has not submitted the right document to the Deputy Prime Minister and Minister for Local Government. I think the concerned party should address the IIEC to reveal all information about that candidate to the Deputy Prime Minister and Minister for Local

Government for him to make a decision. Otherwise, if the IIEC writes and says that this is a NARC(K) candidate and you can denominate him, the Minister cannot decline to do what the IIEC has said. So, I think the matter is at that point.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Last question, Mr. Jamleck Kamau!

Mr. Jamleck Irungu Kamau: Thank you, Mr. Speaker, Sir. Now that the Deputy Prime Minister and Minister for Local Government has tabled a letter from NARC(K) purporting to withdraw or revoke the nomination of that councillor, could he table a similar letter from NARC(K) nominating that councillor way back in 2008?

Mr. Mudavadi: Mr. Speaker, Sir, I cannot table any other document which is not in my possession. I have tabled all that is within my possession---

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

Mr. Speaker: What is it, the Member for Naivasha? That is the third attempt and I hope you get it right!

(Laughter)

Mr. Mututho: Thank you, Mr. Speaker, Sir. A good student is always learning and I take your instructions very humbly.

Mr. Speaker: Proceed!

Mr. Mututho: Mr. Speaker, Sir, is the Deputy Prime Minister and Minister for Local Government in order to refuse to table the documents citing that they are not in his possession without making a concrete promise when he will table them?

Mr. Speaker, Sir, I withdraw the last bit. I will do it again!

(Laughter)

Thank you, Mr. Speaker, Sir, for your indulgence. Is the Deputy Prime Minister and Minister for Local Government in order to refer to a document that he does not have in this particular aspect?

Mr. Speaker: Order, Members! So that the issues here are properly and fully addressed, I will volunteer to help the Member for Naivasha assuming that he has that letter. The way you will put it is this way; Is the Deputy Prime Minister and Minister for Local Government in order to mislead the House that this councillor was nominated by NARC(K) when, in fact, there is evidence contained in a letter, which I hereby table, that he was nominated by PNU? It is that simple!

(Applause)

Mr. Mututho: Thank you, Mr. Speaker, Sir. My point of order is as instructed by the Speaker.

(Laughter)

That makes hon. Members who may have tired eyes now ready and alert. Is the Deputy Prime Minister and Minister for Local Government in order to continue misleading this House by saying that the letter that was laid on the Table is---

(Laughter)

Thank you, Mr. Speaker, Sir, for your indulgence again. I repeat for the final time now.

Mr. Speaker: Order, Member for Naivasha! Business in this House is, certainly, very serious. It is supposed to help to contribute and to avail information to Members of the House and, indeed, to all Kenyans. So, you should address yourself to this business with the seriousness that it calls for. I am afraid you do not seem to be doing that.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. Is the Deputy Prime Minister and Minister for Local Government in order to continue misleading this House that the nominating party in this case is NARC(K), when there is clear evidence of nomination by PNU, which is here? I would like to table it before the House.

(Mr. Baiya laid the letter on the Table)

Mr. Speaker: You may respond, Mr. Deputy Prime Minister and Minister for Local Government.

Mr. Mudavadi: Mr. Speaker, Sir, I will be happy to look at that and if, indeed, there is anything that is different, I will communicate to the IIBC, so that they can clarify who is the nominated councillor in accordance with the validation process. So, I will request them to validate and know who is supposed to be the councillor. That is the position that I take.

Mr. Speaker: We have spent 35 minutes on that Question. I thought it was important and so, I gave it that indulgence. So, I am afraid that we have to move to the next Question. Hon. Member for Chepalungu and hon. Mr. George Nyamweya, you have other avenues to address this matter further, including even before this House if you invoke the right procedure.

Member for North Horr.

CAUSES OF DEATHS OF SHANU DIBA GUYO/RUKIA GALGALLO

Mr. Chachu: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services following Question by Private Notice.

(a) Under what circumstances did Mrs. Shanu Diba Guyo and Rukia Galgallo lose their lives at Isiolo District Hospital and Kenyatta National Hospital, respectively, on the night of 3rd April 2011 and 15th March 2011, respectively, and can the Minister confirm that the deaths were caused due to lack of blood and/or an anaesthetist at Marsabit District Hospital, where they were initially attended to?

(b) Can the Minister confirm that Mrs. Guyo was not accompanied by a nurse on the journey from Marsabit District Hospital to Isiolo District Hospital as required professionally and, if so, what disciplinary measures will be taken against the officers involved?

(c) What urgent measures is the Minister taking to establish a “*Blood Bank*” at Marsabit Hospital, post an anaesthetist and provide an ambulance to the hospital?

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

(a) Shanu Diba Guyo was received at North Horr Health Centre on 3rd April this year at 9.00 a.m. By then, she had laboured at home for two days. She had poor maternal effort and even after administration of medication, there was no improvement. She was then transferred to Marsabit District Hospital where she arrived at 12.00 a.m. the following day. The relatives had hired a vehicle and driven for 15 hours. At Marsabit District Hospital, the admitting doctor made a diagnosis of obstructive labour for a first time pregnancy with severe anaemia. He tried to carry out vacuum extraction and when it failed, he referred the patient to Isiolo District Hospital for a caesarian section.

The operation could not be done at Marsabit District Hospital because the hospital had no blood and the patient was severely anaemic. She was transferred to Isiolo in a private car as the hospital lacked an ambulance. The patient arrived at the Isiolo District Hospital at 8.30 a.m. escorted by a relative. She was semi-conscious, pale and with signs of respiratory distress. Her blood pressure was very low. The doctor ordered for preparation of blood for transfusion and, in the meantime, put her on Intravenous (IV) fluids.

At 9.00 a.m. or 10.00 a.m., unfortunately, the patient started gasping. Resuscitation was attempted without success and the patient passed on. Relatives were informed and they opted to take the body home. The exact cause of death cannot be conclusively determined, as a postmortem was not carried out. It is true that Marsabit District Hospital did not have blood. However, Shanu’s death cannot be directly linked to lack of blood as her condition had seriously deteriorated by the time she arrived at the hospital.

Much more important is the fact that she had laboured for too long at home and her obstructed labour was not diagnosed early enough to inform early referral. She was also referred to a very long distant facility through rough terrain for over 15 kilometers.

In the case of Rukia Galgalo, who similarly originated from North Horr, she was admitted at Marsabit District Hospital on 15th March, 2011 at 1.15 p.m. She was diagnosed with premature labour with clinical malaria. She was immediately put on medication. The doctor who reviewed her in the ward confirmed the premature labour, but could not get the foetal heart. Rukia delivered a fresh still-birth the following day at 8.30 a.m. She developed post-partum hemorrhage and attempts to control the bleeding failed. She was transfused one unit of blood which was donated by the husband after grouping and cross-matching. However, the bleeding continued. Since there was no blood at the hospital, AMREF was consulted and they responded well. At 2.00 p.m., they arrived at the hospital with two units of blood which were transfused before the patient was airlifted to Kenyatta National Hospital (KNH). At KNH, the patient was received at 6.30 p.m. in the evening. She was in a coma and the doctors made an impression of severe hemodynamic shock, secondary to severe post-partum hemorrhage. Resuscitation measures were instituted but the condition of the patient deteriorated and she died at 7.45 p.m. It is noteworthy that although there was no blood at Marsabit District Hospital, efforts were made to obtain it and she was transfused with three units.

(b) As it was the case with Shanu Diba, it is likely that events prior to her arrival at Marsabit Hospital played a large role in contributing to her death. Shanu Guyo was not accompanied by a nurse on the journey from Marsabit District Hospital to Isiolo District Hospital as it is required professionally. That is because the private vehicle used was inappropriate for a nurse to provide emergency support. A nurse can only add value to the referral process if she has access to the tools of work found in a proper ambulance. Besides the lack of tools, nurses express concerns about possibilities of compensation in case private vehicles are involved in accidents.

(c) The Ministry is taking the following measures to improve blood transfusion, anaesthesia and patient referral services at Marsabit District Hospital. One, the Ministry plans to initiate blood donation campaigns in Marsabit from July this year. From this time, the hospital will be supplied with screening kits to ensure that only safe blood is transfused. This will enable the hospital to maintain a buffer stock of blood to ease demand. However, a public education component will be necessary as a previous attempt by the hospital to obtain blood donations faced resistance from the catchment population.

Secondly, there is already an anaesthetist deployed at Marsabit District Hospital. However, the Ministry will endeavour to identify a second one from among those who are presently pursuing training. That will ensure that an anaesthetist is available at the hospital always. However, the situation is not grave as doctors are also trained to perform operations under spinal anaesthesia.

(c) Thirdly and finally, the Ministry will give priority to Marsabit District Hospital for the supply of a new four-wheel ambulance in the 2011/2012 Financial Year, possibly a Toyota Land Cruiser or a Land Rover, which will be determined to be an ideal vehicle for the local terrain. Let me add that, although the hospital was allocated a four-wheel ambulance in 2007, unfortunately, it could not cope with the terrain and it is now unserviceable. Regarding ambulances, we are working on a national programme to have a National Ambulatory and Emergency Services which will be managed by GPS. We will no longer have to station ambulances in particular places. They will be available in regional centers to be mobilized for use within reach of facilities and individuals who need them. This will involve both publicly and privately owned ambulances.

Thank you.

Mr. Chachu: Mr. Speaker, Sir, I want to thank the Minister for the very elaborate and detailed response, as well as for the measures he has promised to take to alleviate this problem. The two women lost their lives in the process of delivering babies. The lady from my constituency of North Horr had to travel 500 kilometres while in labour, from North Horr to Marsabit, and then all the way to Isiolo. She was not able to get the support she needed at the Marsabit District Hospital, the only hospital serving the larger Marsabit District. This was because there was no blood at the Marsabit District Hospital, yet the Ministry gives money to the hospital to secure blood even from the Meru District Hospital. In the past, that hospital has always managed to secure blood from Meru for emergency purposes. When women give birth they are assisted by the support they get from the neighbouring hospitals. Why were the authorities in this hospital not able to secure blood from Isiolo, yet the hospital gets Authority to Incur Expenditure (AIE) from the Government? Our women are losing their lives, and our babies are not being born in the right way.

Mr. Speaker: Order! Oder, Member for North Horr! You know that it is Question Time!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I share the concern of the hon. Member. It is, indeed, a tragedy that the district hospital did not have blood at that point in time. Blood is very essential, especially at the district hospitals; the district hospital is a referral medical facility in the district. Let me inform hon. Members in general that the Ministry has been having very difficult time having enough blood in our medical facilities, because donation of blood has reduced over the years, especially with the onset of HIV/AIDS. Quite a number of people are reluctant to give blood.

We rely mainly on schools to donate blood and usually, after a long period of holidays, most of our hospitals run short of blood, because schools that donate blood are on holiday and the blood stocks have been used without being replenished. We are trying our best to appeal, through public education, for volunteers to donate blood. Just about two weeks ago, I had a meeting in my Ministry to address this issue. Nonetheless, as the Member of Parliament for North Horr said, we should ensure that both Marsabit District Hospital and Isiolo District Hospital have blood reserve at any given time to deal with such cases. I take this opportunity to apologise to the hon. Member, and extend my compassion to the two families for what happened in Isiolo and Marsabit, which led to the loss of the two lives.

Mr. Ruteere: Mr. Speaker, Sir, other than blood lacking in Marsabit and Isiolo, the distance from Marsabit to Kenyatta National Hospital (KNH) is very long. Are there measures that can be taken when emergencies like these arise to ensure that patients are flown to the nearest place where they can get adequate treatment?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I thank the hon. Member for the Question. Some years ago, the Ministry got a donation of a helicopter to be used as an airborne ambulance. That helicopter was, however, taken over by the Ministry of State for Provincial Administration and Internal Security, and it has been grounded at the Wilson Airport all these years. Recently, the Ministry of State for Provincial Administration and Internal Security offered the helicopter back to the Ministry of Medical Services, but, on further examination, we were advised that it would be very expensive to repair that helicopter after being on the ground for so long. The Ministry has been advised to acquire its own airborne ambulance for responding to such cases.

We are now working on a National Ambulatory and Emergency Services, which will involve both land borne and airborne ambulances, so that cases like the one of Marsabit do not put us in a vulnerable position, where we have to depend on the Kenya Army or the Red Cross Society, St John Ambulance or any other body. We should really have an internal capacity and capability to respond to such situations.

Mr. Koech: Mr. Speaker, Sir, while I thank the Minister for the answer, sometimes I wonder how Ministries prioritise services. Marsabit is an area where even getting a private vehicle to assist is sometimes very difficult. There are certain places in this country where we have over 1,000 vehicles within short vicinities, which can actually be requested at an opportune time to assist. For the Minister to decide that he is going to provide an ambulance to North Horr next year is not fair because this is an area which required an ambulance yesterday. Why can the Minister not acquire an ambulance from a station which has more than one ambulance, and deploy it to that very needy area?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I wish I had an extra ambulance, which is good enough to serve Marsabit District Hospital. As I said in my answer, we had an ambulance there, but it broke down, and we must wait until the new financial year to get resources to buy a good enough ambulance for Marsabit District Hospital. As I speak, there is a shortage of ambulances nationally. What we need to do is to restructure ambulatory services, and not just to make sure that ambulances are placed in particular places. If we restructure the ambulatory services and we have the National Ambulatory and Emergency Authority, which will also have access to private ambulances; through GPS, we shall solve the problem.

The proposal that the hon. Member has made is not feasible now because the ambulances are not available. Secondly, we better approach it from the other way, because that will be much more long lasting and will solve problems on a much more permanent basis.

Mr. Chachu: Mr. Speaker, Sir, Marsabit District Hospital is not even in my constituency, but it is in my county. People with major medical problems have to travel, on average, between 500 and 700 kilometres to the next Government hospital. What will the Ministry do to ensure that people in North Horr are assisted, so that we avoid this major health crisis, which has been arising almost every year?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, together with the Ministry of State for the Development of Northern Kenya and Other Arid Lands, we are actually working with the Spanish Government to have special ambulatory mobile clinics in northern Kenya. We recognise the fact that there are long distances between formal health facilities. Since people in that area also live long distances from one another, and quite a number of people are also mobile, our response has been to establish a mobile hospital system in northern Kenya. We have already applied for a project to be funded by the Spanish Government to establish this mobile hospital system, which will include ambulatory services. We are not going to reduce the distances overnight but, in the meantime, the people of northern Kenya require a form of service that responds to their peculiar and particular conditions. I hope that within less than a year, this service, which we are working on with the Ministry of State for the Development of Northern Kenya and Other Arid Lands, will be a reality and the hon. Member will no longer need to be so frustrated and anguished about such situations.

Mr. Speaker: Next Question, Member for Rarieda!

Eng. Gumbo: Mr. Speaker, Sir, before I ask this Question, I wish to seek the indulgence and direction of the Chair, because the Question, as printed on the Order Paper, is materially different from what I had drafted and, therefore, does not capture the substance of the issue. I would, therefore, request the Chair to defer this Question, so that I can contact the Clerk's Office to reinstate the substance of this Question.

Mr. Speaker: Hon. Members, indeed, the Member for Rarieda had drawn my attention to the fact that Question No.3 by Private Notice, as it appears on the Order Paper, does not capture the gist of what he wished to interrogate. So, in those circumstances, I will defer this Question to next week, on Thursday, at 2.30 p.m., so that the hon. Member can have consultations with the Clerk's Office to phrase the Question correctly.

Eng. Gumbo: Thank you, Mr. Speaker, Sir.

LIST OF PROMOTED POLICE OFFICERS

(Eng. Gumbo) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Could the Minister provide a list of all police officers who were promoted/assigned new duties in the recent "Police Board III Selection" conducted in March 2011, and indicate those selected for Station/Platoon Commanders' Course, including their respective names, force numbers, gender, rank, year of initial employment, education and counties of all officers affected by the exercise?

(b) What were the key considerations in making the recommendations for the promotions and were the provisions of the Police Force Standing Orders (FSO) taken into account?

(c) What measures has the Minister taken to satisfy himself that promotions boost morale and overall dedication within the Police Force?

(Question deferred)

Mr. Speaker: Next Question, Sheikh Dor.

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

I am unable to table in the House the report on the specific concerns of the Muslim community by the Special Presidential Committee Chaired by Eng. Abdillahi Sharawe because the report is yet to be released by the Committee's appointing authority.

Mr. Speaker, Sir, you will remember that you had ruled on such reports which had already been received, but not released for public consumption by the appointing authority. So, this is not something new, if we go by your ruling in this House.

Mr. Yakub: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his half baked answer. However, Article 35 of our Constitution provides for access to information. It reads that:-

"1. Every citizen has the right of access to-

(a) Information held by the State".

I would like to table a letter from the Ministry of Justice, National Cohesion and Constitutional Affairs dated 2nd February, 2011, which is addressed to the Ministry of State for Provincial Administration and Internal Security informing them that they are the ones who should answer my Question and table the report.

(Mr. Yakub laid the document on the Table)

Mr. Speaker: Fair enough, hon. Yakub! You have not quite reacted to the answer that the Assistant Minister gave. I have heard it and so, I will defer this Question to next week Thursday at 2.30 p.m. I will then give direction as may be necessary on the fate of your Question in the light of the ruling that I have previously made on a matter that may be similar.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Thank you very much for your direction, but while the Assistant Minister is going to look at the issues that you have

mentioned, maybe at the same time you could kindly consider looking at the last amendments to the Commissions of Inquiries Act, which opened public inquiries to the public. That was the only reason that inquiry reports were kept away from the public. To that extent, therefore, it would be in order.

Mr. Speaker: Indeed, Member for Kisumu Town West, I will do that, but in the meantime, hon. Yakub, please, note that the letter that you have tabled is not admissible because it has no signature. It is not signed. It has the date, appears to be the original from the print on the letter, but unfortunately it is not signed. So, I am unable to admit it.

Mr. Yakub: On a point of order, Mr. Speaker, Sir. Will I be in order then to table another letter which has a signature?

Mr. Speaker: You will be out of order because we do not treat the business of the House that casually! But I will want you to take back your letter and withdraw from the House for 15 minutes, so that next time you know that you must comply with the rules. Withdraw for 15 minutes, whereafter you may return. Take the letter with you!

(Question deferred)

Question No.846

PAYMENT OF RETIREMENT DUES TO
LUDOFICK ONDIEK OFUNYA

Mr. Washiali asked the Minister for Co-operative Development and Marketing:-

(a) why Mr. Ludofick Ondieki Ofunya (Member No. 3476), who retired in the year 2000 from the Ministry of Roads and Public Works in Kapenguria has not been paid his dues by Ufundi Co-operative Savings and Credit Society Limited and when he will be paid; and,

(b) what measures the Ministry is putting in place to ensure timely payment of dues to members by the SACCO.

A Hon. Member: There is a stranger in the House!

*(Mr. Yakub took the letter and withdrew
from the Chamber)*

Mr. Speaker: Mr. Assistant Minister, proceed!

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Speaker, Sir, I beg to reply.

(a) As directed by yourself last Thursday, 5th may, 2011, I wish to confirm that Mr. Ludofick Ondiek Ofunya was paid Kshs31,712 being refund of his shares from Ufundi SACCO through cheque No.00303 dated 28th March, 2011. Subsequent to the Question on that day, they have deposited the money in his account and I wish to table the cheque number plus the deposit slip to his account.

(Mrs. Kilimo laid the document on the Table)

Mr. Washiali: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the action she has taken. Looking at the cheque, which I already have, it was written on 28th March, 2011 and deposited on 6th May, 2011, after I had brought this Question to the House. I would like to address the Assistant Minister on part (b) of the Question where she was supposed to tell the House what measures the Ministry has put in place to pay its debtors timely.

Mrs. Kilimo: Mr. Speaker, Sir, in response to his earlier concerns, between 28th March and 6th May, there could have been transactions of picking the cheque and subsequent depositing it.

Mr. Speaker: Order, Assistant Minister! Just concentrate on part (b) because for part (a), the Member is satisfied. At any rate, his constituent is happy that the payment was processed after he raised the matter in the House. So, just go to part (b).

Mrs. Kilimo: Thank you, Mr. Speaker, Sir, for your direction. I beg to reply.

(b) I wish to inform this House that my Ministry has been working closely with the management committee of Ufundi SACCO in the management of refunds to members without destabilizing the operations and the stability of the SACCO. This is being done in conformity with the Co-operatives Societies Act, rules and the by-laws. For this reason, the SACCO, with the guidance of my Ministry has since 1999 been able to issue refunds to the tune of Kshs100 million. In addition, the establishment of the SACCO Societies Regulatory Authority (SASRA) through the SACCO Societies Act of 2008 is playing a major role in assisting the society in applying prudential standards for effective management.

Dr. Eseli: Mr. Speaker, Sir, could the Assistant Minister inform this House what could have led to the delay in the settlement of this money? The said person retired in 2000 and was paid in 2011, almost 11 years since he retired. Could she, please, explain to this House what could have led to the delay in this payment?

Mrs. Kilimo: Mr. Speaker, Sir, it is common knowledge to all of us that Ufundi SACCO suffered during the 1998 Bomb Blast and their building was destroyed. The American Embassy was---

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

Mr. Speaker: Order! Assistant Minister, complete your answer!

Mrs. Kilimo: Mr. Speaker, Sir, I am just trying to explain why liquidity in Ufundi SACCO was a problem. The Ufundi SACCO deals with its members on a "first in first out" basis. When the Ufundi SACCO suffered during the 1998 Bomb Blast, it got a compensation of Kshs215 million, which the SACCO used to buy the Ufundi SACCO Plaza. Repayments have been a problem because a lot of members leave the SACCO by natural attrition and many others borrow money. So, refunding has been a challenge to the SACCO.

Mr. Gaichuhie: On a point of order, Mr. Speaker, Sir. The building that was bombed was an investment and not the money that people used to save. The same Ufundi SACCO was given a building after the one that was bombed. So, that building should not be a cause of them not refunding money back to the people, because what we save in co-operatives is not used for investment.

Mr. Speaker: That is a point of argument, I am afraid. Madam Assistant Minister, you need not respond.

Yes, the Member for Gwassi!

Mr. Mbadi: Mr. Speaker, Sir, let me reframe the question that Mr. Gaichuhie has raised which I have heard.

Mr. Speaker: The Member for Gwassii, you have caught the Speaker's eye to ask a supplementary question. Proceed!

Mr. Mbadi: Mr. Speaker, Sir, could the Assistant Minister explain to us how the collapsed building could affect the liquidity position of a SACCO? Were they keeping cash in that building or how did the collapse of the building lead to the deterioration in the liquidity of Ufundi SACCO?

Mrs. Kilimo: Mr. Speaker, Sir, when members invest in a building, they also get returns in form of rent. We all know that from the year 2000 there was massive downsizing in the Civil Service, which compounded the situation of members who withdrew their shares. There was panic withdrawal that gripped the membership, thereby occasioning a drastic demand for shares refund and, consequently, exerting pressure on the liquidity and cash-flow. That was something very drastic and for the SACCO to pick up, it can take 11 years. All of us are still suffering the shock of that bomb blast.

Mr. Speaker: Last question, Mr. Washiali!

Mr. Washiali: Mr. Speaker, Sir, the Assistant Minister has said that there are Kenyans who have not been paid. How many Kenyans have not been paid, given the fact that the case that I am currently handling was for 2000?

Mrs. Kilimo: Mr. Speaker, Sir, I am not in a position, neither will our Ministry be in a position to know how many people have not been paid unless they come up. This is a running SACCO and other members are joining it. Why would people want to move out of it? So, I need to know those who want to move out.

Question No.708

EXPENSES INCURRED BY GOVERNMENT/DONORS ON IDPS

Mr. Mututho asked the Minister of State for Special Programmes:-

(a) whether she could table details of all the expenses incurred by the Government on Internally Displaced Persons (IDPs) to date and also provide details of persons who have received the Kshs10,000 and Kshs25,000 that the Government has been giving out to IDPs;

(b) whether she could provide a list of all IDPs still awaiting resettlement and also state the area/camps they are currently living in; and,

(c) whether she could also table a list of donors and well wishers who contributed towards resettlement of IDPs and how much more money is required to resettle all the IDPs still in camps.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, I beg to reply by tabling various documents that the Member for Naivasha had requested for.

(a) He wanted to have a list of all the people who were paid the Kshs10,000 and the Kshs25,000. I wish to table it.

(Ms. Mathenge laid the document on the Table)

(b) He also wanted to have a list of all the Internally Displaced Persons (IDPs) who are still waiting for settlement, stating the area and camps where they are. I wish to table the list.

(Ms. Mathenge laid the document on the Table)

(c) He also wanted me to list the donors and well wishers who include Members of Parliament who contributed towards the resettlement of IDPs. I also wish to table that list.

(Ms. Mathenge laid the document on the Table)

Mr. Speaker, Sir, we require Kshs823,716,000 for the resettlement of the remaining IDPs in the camps and this excludes the purchase of land.

Mr. Mututho: Mr. Speaker, Sir, I want to thank the Minister for her very detailed answer, but the amount of data produced is not humanly possible for anybody to peruse and be able to interrogate it properly. Will I be in order, therefore, to seek your indulgence to have this Question appear on the Order Paper again after two or three days or one week when I would have gone through these documents in order to give an intelligent interrogation?

Mr. Speaker: Yes, that is legitimate. Madam Minister, is that fine with you if I defer this Question to Thursday, next week, at 2.30 p.m.?

The Minister of State for Special Programmes (Ms. Mathenge): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! It is so directed!

(Question deferred)

Question No.875

PROJECTS UNDERTAKEN BY KPLC/REA IN MIGORI

Mr. Pesa asked the Minister for Energy:-

(a) which projects have been undertaken in Migori during 2008/2009 and 2009/2010 financial years by REA and KPLC respectively, and what their respective status is;

(b) what immediate measures the Ministry is taking to ensure that completed projects by both REA and KPLC are commissioned; and,

(c) how Migori electrification coverage compares with the national average.

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

(a) The following projects and their status have been undertaken by the Rural Electrification Authority (REA) and the Kenya Power and Lighting Company (KPLC) in Migori during the 2008/2009 and 2009/2010 financial years:-

1. Financial Year 2008/2009

<u>Project Name</u>	<u>Status</u>
(i) Nyasare Market	Commissioned
(ii) Mikuoro-Abwae-Nyangogi	Commissioned
(iii) Iruba and Nyangobo Secondary School	Commissioned
(iv) Ngege Secondary School and Polytechnic	Commissioned

2. Financial Year 2009/2010

<u>Project Name</u>	<u>Status</u>
(i) Nyamaranga Dispensary	- Completed but awaiting commissioning
(ii) Nyamilu Community Water Project	- Completed but awaiting commissioning
(iii) Nyabeche Primary School and Magdaline Ogongo	- Commissioned
(iv) Living Hope Centre, Oyuma-Kodit Market	- Commissioned
(v) Nyamtembe Market	- Commissioned
(vi) Bi-Mos Market and Health Centre	- Commissioned;
(vii) Masara Market and Secondary	- Commissioned;
(viii) Namba Ka Hezron Market	- Commissioned;
(ix) Jack Gucha Water Project, Kashadrack Water	- Commissioned;
(x) Kakro-Wasio-Got Kachola Line	- Commissioned;
(xi) Nyikendo-Magina-Anjengo School and Market	- Commissioned;
(xii) Kanyaundo Market	- Still under design;
(xiii) Kogutu Market	- Under design and construction stage; and,
(xiv) Wuoth Ogik Market	- Under design and construction stage.

(a) Mr. Speaker, Sir, my Ministry has directed both the REA and the KPLC to ensure that once construction of the projects is completed, consumers are connected within 35 days. In addition, both the KPLC and the REA have signed a service level agreement whose primary objective is to ensure prompt connection of consumers once the project has been completed.

(c) Migori Constituency electrification coverage of main public facilities which include the secondary schools, health centres, trading centres is 57 per cent covered which compares favourably with the national coverage which is at the same percentage.

Mr. Pesa: Mr. Speaker, Sir, I want to thank the Assistant Minister and in particular I want to thank the management of REA headed by the very competent CEO that has done this country very proud. I hope they will get the necessary support from the Ministry to continue what they have done in Migori and elsewhere.

However, I would like to ask him if he could intervene to ensure that the three last items he has mentioned as being under construction and design can be fast tracked, so that people in these respective areas which are very important within the municipality of Migori can access power.

Mr. Magerer: Mr. Speaker, Sir, I want to thank the hon. Member for appreciating what the Ministry of Energy and REA are doing to light up this country. I would like to assure the hon. Member that the construction of Kanyaundo Market, K'Ogutu Market and Wuoth Ogik Market which is currently at the design and construction stage will be done within the next one month.

Mr. Kiptanui: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the good work they are doing through the REA and the KPLC. However, for quite some time, there has been a challenge in provision of transformers. What measures has the Assistant Minister put in place to ensure that transformers are provided to schools, public health centres and public trading centres? We find that as much as the main line is constructed within time, it takes over six months for the transformers to be installed.

Mr. Magerer: Mr. Speaker, Sir, I wish to appreciate the question and the concern by the hon. Member. Previously, we have not been able to connect within the time that we had anticipated because of lack of the 50 KVA transformers.

However, I would like to report to this House and for the confidence of the hon. Member, that just the other day, the REA procured successfully 600 transformers. We are already hitting the ground to be able to catch up with the backlog that was remaining.

Mr. Kiuna: Mr. Speaker, Sir, while I appreciate the Ministry of Energy and thank them most sincerely for providing electricity to most parts of this country, could the Assistant Minister explain to us why there is a big difference in cost of providing electricity by the REA and the KPLC, especially when they install transformers?

Mr. Magerer: Mr. Speaker, Sir, I would like to inform the hon. Member that there is no difference between the agencies under the Ministry of Energy that are charged with ensuring that the business of lighting Kenya is on.

However, there could have been one or two issues relating to the quality of work that has been done before. For this reason, we have the Service Level Agreement (SLA) whose primary objective is to ensure that these problems are not forthcoming because the two institutions are working for the people of Kenya. The REA is concerned with the infrastructure development and the KPLC is charged with maintenance and service provision.

Currently, there is a good working relationship between the two organizations. As I have said, we will ensure that all the jobs that have been completed are commissioned within the next one month.

Mr. Pesa: Mr. Speaker, Sir, of the lines which are pending in Migori, these lines are supposed to be constructed by the KPLC and not the REA. Even after the KPLC had been given the go-ahead to construct, the three lines which are still pending, the ones by REA have been done. Is the Assistant Minister aware that the KPLC is not taking its work seriously in this country and, therefore, denying Kenyans access to electricity in time?

Mr. Magerer: Mr. Speaker, Sir, I think the KPLC is doing a good job. What I can only say is that there might have been a slight delay which was occasioned by lack of important equipment like the transformers.

Honestly, we cannot connect power without the transformers. However, I want to assure the House and the hon. Member that the two parastatals are going to---

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

Mr. Speaker: Order, Member for Migori. Allow the Assistant Minister to complete his answer. He is not very far from conclusion.

Mr. Magerer: Mr. Speaker, Sir, I was saying that the two parastatals are now working together. Under the Service Level Agreement that they signed, the part that the KPLC is supposed to do, will be done. I am not aware of any sluggish behaviour. I want to take this opportunity as well just to reassure the House that the two parastatals will have to work within the stipulated time to ensure that power is supplied to all and sundry.

Question No.881

DISMISSAL OF ANNE NYAKINDA BY TSC

Mr. Pesa, on behalf of **Mr. Ochieng**, asked the Minister for Education:-

(a) why the Teachers Service Commission (TSC) dismissed Ms. Anne Nyakinda (TSC No.200106 P1) from service in 2001; and,

(b) when the TSC will reinstate her to her job and also pay all her dues.

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

(a) The teacher was interdicted by the TSC on 6th July, 2001 for professional misconduct as per the TSC revised code of regulations for teachers, 2005. She had been found guilty of insubordination, negligence of duty and chronic absenteeism.

(b) Ms. Jane Nyakinda cannot be reinstated in the service since she has been dismissed from the service and the decision is final. She has also been paid her dues. She was paid a total of Kshs60,258.85 vide the voucher No.26090 on 29th August, 2007. Those were her dues which were in form of withheld salaries for the time she was on interdiction for 11 months.

Moreover, this matter is *sub judice* since the case is before the Chief Magistrates court in Kisumu. That is Anne Nyakinda against TSC, Case No.CMCC 427(32009).

Accordingly, the Ministry/TSC is awaiting the outcome of the court ruling before making any further decisions. I wish to table the documents to prove that the case is in court.

(Prof. Olweny laid the documents on the Table)

Mr. Pesa: Mr. Speaker, Sir, I seek your indulgence. The Assistant Minister is claiming that the case is *sub judice* and he has tabled a paper to that effect. Could I ask you to look at it and ascertain whether it is really *sub judice* before I can continue?

(Mr. Speaker perused the documents)

Mr. Speaker: Order! Mr. Assistant Minister, do you wish to pursue your claim that the matter is *sub judice*, because from the documents that you have tabled, I see that you have not satisfied the criteria which I apply to find that a matter is *sub judice*. That is because all I have is the case number and summons attached to the bundle of papers. I

have no pleadings. So, on that basis, I am afraid that I cannot find that your claim for *sub judice* is justified.

Prof. Olweny: Mr. Speaker, I have answered Parts (a) and (b) of the Question fully. However, I just gave additional information to the House that the lady has gone to court. The first two papers of the bundle that I have given you are from the court.

Mr. Speaker: Hon. Pesa, you may now ask any supplementary questions that you have. I have ruled that the documents tabled here are not adequate for me to find the matter *sub judice* and so, I decline the Assistant Minister's claim. But you have an answer, that notwithstanding. Do you wish to interrogate that answer?

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has given me an answer claiming that, that teacher deserved to be interdicted. The teacher works within a community. Among the community we have a chief, district officer and district commissioner. I have before me here a letter from the chief of that area which is stating that the headmaster of the school actually incited the parents and the pupils to beat up that teacher. I have brought that letter. I have another letter which is the sick sheet from the hospital which is also indicating the same. The letter is from a doctor. I beg to table the documents.

(Mr. Pesa laid the documents on the Table)

Mr. Speaker: Come to the question!

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has said that, that teacher has been paid her terminal benefits and that her case is in court. The case started in 2001. Now, considering the fact that the teacher was harassed in the school, could he review that case so that he can ascertain whether the headmaster of that school is not a party to that case?

Prof. Olweny: Mr. Speaker, Sir, if at all the woman or the female was beaten up by anybody, that is a police case which she should handle appropriately. There are channels for handling such a case. However, on our side as the Ministry of Education and the Teachers Service Commission (TSC), we have---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I think I just heard the Assistant Minister say that if the teacher was beaten, she is a female. Is he by any chance suggesting that it is okay to beat the woman because she is a female? Did I, by any chance, hear him right because then he would be definitely---

Mr. Speaker: Order, Mrs. Odhiambo-Mabona! You have made your point. Mr. Assistant Minister, is that what you said?

Prof. Olweny: Mr. Speaker, Sir, she heard me wrong. She did not get what I said clearly.

Mr. Lang'at: Mr. Speaker, Sir, the Assistant Minister has said that the case is in court. We have had many cases which go to court relating to policemen and teachers and once they are determined by courts, the teachers or the policemen involved are not taken back to service. Could he confirm that if the court rules that, that teacher is not guilty of the allegations, they will reinstate her back to her job?

Prof. Olweny: Mr. Speaker, Sir, I cannot preempt that until the case is determined. First of all, you have just ruled that my papers are not acceptable. So, they are not admissible.

Mr. Mbadi: Mr. Speaker, Sir, the Assistant Minister said that the lady was paid only Kshs60,000 as terminal benefits. Could he inform the House how long that lady had served as a teacher and whether that Kshs60,000 is commensurate with the length of service that she offered?

Prof. Olweny: Mr. Speaker, Sir, I do not have those details with me now, because that was not part of the question. But if someone is on interdiction, he or she gets half salary and not full salary. There could also be other deductions. If the hon. Member wants those details, I can bring them to the House. I did not expect those details to be asked.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade answering my question, when he knows very well the Question asked why the teacher was interdicted? It would have been prudent for him to get the details of how long that teacher served and even the disciplinary history, so that he can address the House properly. Is he in order to evade answering my question, which he should have anticipated?

Prof. Olweny: Mr. Speaker, Sir, the Question here related to the dismissal of the teacher and whether she was paid. It did not ask when she was employed. That is not the issue here. But if any Member here wants me to indicate one-by-one what she did, then I am ready to do it. However, it may also not be good for her in the community. That is because some of those things are not very good.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has told the House that the teacher was paid when she was dismissed. Under what circumstances was she paid if you had actually dismissed her?

Prof. Olweny: Mr. Speaker, Sir, she was paid for the duration she was under interdiction. But the final judgement was made about her case by the Disciplinary Committee of TSC. That was the day she was dismissed from TSC.

Mr. Speaker: Next Question by Mr. Odhiambo!

Question No.890

BONAFIDE OWNERS OF BUSIA AIRSTRIP LAND

Mr. Odhiambo asked the Minister for Lands:-

- (a) who the *bona fide* owners of the land on which Busia Airstrip stands are; and,
- (b) when the Government will acquire the land and compensate the owners.

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, first, I wish to apologise for not being here in the morning. Indeed, without your consent, I was sanctioned not to transact any business. Last week, I looked at the programme for the House for the week and I was under the false impression that today, I had only one Question. So, when I left the house in the morning, rather belatedly I was under the impression that I did not have a Question in the morning. I also take full responsibility because from our records in the Ministry, my two colleagues were not assigned to answer this Question. So, the assumption was that I would be here to answer the Question.

Mr. Speaker: Fine, Minister; the sanctions imposed this morning against both you and your two Assistant Ministers are lifted.

The Minister for Lands (Mr. Orengo): I am much obliged, Mr. Speaker, Sir. Thank you so much.

Mr. Speaker, Sir, I beg to reply.

(a)The following are the owners of the land where Busia Airstrip is situated:-

1. Mr. John Gibson Mwangi Mimari;
2. Mr. Joseph Gitu, who has five parcels of land;
3. Mr. Stephen Maina Kanyuru, who has three parcels, one together with Teresia Wambuyu Maina;
4. James Kuria Wairagu, who has two parcels;
5. James Gitahakwa Wairagu;
6. John Kamau Wabu, who has two parcels;
7. Daniel Ochiel Odonya;
8. Pius Otieno Ogutu;
9. Lawrence Otieno Ogutu;
10. Justo Akusa Peku.

(b)This land will be acquired once the Ministry of Transport and the Kenya Airports Authority (KAA) provide funds to compensate the land owners upon gazettelement as provided for under Cap.295 of the Laws of Kenya.

Mr. Odhiambo: Mr. Speaker, Sir, the answer the Minister is giving to this House is different from the answer I have. I would like to bring that to the attention of the Minister. In part “a” the Minister has given the names to this House. Against each name he has also indicated the size of the land owned by the people. Is the Minister aware that the sizes he has indicated on this paper are not the same on the ground? This is because people have encroached on this land. Could the Minister ask the District Lands Officer to go and ascertain that these sizes are actually as he has given?

Mr. Orengo: Mr. Speaker, Sir, the sizes are the correct ones and the owners are the correct ones. This is because he merely wanted the names of the owners of the land on which Busia Airstrip stands. What I should have said in the beginning is that the bigger part of the land is actually public land. I am only giving you the names of those who own land which forms part of the airstrip. Otherwise, a large part of the land is public land. As you can see from the sizes of the parcels of land, most of them are actually below one hectare. For an airstrip you obviously need a much larger piece of land.

The second issue which the hon. Member raised, and which is legitimate, is the encroachment on the airstrip. This is a problem that we have nationally. Nearly all airstrips in the country, and even airports, have had to deal with problems of encroachment. This, however, is a law and order issue which should be handled by the relevant Ministries, because they should take ownership and control of these pieces of land. Where there is a problem of determination of ownership or boundaries, then the Minister for Lands will be required to intervene.

Mr. Chepkitony: Mr. Speaker, Sir, I would like the Minister to tell us; how come this airstrip is owned by certain individuals, yet it is airstrip land? Was it taken or allocated when it was already an airstrip, or it became an airstrip after the land had been taken by the current owners?

Mr. Orengo: Mr. Speaker, Sir, during the construction of the airstrip it went beyond what was the public reservation. It went into land belonging to private owners.

Therefore, Mr. Odhiambo is quite right that in such cases, there should be compensation. At the time this was happening, there were no construction; actually the airstrip is the runway itself. Those who have been at this airstrip know that there is a fence round it. All round the airstrip itself there are indications that we may need to expand the airtrip. As you know Busia is going to be a very busy town, being a border town. Our intention was that we should not just compulsorily acquire these 17 pieces of land, but go beyond that and acquire even more land, so that there could be an expansion of Busia Airstrip.

Dr. Eseli: Mr. Speaker, Sir, now that the Minister has said that the airstrip came after ownership by these private individuals, can he assure this House that when they finally compensate these private owners, they will make sure that they also give compensation for the lost opportunity by these owners?

Mr. Orengo: Mr. Speaker, Sir, I think that is a matter which will arise during the process of compensation. Normally, there is a tribunal to determine whether or not the compensation is adequate. The land owner is required to appear before the tribunal. If he has an advocate, he is required to appear with him or her. All these issues that you are raising are within the purview of the compensation process. Therefore, do not anticipate it, because it is within the framework of the law.

Mr. Ruteere: Mr. Speaker, Sir, the Minister has said that some of the land has been encroached on. Is he aware that in most airports and airstrips in the country, there is a lot of encroachment on land belonging to the Kenya Airports Authority (KAA)? What action will he take to revoke the titles that have been given to people who have encroached on airport land?

Mr. Orengo: Mr. Speaker, Sir, when I was talking about encroachment, I said that people invade land belonging to airstrips, but they do not hold titles to it. They probably just need eviction orders. However, where people have actually acquired land and got titles irregularly or unlawfully, you will be told by the KAA that whenever they have brought cases like that to us, we have revoked the titles, but, of course, taking into consideration all the legal issues that may arise.

Mr. Speaker: Last question, Mr. Odhiambo!

Mr. Odhiambo: Mr. Speaker, Sir, the Minister has indicated to this House that Busia is a border town, and that it is going to be a very busy county town. I appreciate that. As a result of that, you are the Minister for Lands. The answer you gave me was that compensation will be given by the Ministry of Roads. However, in your verbal answer you have corrected that and said it will be given by the Ministry of Transport, which is the correct position. Can you, as a sign of collective responsibility, consult your colleague in the Ministry of Transport, so that they can make this airstrip serviceable, so that in the time being we are able to serve the people of Busia using that airstrip? It has not been maintained for a long time.

Mr. Orengo: Mr. Speaker, Sir, my point here is for the words “Ministry of Roads” appearing in your version of the answer, the right Ministry is the Ministry for Transport.

I can assure you that I normally find going to Busia easier than going to Siaya or Kisumu. So, I have a vested interest in Busia Town. I will do everything possible to make sure that the Ministry of Transport takes all the measures to secure this particular airstrip.

Mr. Speaker, Sir, I have an airstrip next to my village, which the former Vice-President, hon. Awori used to use. So, when Busia airstrip is not working, the airstrip

next to my village is operational. I have a very individuated kind of interest. However, that is not to say that I am trivializing the answer. I am just saying that we will make sure, together with the Ministry of Transport, that this airstrip is operational.

Mr. Odhiambo: On a point of order, Mr. Speaker, Sir. The hon. Minister has indicated that Busia airstrip is very close to his home. When he says that we should revert to using Sega airstrip, I think that is not fair to people of Busia. We need one at Busia Town because Busia is a County. Sega is just a small market. So, he cannot reduce our County airstrip and urge us to use a village airstrip because it is in his village.

(Laughter)

Mr. Speaker: Order! Order, Member for Butula!

Mr. Minister, you need not to respond to that. The Member for Butula stood on a point of order. He has not illustrated that there is anything that was out of order. So, just leave it where it is.

We want to take the last Question, if we have a little time. Maybe, Members will have to accommodate this and it is Prime Minister Question No.14, which is partly answered. I think you just have a little information that needs to be given.

PRIME MINISTER'S TIME

QPM/014

DISCHARGE OF SEWAGE INTO RIVER RUIRU

Mr. Kabogo asked the Prime Minister:-

(a) whether he is aware that sewage from Ruiru Town flows into Ruiru River resulting in several deaths caused by water borne diseases, and,

(b) What immediate measures the Government is taking to curb the menace.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Speaker, Sir, this Question was answered by the Minister for Public Health and Sanitation last Wednesday exhaustively. But we were supposed to make a few clarifications, which I would like to make.

Mr. Speaker, Sir, further to our answer of 3rd May, 2011, regarding Ruiru Water Supply, I wish to make the following clarifications on the projects timeframe and budgetary allocations.

(1) The project is funded by the World Bank through the Athi Water Service Board to the tune of Kshs650 million.

(2) The Project period is 18 months; it started on 28th October, 2010, and is expected to end on 28th April, 2012.

(3) The budgetary disbursement for the financial year 2010/2011 is Kshs250 million.

(4) The progress of the works as at 6th March, 2011 is approximately 20 per cent complete.

(5) Budgetary allocation for the next financial year 2011/2012 is Kshs400 million.
Thank you.

Mr. Kabogo: Mr. Speaker, Sir, I am completely lost. I am lost for the reason that the Assistant Minister is referring to the issue of supplying Ruiru with water. That is the project funded by the World Bank. He is referring to the deliberations in the House on the 3rd. However, I have the HANSARD of the 4th, I think that is where he is referring to. This Question was deferred for the Minister for Public Health and Sanitation to consult the Minister for Water and Irrigation and the Deputy Prime Minister and Minister for Finance to find out how soon the 1.5 billion for the sewerage system could be put together to stop Ruiru people from drinking contaminated water with sewage. So, I am really lost.

Dr. Gesami: Mr. Speaker, Sir, we have widely consulted the Minister for Water and Irrigation. This information I have here is in consultation with the Ministries of Finance and Water and Irrigation. Last time we dealt with the issue of public health in terms of water contamination and that was exhaustively done. We were told to clarify the issue of the amount of money that is there for this financial year.

Mr. Speaker: Order, Assistant Minister!

So, in a nutshell, what is your answer to part “b” of the Question? When are you going to curb this menace?

Dr. Gesami: Mr. Speaker, Sir, we dealt with this issue. Currently, we are doing a lot of campaigns on public health and we are using a lot of chemicals to treat water at the household level. We will continue doing that.

We have also arrested people and taken them to court. All these things were given last time by the Minister. So, really what we are supposed to clarify is the issue of the Ministry of Water and the Ministry of Finance.

Mr. Kabogo: Mr. Speaker, Sir, I wish to request the Chair to just have a look at the HANSARD for that day so that you may acquaint yourself with what I am saying.

The Assistant Minister is taking us to the issue of water. The issue here is---

Mr. Speaker: Recap the subject.

Mr. Kabogo: Mr. Speaker, Sir, may I request the Chair to have a look at it because the Assistant Minister is not addressing the issue that was deferred by the House. So, may I table this?

(Mr. Kabogo attempted to lay a document on the Table)

Mr. Speaker: Recap the issue yourself and ask a question!

Mr. Kabogo: Mr. Speaker, Sir, the issue is; sewage is flowing into Ruiru River from pit latrines and from all houses in the area, including Githurai. We were supposed to visit this river on Friday with the three Ministries, if you recall, but we could not because of the weather.

What is the Ministry going to do now as they wait for the Kshs1.5 billion to stop sewage from flowing into Ruiru River and all other rivers that lead to Athi River, because Kenyans are dying due to pollution?

Dr. Gesami: Mr. Speaker, Sir, we cannot talk about sewage without talking about water. The two projects are together. That is sanitation and water supply to Ruiru.

If you look at the answer we gave last time, we talked about the number of deaths. We, indeed, accepted that we have a problem in Ruiru and we are trying our best to make

sure that we address it urgently. We gave a list of what we are trying to do as a Ministry. We indicated that we want to work with the Ministry of Water and Irrigation and the Ministry of Finance to make sure that the issue of Ruiru is addressed, once and for all.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to fail to answer a direct question with a direct answer?

If I listened to hon. Kabogo, he was very clear that sewage is being discharged into Ruiru River. When are you going to stop this? That was the question of hon. Kabogo and he did not answer that question.

Mr. Speaker: Indeed, Mr. Assistant Minister, try and just come straight to the point.

Dr. Gesami: Mr. Speaker, Sir, this issue was addressed last time by the Minister. It was addressed clearly that we are aware that actually some sewage is flowing into the River Ruiru. We, as Government, have agreed that we want to take immediate steps. One of the steps we have taken is to make sure that those areas, where the sewage is flowing into the river is stopped immediately. We have taken people to court for that. We are also using chemicals to treat water that is being taken in Ruiru.

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

I hope you understand the frustrations I am going through. I want to read the last few words of the Speaker or the Chair, when this matter was deferred, if you allow.

Mr. Speaker: Please do.

Mr. Kabogo: “So, on the issue of budgetary allocation, could you consult the Ministry of Water and Irrigation and let this House know how much they are making available for you to address this bit of this Question”.

It is so simple.

Mr. Speaker: Indeed, Mr. Assistant Minister, that seems to be very clear!

Dr. Gesami: Mr. Speaker, Sir, maybe, I need to go back to the Ministry of Water and Irrigation to get another answer from what they have given me. So, this Question can be deferred until next week.

Mr. Speaker: Mr. Assistant Minister, why would you come to the House without the answer when the position is very simple and straight forward?

Dr. Gesami: Mr. Speaker, Sir, I thought that the issues that Mr. Kabogo wanted clarified were contained in my answers.

Mr. Speaker: Do you now understand what needs to be clarified, because it is on record?

Dr. Gesami: That is all right, Mr. Speaker, Sir. It is the issue of stopping of the flow of raw sewerage into River Ruiru.

Mr. Speaker: Yes! How much money do you have available to take remedial measures? It is straightforward!

Dr. Gesami: Mr. Speaker, Sir, I cannot give you the figures now. Let me first consult the Ministry of Water and Irrigation and the Office of the Deputy Prime Minister and Ministry of Finance.

Mr. Speaker: How long do you require, Mr. Assistant Minister?

Dr. Gesami: Mr. Speaker, Sir, give us one week.

Mr. Speaker: Up to Thursday, next week?

Dr. Gesami: Yes, Mr. Speaker, Sir.

Mr. Speaker: You must come with a clear, straightforward and simple answer on Thursday, next week, at 2.30 p.m.!

Dr. Gesami: Thank you, Mr. Speaker, Sir.

Mr. Kabogo: In addition, Mr. Speaker, Sir, I may wish to request, through you, that he acquaints himself with the HANSARD because the amount of the money was agreed as feasibility was done. The Kshs1.5 billion is in this record. The issue is when and how much will they avail to curb this problem? Can I have the answer?

Mr. Speaker: The Assistant Minister is an intelligent man and I am sure he will do that. It may just have been an omission for today, but on Thursday afternoon, I am certain that he will come with a satisfactory answer and perhaps, more. Mr. Assistant Minister, it will be good if you come to the House and say that you have already stopped the flow of sewerage into the river!

Dr. Gesami: Most obliged, Mr. Speaker, Sir.

Mr. Speaker: Thank you.

That, then, brings us to the end of Order No. 6.

Let us move on to the next Order!

POINTS OF ORDER

DETENTION OF DR. BESIGYE AT JKIA

Mr. Mbadi: Mr. Speaker, Sir, I rise to seek for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the detention of Dr. Kiza Besigye, the Ugandan Opposition Leader at the Jomo Kenyatta International Airport (JKIA) today, the 11th day of May, 2011.

In the Statement, the Minister should explain to this House and the country, the reasons behind the detention, who ordered it and when he will be released to travel back to his country. The Minister should also explain in the Statement the effect(s) that this action could have on our diplomatic standing within the international community and confirm whether this is not an infringement of human rights and civil liberties to Dr. Besigye.

Thank you, Mr. Speaker, Sir.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I am not saying that I cannot issue a Statement with regard to this, but I want to clarify here that Dr. Besigye had already been cleared and he will board the Kenya Airways aircraft at 5.30 p.m.

(Applause)

Mr. Speaker: The hon. Member for Gwassi and other hon. Members who may want clarifications!

Mr. Mbadi: Thank you, Mr. Speaker, Sir. I would like to thank the Assistant Minister for that answer. Dr. Besigye was supposed to leave this country in the morning. I wanted to know from the Assistant Minister why he could not leave in the morning but has to leave at 5.30 p.m. today.

Mr. Speaker: Mr. Assistant Minister, keep a note of that. Is there anybody else who is interested? Yes, the Member for Turkana Central!

Mr. Ethuro: Thank you, Mr. Speaker, Sir. I would like the Assistant Minister to clarify whether there is an arrangement between the Government of Kenya and the Government of Uganda in that the Government of Uganda detains our lawyers while the Kenya Government detains the Opposition Leader.

(Applause)

Mr. Speaker: Mr. Assistant Minister, you may want to make responses?

(Mrs. Odhiambo-Mabona stood up in her place)

Mrs. Odhiambo-Mabona, do you want a clarification on this?

Mrs. Odhiambo-Mabona: Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Assistant Minister, perhaps you should wait. By our practice, we normally take three requests for clarifications.

Proceed, Mrs. Odhiambo-Mabona!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, now that Kenya, under the new Constitution, is obligated to respect international treaties, could the Assistant Minister clarify whether he knows that what has been done is a violation of the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights among several other rights? Could he clarify that? Could he also tell us why Kenya is violating those treaties?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will start with the clarification sought by Mrs. Odhiambo-Mabona. As a country, we will not violate any treaties.

On the issue of Mr. Ethuro and Mr. Mbadi, the morning flight was delayed because it had some problems. Dr. Besigye came to the airport late and he was rescheduled to take the next flight, which is now at 5.30 p.m.

Mr. Speaker, Sir, as a Government, we cannot detain anybody because we cannot have---

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I would not like to interrupt my good friend, the Assistant Minister, but if you heard him, he has said that the flight was delayed and the passenger came late. When we delay a flight and the passenger comes late, chances are that the passenger will get that flight. Is it not a contradiction?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, once the preparations have been done and the passengers are waiting to board the flight, you will not be accepted if you come late. First of all, it is not possible to get the boarding pass. That is what I meant. Dr. Besigye came when the passengers had already been cleared and were just waiting to board the flight. That is why we had to slot him in the next flight which is at 5.30 p.m. He will go back to Entebbe or Uganda.

Speaker: Very well! That must rest the matter!

(Applause)

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE: THE PRICE CONTROL (ESSENTIAL GOODS) BILL

Mr. Speaker: Order, hon. Members! Before we move to Order No.8, I wish to direct as follows. Order No.8 Paragraph II will stand deferred to Thursday, next week, at 2.30 p.m. on the ground that the sponsor of this Bill, Eng. Ephraim Maina together with the Deputy Prime Minister and Minister for Finance have made presentations to me prior to the commencement of this sitting to the effect that they are consulting over necessary amendments to the Presidential Memorandum on which it is critical that they arrive at some agreement, if not concurrence or compromise, and they require time to be able to crystallize this. I have granted them their request, exercising discretion vested in me by the Standing Orders.

So, Order No.8 Paragraph II is deferred to Thursday, next week, at 2.30 p.m.
What is it, Eng. Maina?

Eng. Maina: Thank you, Mr. Speaker, Sir, for that information. I wish to inform Kenyans who were waiting for this Bill eagerly that my resolve remains steadfast and this Bill will be tackled next week. I do believe that the House will be behind me in this Bill.

Thank you, Mr. Speaker, Sir.

(Mr. Oyongo-Nyamweya stood up in his place)

Mr. Speaker: Very well! Order! Hon. Member for South Mugarango. Some of these matters must rest without any unnecessary spinning.

Mr. Oyongo-Nyamweya: Mr. Speaker, Sir, allow me to speak.

Mr. Speaker: Is it with regard to Order No.8? You must be relevant to where we are.

Mr. Oyongo-Nyamweya: Mr. Speaker, Sir, I had requested for a Ministerial Statement from the Minister for Energy with regard to the fuel crisis. You directed that he should bring an answer today. That is what I wanted to bring to your attention for your direction.

Mr. Speaker: Very well. I recollect that. Where is the Minister for Energy? That was fairly a simple and straightforward matter. There seems to be some contradiction between what the Minister and what the Prime Minister committed themselves to the House vis-à-vis what the marketers are proposing to do. Obviously, this is an urgent matter.

Hon. Githae, what may be happening or not happening?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, the Assistant Minister for Energy was here. I do not know what has happened to him. However, I would like to seek your indulgence on the matter.

Mr. Speaker: It is a fairly urgent matter.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, it is fairly urgent and if we could get the necessary clarifications, we can deal with it tomorrow afternoon.

Mr. Speaker: Very well! This is a matter of immense public interest and it is urgent. So, I hope that you will sensitize your colleague to be here tomorrow afternoon at 2.30 p.m. to deliver the Statement.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. If you noticed during Prime Minister's Time, there is Part (b) of the Statement. I was just wondering when it will be dealt with.

Mr. Speaker: Mr. Ethuro, I thought you were aware as to the fate of the Prime Minister, given that he has gone to your locality and may, among other things, visit your constituency which is affected by this matter. I thought you would be keeping him company?

Mr. Ethuro: Mr. Speaker, Sir, I got the invitation from the Prime Minister and I was extremely delighted about it. However, the most important thing is that I do not work in the Prime Minister's Office. I work in your office. So, I thought I had duties. More importantly, I am very happy that the Prime Minister is going there. So, I am waiting for his response because I had been there over the weekend.

Mr. Speaker: Very well. If you look at the relevant Standing Orders, you will notice that it is not mandatory that the Prime Minister must deliver a Statement when we get to that point. So, given the prevailing circumstances, he has left to attend to a matter that is urgent and of critical national importance. In those circumstances, there has been communication from the Prime Minister's Office that he will not be able to deliver this Statement today. It will, obviously, be delivered at the earliest opportunity, which we anticipate will be during Prime Minister's Time next Wednesday. So, Members will have to bear with him.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Ethuro) took the Chair]*

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

Clauses 2 and 3 agreed to)

(Title agreed to)

QUORUM

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Chairman. As you can see, we have no quorum.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we do not have sufficient quorum. I order that the Division Bell be rung!

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Ethuro): Order! Order! Hon. Members, we now have quorum.

(Clause 1 agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Vetting of Judges and Magistrates (Amendment) Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Vetting of Judges and Magistrates (Amendment) Bill and approved the same without amendments.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Nairobi Metropolitan Development (Mr. Githae): seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I beg to move that The Vetting of Judges and Magistrates (Amendment) Bill be now read the Third Time.

The Minister for Nairobi Metropolitan Development (Mr. Githae) seconded

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

BILL

Second Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BILL

*(The Minister for Justice, National Cohesion
and Constitutional Affairs on 26.4.2011)*

(Resumption of debate interrupted on 10.5.2011)

The Temporary Deputy Speaker (Dr. Laboso): Yes, hon. Njeru Githae.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute to this very important Bill. I will not go into the Bill itself because it has been adequately ventilated on. I will just go to the more important issue of basically educating and guiding the new body we are going to establish, so that it does not make the same mistakes that the Ligale Commission made. It is important to say this, so that when the new body brings its report to this House, it does not end in controversy as it happened with the Ligale Commission Report.

Madam Temporary Deputy Speaker, the Ligale Commission went wrong on five issues; the first one being the classification of cities. According to the Report of the Ligale Commission, there is only one city in Kenya, yet we know that there are two other cities, namely; Mombasa and Kisumu. Can you imagine somebody going to Kisumu and telling the residents, particularly at the Bus Park, that Kisumu is not a city, yet we celebrated 100 years of the existence of Kisumu City only recently? A song was even formulated on Kisumu City. That was wrong. The Ligale Commission made a mistake.

The effect of that mistake was to discriminate against Nairobi County. When it was declared that Nairobi was the only city---

(Mr. Ruteere stood up in his place)

The Minister for Nairobi Metropolitan Development (Mr. Githae): You do not come from Kisumu City, hon. Ruteere.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, Mr. Ruteere?

Mr. Ruteere: On a point of order, Madam Temporary Deputy Speaker. In view of the repetitive contributions by hon. Members, since debate on this Bill has been on for

the last two weeks, I rise under the provisions of Standing Order No.86 to call for closure of debate on The Independent Electoral and Boundaries Commission Bill.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. In view of the point of order by the Member for Imenti North, I would like to bring to the attention of the Chair that some of us are still interested in making our contributions to this very important Bill.

The Temporary Deputy Speaker (Dr. Laboso): In view of the interest that hon. Members still have on this debate, I will ask hon. Githae to proceed.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Madam Temporary Deputy Speaker. It is not that you do not want this Bill to be passed; myself and hon. Ethuro have been here for the last two weeks. We had agreed with the Minister that after I and hon. Ethuro speak, debate on this Bill can be brought to a closure.

(Laughter)

Madam Temporary Deputy Speaker, I was just saying that, really, what I am saying has not been repeated by anybody. As I said, I will not go into the details of the specific clauses of the Bill, because the contents of this Bill have been ventilated on by other hon. Members. I was requesting the new body we are going to form not to make the same mistakes that the Ligale Commission made. If they do so, their report will end up in controversy.

Madam Temporary Deputy Speaker, according to the Ministry of State for Planning, National Development and Vision 2030, we have three cities, namely; Nairobi, Mombasa and Kisumu. It was wrong and discriminatory for the Ligale Commission to deem that Nairobi City is the only city in this country. It is wrong. The residents of Kisumu and Mombasa were offended when the Ligale Commission said that these are not cities. We know that they are cities. We celebrated them and even songs were made commemorating the attainment of the cities. The effect of that was that the Nairobi County was discriminating against in the allocation of new constituencies. So, whoever will be the Chairman of the body we are creating, please, do not make that mistake. There are three cities and they should be treated equally. You should not try to give one, two or more of the cities some preferential treatment.

The other mistake that the Ligale Commission made was on consultation. They refused to consult the stakeholders on the basis that they were independent. Consultation does not make you less independent. I am glad that, at least, in this Bill, the Commission is forced to consult with all the stakeholders. That is an improvement. The effect of the Ligale Commission refusing to consult was that they made some errors. There were some typographical errors; for example, names of constituencies and wards were wrong. Some wards were placed in other districts. If they had consulted, those things would have been pointed out and their report would have been richer. We could have enriched their report but for some reasons, the Ligale Commission thought that if they consulted, then they were not independent. If you consult, it does not make you less independent.

When at long last Parliament forced the Ligale Commission to consult, and this was only three days before the expiry of their term, even the Cabinet Committee that was established, we were able to sort out the Nairobi County issues. In the Nairobi County,

there were basically three things that were wrong. One was with Dagoretti Constituency, which had a higher population than Westlands and Langata and yet, it had not been given any additional constituency. Westlands had been given two additional constituencies and Langata had been given three. Some parts of Dagoretti were hived off to create new constituencies in both Westlands and Langata. That was wrong and at long last, the Commission agreed that it was wrong and they rectified it. The next county that was to be sorted out was Mombasa, but we could not go there because the Commission's term expired. So, I am basically guiding the Commission; please, consult the Members of Parliament and the public. They can only, but enrich your report and your report will not contain errors.

The other mistake that the Commission made was with regard to provinces. Under the new Constitution, we have no provinces. We only have counties. They started by having provinces and then allocating constituencies according to provinces. They then said that, some provinces had been favoured by the Moi regime and, therefore, they wanted to have reverse discrimination. Again, that was wrong. It was not necessary. They did not follow the criteria stipulated by the Constitution. The other one is that they refused to consider the new districts that are already there. You cannot ignore them because they are there. So, I am requesting the Commission that when they start, they should start with constituencies and give all the districts constituencies. We have 258 districts; make them constituencies and then allocate the balance of 40 constituencies according to the criteria set out by the Constitution.

Madam Temporary Deputy Speaker, some of us felt offended because in Kirinyaga County, we had agreed that Mwea Constituency should be split. In the order of population, we were number 28. Therefore, we felt offended that some constituencies that were number 60 were split and constituencies which had a higher population than others were not split. That made us feel offended and discriminated against. The Ligale Commission was not fair.

With those remarks, I support.

Mr. Ethuro: Madam Temporary Deputy Speaker, I want to thank you for giving me the opportunity to make my contribution to this particular Bill. I would like to thank hon. M. Kilonzo for bringing this Bill to the Floor of the House, being one of those Bills that are required of this House to pass. This particular Bill is extremely critical because it deals with the manner in which we conduct our elections to produce leaders for this country.

This Bill is being discussed against a background of post-election violence. It is against a background in which we disbanded the Electoral Commission of Kenya. It is also coming at a time when democracy in Africa is under serious threat. This year, there are quite a number of elections that will take place in Africa. We have cases where the incumbents, after losing, do not want to give up power. We also have had cases where the losers think that it is their right to win. While I appreciate the desire to conclude debate on this Bill given the time, it is better to debate and not conclude than just to conclude before we have not debated properly and to the satisfaction of everybody. Apparently, each and every one of us must go through this process. It is in our interest, individually and collectively as a nation, to ensure that we establish one of the best IEBC that this continent can produce.

So far, so good; the IIEBC has worked very well and we are quite happy. We think it is going to form a basis and a solid foundation in which the future Commission will operate. I am always hesitant to congratulate the Commission because it has been conducting by-elections and the referendum, which are less contentious situations. Let us wait and test them in 2012 when individuals like us will be desiring the highest office in the land and we will be trying to come back to the House. That is when the real force behind elections will come out. I say this because even the ECK headed by Samuel Kivuitu that we disbanded did a good job in 2002. We seemed to have forgotten and condemned them. I want to register that it was very wrong for us to disband the ECK. Instead of dealing with the politicians who were causing the mess, we decided to blame some Commissioners who were just, maybe, acceding to the appointing authority which took them there and asked for the binding to be done. So, I want to address not really the mechanics that are in this Bill, but the issues to me, that are external to the Bill and the operation of the Commission. I want to address the issues that will influence how the Commission will operate.

Madam Temporary Deputy Speaker, I want to apologise on behalf of the political class. I have made it a personal commitment everywhere I go. You sit with me in the Committee on the resettlement of the Internal Displaced Persons (IDPs). You are also a Member of the Amani Forum. A few of us who are Members of this Parliament do not want this country to go through what it went. We have been apologizing to our communities, on behalf of the political class, that we brought them problems and we have not even bothered for a single moment, to go back to these communities and just say *pole* because they were killed, injured and maimed, just because of you and me to be in this Parliament and the “Big five” to be in the offices that they occupy. That point must be made clear.

I am clear in my mind that I do not want an election that will bring me to this House or take me to any other office on the basis of being rigged or because I have shed the blood of a Kenyan. We must make a covenant with ourselves; that these offices are not worth the life of a Kenyan. Sometimes, we have to say: “If it means that Kenyans lose their lives for me to be elected to an office, I would rather not be elected to that office.” This is what I really want to say and this is what the good Lord said in Jeremiah Chapter 31. He said that the days of you reading from the law books would be gone. The better days will be those days – and I am paraphrasing for the sake of Mr. Kabando wa Kabando – when the law will be written in the hearts of men and women; I may add being gender sensitive and cognizance of Madam Temporary Deputy Speaker. That is the real law and commitment. That is real challenge of the Commission. Until those of us in the political class come and say that there are some basic ethos and principles in which we must operate, we will create Commissions and disband them every day as an excuse of our problems. We will sacrifice them like in the Old Testament for those gods and even this time, there will be gods without blemish.

Madam Temporary Deputy Speaker, just to deal with the mechanics, the Minister is proposing four Commissioners at a time and then four afterwards. I do not understand the logic and maybe, the Minister will make it very clear. I do not want a situation where we treat some Commissioners to be less than others while others are senior to others. In any case, what time frame is the Minister looking at? This is May, 2011 and elections, as the President told us, will be in less than two years. You need a team to start from the

very beginning and assemble its structure, bond and work together in preparation for elections. You will not just fill the Commission just because it is time to conduct the general elections. I do not see the logic and maybe, the Minister will have to teach me.

Secondly, I also do not see the logic why we seem to be saying that the Secretariat and the Commissioners must be capacitated. Who is responsible? If you have part-time Commissioners, is that a Commission or a board of bureaucracy? I am of the opinion that this is a Commission and let the Commissioners take responsibility. This is an independent and constitutional Commission and you cannot have part time Commissioners who will do *Jua Kali* business and may be tempted to look for contracts from the same people who will vie for these positions. Are we not creating opportunities to tempt the Commissioners? This could be happening in other countries. I have observed this but each country must learn from its own history and processes. This is not a country where you can have part time Members of Parliament or Commissioners. It cannot work here, because we will create opportunities – in economics – for seeking rent. I do not think that, that is what we want to do. I want the Commissioners to be completely independent and know that they have a job to do for the sake of this country, and to do that job properly without wondering whether they are being employed fulltime, halftime, quarter-time or a tenth of their time. You wonder what they will be doing those other times.

Finally, on the issue of the Ligale Commission, this House is divided. Again, this is why I look at the Bible. We have a political class in this country that believes that “as long as it is good to me, it is well with my soul. As long as it is good to me, I do not care that it is injurious to another person.” I would like us to rise to the occasion. It is part of the reason you see some of us suffering in this country and you wonder whether we are Kenyans. It is part of the reason we talk about insecurity, underdevelopment and disasters. This is because when we get the opportunity to sit in these nice offices, with the mandate to serve the Republic of Kenya, we construe that mandate to mean serving your village community and being a tribalist per excellence.

Madam Temporary Deputy Speaker, I was a Member of the Parliamentary Select Committee on the Constitution Review. We went to Naivasha and worked on a formula. We looked at the scenarios and agreed on the number of constituencies to be created. For the case of Turkana County, we were entitled to eight constituencies. However, Mr. Ligale somehow believes that because Turkanas have never had representation, getting double is more than their rightful share. This is a mathematical formula and there are no two ways about it. I will not be in this House, in this day and hour, to be part of a conspiracy against certain segments of our population.

Madam Temporary Deputy Speaker, I support the Bill.

The Minister for Public Works (Mr. Obure): Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to make a few remarks on this very important Bill, which when enacted into law, will provide for the appointment and effective operations of the Independent Electoral and Boundaries Commission (IEBC).

Madam Temporary Deputy Speaker, I want to start by congratulating the Minister who presented this Bill to Parliament in an articulate and very eloquent manner. I want to recognize the role the Minister has played in the forefront to ensure that we achieve full implementation of the Constitution.

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

*[The Temporary Deputy Speaker
(Mr. Ethuro) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, the ability and capacity to conduct smooth, open and fair elections is a prerequisite for peace and stability in any country. It is also a prerequisite for long-term prosperity of any country. Poorly managed or bungled elections are always a recipe for chaos and instability. We have seen a great deal of that in Africa. We have seen these examples even in our country. In 1988, the then governing party, KANU, conducted its nominations through what we called “the queue voting system”. In that year, we saw people who had very short queues and, therefore, few supporters being declared as winners. We also saw those with long queues, meaning huge support, being declared the losers.

Mr. Temporary Deputy Speaker, Sir, the rigging that took place that year created fertile ground for general dissatisfaction among the population; to the extent that, there was loss of confidence in the Government, in the leadership of the Government and the institutions responsible for governance.

We must admit that what happened that year contributed to the downfall of KANU a little later. We also saw it in 2007. I am sure many of us have fresh memories of what happened in that year. Failure by the then ECK to conduct the elections in a transparent and impartial manner led to a breakdown of law and order. What happened and what we witnessed is something we want to forget very quickly. We do not want to see a repeat of that at any time in our lifetime or even after.

Mr. Temporary Deputy Speaker, Sir, it happened because the results which were declared by the ECK were not generally accepted by the population. They were not perceived as being a reflection of the people’s feelings.

Subsequent elections have been held. We have seen by-elections in various places in the country. We saw by elections conducted in Kinango, Bomachoge, Shinyalu, Wajir and Juja, among other place. By and large, the results have been accepted. This is because people felt that the results represented the verdict of the people. We congratulate the Interim Independent Electoral Commission (IIEC) for doing a good job. They did a professional job.

Mr. Temporary Deputy Speaker, Sir, part of the reason why we have failed before is because the commissioners were involved in the day-to-day management of the affairs of the Commission. I am glad that will be the major difference. It is being proposed here that the commissioners detach themselves from the day-to-day management of the affairs of the Commission.

In the past, commissioners divided the country and took charge of specific zones in which they were interested. They proceeded to manipulate the election procedures and processes. They took over the work of the returning officers. In fact, they went ahead to employ election officials from among friends and relatives of the candidates they favoured. In that kind of scenario, you cannot expect them to be impartial. This is the reason we failed.

Mr. Temporary Deputy Speaker, Sir, I believe strongly in what is being proposed; that, the work of the Commissioners should be to formulate policy and provide oversight on the implementation of the policies they have formulated. I feel that they should be non-executive.

The Chief Executive Officer and his staff should have the responsibility of executing the policy and managing the affairs of the Commission on a day-to-day basis. The secretariat should comprise of experts and professionals. These people must be made accountable to the Commission. Therefore, ultimately, the Commission is responsible for the conduct of the affairs of the Commission.

Mr. Temporary Deputy Speaker, Sir, for us to achieve that status of conducting fair and impartial elections, it does not matter what laws we pass in this Parliament; they may be very good, but those of us, the politicians in particular, who participate in these elections, must be prepared to play by the laws and regulations which we put in place.

We must be prepared to change our attitudes and past practices. Let us accept the results which have been declared, particularly after we have participated and completed the elections under laws which we have passed and generally accepted.

Mr. Temporary Deputy Speaker, Sir, there is a general belief that we lose elections because we have been rigged out. Everybody believes in that. Even those who had very little support in these elections still believe that they have lost because they have been rigged out. We must accept that there are situations when we have fallen out with our constituents and, therefore, we must be prepared to accept that our voters get to positions where they can reject us. Once they reject us, we must be able to accept those results.

Therefore, if we are going to succeed, let us change our attitudes. Let us accept to go by the laws and regulations we have put in place. Let us discard the culture of impunity which has driven us into very ugly situations.

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

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I do support but with proposed amendments.

Mr. Temporary Deputy Speaker, Sir, I will not speak to those proposed amendments today, but I want to just speak to a few issues. One; that, I wish the Minister had actually brought this law together with the electoral laws because it is creating a lot of confusion because a lot of people think that this law is very lean when it actually just sets up the Commission. But there is an electoral law that will be governing how we deal with elections. I think that is what we are more concerned about, even much more than this Commission that will be playing by the rules that will be set by that law.

Mr. Temporary Deputy Speaker, Sir, we, as a country, very quickly forget. I have heard you apologizing. You understand when you apologize, because I have apologized myself. I was just from Rongai, Sotik, Kipkelion, Narok and what I can tell you, is that we, as Members of Parliament, must be very serious. It is not enough that when I say a point here which makes sense that we cheer, but it does not go to our hearts.

On the ground, Kenyans hate each other. Let us just be blunt. Let us be plain. Kenyans hate each other by ethnicity. The things that I have seen - the messages that were being given are very clear. In one area we went, an old man who insisted that we must give him a chance to talk said that one day, Mzee Jomo Kenyatta came to their neighbourhood and pleaded with them and asked them: "If you have children who are

orphaned and children who have a mother, who would you take care of?” They said: “We will take care of the ones without the mother.” Then they were told the Mau Mau children are orphaned; take care of them. The Mzee said: “How long will we take care of these children? Do these children not grow?”

From what we are seeing on the ground, this country needs to heal. We are joking as parliamentarians. We need to take this issue seriously. We have a crisis waiting to happen. We were in Narok. There is a serious crisis waiting to happen in Narok.

Mr. Temporary Deputy Speaker, Sir, so, when I actually see a whole Minister chest-thumping and saying: “We are going to take people here by force”, we do not know that the people we are taking there are human beings. They are not commodities. A woman called Njeri was very brave in Sotik because she was a minority there. She stood up and said: “I was born in Sotik and my house was burnt there.” However, when we asked her where she would go if she was given money, she said: “I was born in Sotik and that is where I am. But I want to go back to my people who are no longer in Sotik.” That is what the ordinary Kenyan is saying. We cannot be sitting here comfortably as Members of Parliament and speaking as though we are in Planet Mars. There are people who live in a country called Kenya. We are the ones who have made them hate each other. Those people were born in certain areas and have called each other brothers and sisters. We have turned brother against brother, and sister against sister. All we can do is go to political rallies and politick about our ethnicity.

Mr. Temporary Deputy Speaker, Sir, I left Rongai Constituency yesterday at midnight. They did not want us to leave. Let us take time. I know the Chair appreciates that because you have been walking through this with us. I wish we could shoot a video and show it in this House. Our sense of humanity will come back to us. We would stop politicizing things that make sense to ordinary Kenyans. They cause people to die and that they can cause this country to go under. I want to declare today that I am giving an early warning. From what I have seen, a serious crisis is waiting to happen. I think we need to deal with it.

Mr. Temporary Deputy Speaker, Sir, in case we forgot, we heard that people who died in Trans Nzoia, according to the police, were 77. In Kisumu, there were 64 deaths. In Uasin Gishu, there were 28 deaths. In Kericho, there were 33 deaths. In Kakamega, there were 26 deaths. In Nairobi, there were 23 deaths. It was under-reported from what we were seeing on the ground. I do not think any of us has ever appreciated what actually happened in this country. Even as we talk about the issue of Internally Displaced Persons (IDPs), I do not know what kind of people we are. I am speaking from the bottom of my heart. We saw what happened in 2007. The IDPs in Rongai told us that when the Government is distributing food, it does so by ethnicity. They sit in camps opposite each other. After you have gone and given food by ethnicity, you come back to Nairobi. If the Kisii turn against the Luhya, will you be there to protect the Kisii against the Luhya? Let us be serious. Let us not play with the lives of IDPs.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I am giving an early warning that, as a country, we are joking. Even as we are politicking, we may be having a country. We may have a president or 1,000 presidents with no country. I wonder who will be ruling.

As I finish, I want to say something about the boundaries. I sat in the Sub-Committee that looked into this matter and I wish we could sit. One, constitutionally,

there will be challenges in terms of which commission has the mandate for the first review. We have looked at those issues. Two, I think, sometimes, we are raising issues for others. I was actually shocked that the areas I thought had complaints, when the respective hon. Members came before the Sub-Committee, they had no issues. They were actually saying: "Please, do not give us a new constituency since we do not want it." In the areas where we thought there was a problem, there was none and vice-versa. So, let us leave our individual interests for the sake of this country.

Mr. Temporary Deputy Speaker, Sir, the issue of delineation is not an easy thing. After a place in Nyanza was given a constituency, they were up in arms. I asked them: "Why are you up in arms?" They said: "If you curve us off, you will create a new constituency in Kasipul Kabondo. Then you will make us a minority there." So, even when Ligale was doing this work, it was not an easy thing. I want to congratulate them. The far they went, they did an excellent job. If we had actually given them time without interference, they would have done an excellent job. That is because if you are given that job, you will see exactly the same challenges they were facing.

I heard people from Central Province who were telling us they do not want any new constituency. They said if the neighbouring constituency cannot raise enough numbers, that is their problem. However, when we come here as a unitary team, we sing in a choir. We say: "This city has been left out." Let us not play with the lives of Kenyans.

With those few remarks, I support with proposed amendments.

Mr. Muthama: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make very brief remarks. First of all, I want to congratulate the Minister for demonstrating very clearly that we can have hardworking Ministers. The Minister is focused and he has tried to see the implementation process of the new Constitution going through.

Mr. Temporary Deputy Speaker, Sir, I want to just pinpoint a few issues here.

(a) The Independent Electoral and Boundaries Commission that is coming into place should not mess up with things by misusing its independence. In 1992, 1997, 2002 and 2007, there were problems with elections results. The only team that was blamed was the Electoral Commission of Kenya (ECK). The Minister must consider instituting provisions that deal with punishment of the team that will supervise our elections in the coming years. It should not be left to be independent because independence can be misused.

Mr. Temporary Deputy Speaker, Sir, I looked at this Bill and the salaries of members of Independent Electoral and Boundaries Commission is not indicated. So, it should not be left to the Commission itself to determine and decide what they will be paid. It should be passed to the new Salaries Remuneration Commission that is coming into place.

Mr. Temporary Deputy Speaker, Sir, I have seen a clause in this Bill that stipulates that immediately after passing this Bill, it will not take more than five months for the Commission to put in place new constituency and county boundaries. The Minister should note that Kenyans will be expecting that, after five months--- I am so eager to see that happen. I want the new boundaries to be put in place.

Mr. Temporary Deputy Speaker, Sir, the Commission that is coming in should not work on reducing the areas, although that is within the Constitution. I am talking more about the county assemblies. My constituency, which is about 900 square kilometers, has

only six wards. I am looking forward to having more areas of representation. I do not want the Commission to reduce the wards.

The new Commission must note that there was the Ligale Commission that left with shame due to its bad work. We do not want to see a constituency within Nairobi like Westlands, or where I live in Runda--- I represent Kangundo and 80 per cent of people who live in Westlands Constituency are in their rural homes. That is where you find work of the constituency. In Nairobi and, particularly in December, nearly all wananchi go back home to their rural areas. So, when there is a consideration of increasing the constituencies in the Republic of Kenya, priority should be given to rural areas. So, let Nairobi have minimal constituencies so that the number of constituencies in Nairobi can be given to very needful constituencies like Makueni, where you have over 250,000 people and yet, it was left without an additional constituency. The area is also quite big and that was not considered. You find that Kibera measures 1.4 square kilometers and it is a constituency. That should be given a very serious consideration.

Mr. Temporary Deputy Speaker, Sir, the other issue is on page 151. Clause 7 says that the Commission will have one non-executive chairman and the vice-chairperson. The other commissioners are also mentioned, and will serve on a temporary basis. It means that some commissioners will be appointed on temporary terms of service. That person will never be comfortable to work because he or she does not know when he or she will be shown the door. We want that to be amended. Let all the commissioners in whatever capacity, whether chairperson or vice-chairperson, serve with confidence, and a feeling that they are part and parcel of this country. Nobody should be given an office to work on temporary terms. The words “temporary terms” makes someone to work casually and not to give total commitment to his or her work.

The issue of qualifications of the commissioners has to be considered. However, I want to ask my colleagues and Kenyans wherever they are to learn to trust one another. We need to trust our brothers and sisters. We must help to correct mistakes if they arise, if they are made unintentionally. Let us have trust in the Commission that is coming in. We should not be dreaming, complaining and claiming that these people--- In this country, immediately someone gets to office, whether as a President or a Minister, their name is changed from being a darling of the community. No Kenyan should be referred to as “a group”. We want to see Kenyans get to office and practise justice to Kenyans.

Since I want my colleagues to contribute, I beg to support.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to also contribute to this very important Bill.

The Independent Electoral and Boundaries Commission Bill is extremely critical, as far the country’s reform processes are concerned. This is really the cornerstone for ensuring political stability in this country. We are drawing from the past experience of the electoral fiasco of 2007. Even as we look at some of the proposals that are being made in this regard, we are, in my view, missing some of those very important lessons. To blame the commissioners for the fiasco of 2007 is an under-statement. It is misleading. It is Kenyans who failed. First and foremost, the political leaders failed. The Commission was a reflection of the political leadership and what it wanted. It is very convenient when trouble ensued for us to blame the commissioners. This is really a case of blaming the messenger.

Mr. Temporary Deputy Speaker, Sir, I am very concerned that, if you look at what the Constitution says, we have gone to great length to emphasize that we require an independent commission. We have even set out the basic criteria that such an independent commission must meet, according to the Constitution. This is particularly with regard to Article 88(4). But when you look at this Bill itself, some of the provisions we are proposing – I am very shocked because I understand that some of these proposals were made by the Executive, I think by the Cabinet sub-committee – are very worrying. For example, Clause 5 talks about giving instructions to the Commission, and how it will relate to its Chief Executive Officer (CEO); I am telling you that is micromanaging the Commission. Let us get it right. The Constitution grants the mandate to handle elections in this country to the Commission. It also grants it the responsibility to exercise supervisory power. How can an Act of Parliament purport to tell them that you will exercise power to this extent and the other power will be exercised by the CEO? This is a CEO whom even this Parliament has not bothered to propose that we approve of. We want to approve the appointment of the Commission.

I would urge the Minister to ensure that the responsibility for this is enhanced. We can even make provisions for penalties against the commissioners. The political leaders, having allowed the Commission to do the work, must give them space. For leaders to try to direct any CEO what to do has the danger of micromanagement.

The other thing is that when we talk about part-time, executive and so on, those are all attempts to curb the independence of the Commission. It is really an attempt to deny them the power to exercise their constitutional mandate. I am surprised, because these are also the weaknesses which are likely to be exploited to help rig elections and mismanage them. Let Parliament be keen to grant responsibility and also the freedom to exercise that responsibility.

I also want to talk a little about the secretary. I am not in any way denying that we have a problem with the Kriegler Report. The commissioners overstepped their limits. They did not possibly go to actual implementation. However, that was not all that was done wrongly. There were so many things that were done wrongly. If we are not committed to establishing an institution that will function fundamentally on a new slate of new constitutional principles, it will also fail. I am very certain that independent and competently appointed commissioners will actually discharge their responsibility and ensure professionalism, including that of the CEO.

Mr. Temporary Deputy Speaker, Sir, the other issue I want to talk about concerns boundaries and the Ligale Report. The Constitution has again set out the basic criteria on how the proposed IEBC is to discharge its mandate. Once again, in the Bill we are also seeing an attempt to restrict that constitutional mandate. This should not be allowed. Indeed, these provisions in the Bill themselves are unconstitutional, and are liable to be challenged in a court of law as subverting the basic provisions of the Constitution. Even some of the recommendations in the Parliamentary Report certainly cannot override the provisions of the Constitution. The House was truly divided on this matter even as we put in the Report. We put it on record and commented that the Report itself was not without objections against it. Objections were raised, for instance, that some of the professional input from some of the experts, who were trying to inform the Ligale Report, namely Sakaja and Oduor, among others, had things which were conveniently disregarded.

I also want to say that the controversy that the Ligale Report attracted had to do with vested interests. We know the way the distribution of those constituencies was done. We saw the influence of some powerful and vested interests. They influenced how the some of the constituencies were delineated. Are we telling the proposed Independent Electoral and Boundaries Commission that it will take over some of those manifestly unfair and unconstitutional delimitations? That is what some of us are attempting to do. We are doing this while saying very strongly how we should uphold the Constitution. I think that is violating the Constitution while pretending to be upholding it.

Lastly, when we say Kenyans hate each other, at the end of the day, this is a demonstration of the kind of leadership this country has enjoyed. If we scrutinized ourselves, we should be able to understand this leadership. There is one scientific philosopher who said the views that ordinary people hold ultimately reflects the views the ruling class wants them to hold. We have mechanisms of influencing these ideas. We can do so through the media to articulate our opinions and ideas. So, when people hate each other in this country along tribal lines or whatever, it is a reflection of the political campaign propaganda that we are spearheading all over through the media. If we want a peaceful country, let us grant Kenyans what we know is to their best interest devoid of vested interests.

With those, I beg to support.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Bill. Of all the legislations that we are doing to implement the Constitution, this is a singular most important legislation. The rest will fall in place if representation is shaped, integrity in representation, fairness and justice are anchored.

Mr. Temporary Deputy Speaker, Sir, the problems we have had in this country, like any other part of the world, stem from political leadership. The transition to a mature solid democracy will depend on the electoral process. Therefore, this is one piece of legislation, where we need a tooth comb and every clause, sentence, every word needs to be clarified and not reviewed in the near future.

I would like to congratulate the Minister. If there is a Minister who has allowed himself to be independent and advise His Excellency the President, and also submits that advice to the Prime Minister, and also the Vice-President who is also his party leader, it is hon. M. Kilonzo. If things have happened bad in this country, it is because of sycophancy. If things are happening badly in Ministries, it is because of the vested interest of Ministers, including ourselves; Assistant Ministers, because people want to preserve their jobs. They do not have the courage to tell the President or the Prime Minister that this is wrong. I have noted the consistency. In fact, let me say that I have been sweetly satisfied by hon. M. Kilonzo's positions on issues to do with the implementation of the Constitution unlike many of his senior colleagues, including some of us, who are Assistant Ministers, wishing to all say things that will appease the appointing authority, because you fear that in the next reshuffle, you will be shoved aside. Therefore, I congratulate him for that courage. Put the courage forward because Kenyans are with you.

As my colleagues said, we cannot have a Board that is subservient to the Secretariat or the management. The Independent Electoral and Boundaries Commission

needs to have a Chairman and Vice-Chairman who are executive. They will be making decisions for this country. But at the same time, we should also reconsider the requirement that the Chairman of this Commission must be a lawyer. There is no proven record anywhere in the world that only a lawyer has exclusive understanding, knowledge and capability in the area of law. If we are saying that in a country like Kenya, even the super powers such as America and the most inhabited nations such as China and India with 1.5 billion and 1.2 billion people, respectively, CEOs of those nations preside over policies on finance and foreign affairs. Here, we are saying a singular commission must be limited in its chairmanship to one profession. That is one issue that I plead with the Minister. Actually I do not think there is any preferential treatment that is anchored in the Constitution which cannot be shifted in order to open space for all Kenyans.

Mr. Temporary Deputy Speaker, Sir, secondly, I have looked at the requirements or qualifications for the person to occupy the position of the Chief Executive Officer (CEO); that is the Secretary of the Commission and found that they need to have knowledge in management, public administration, law, political science, finance and electoral issues. What about that individual who is causing a revolution in the Information, Communication and Technology (ICT) in the twitter world, in Facebook, in Google and in Yahoo? Are we saying that finance, political science, labour laws and electoral laws are more anchored? I think in this time when we are communicating more, not through paper and postage but through other methods that are technologically superior to what we have had before, it would be important to attract ICT gurus or the young professionals existing in this country who are making *pesa* which cannot be found in any other part of the world; not in the United States of America or Europe. So, I urge the Minister, as he moves the amendments to consider having a CEO who can come from all those fields including the ICT.

The other issue is that the CEO, as it has been said by my colleagues, should not be above the Board. The CEO is the Chief Executive Officer. Human Resource (HR) manuals prescribe the responsibilities of a managing director of a group CEO. We cannot purport, as a Parliament, to now decline to accept the basic prescriptions for CEOs in institutions and make an anomaly which disagrees with the universal prescriptions or requirements of a CEO. His or her work is to execute the mandate of a board.

Mr. Temporary Deputy Speaker, Sir, I know that this House has been advised that this Bill will be referred to the Constitutional Implementation Oversight Committee (CIOC). It is a serious indictment of the Tenth Parliament that because of political brinkmanship; that because of petty greed by political parties towards 2012 that the most important Committee in charge of legal affairs and justice in this country is in quagmire or disagreements and, now, we are submitting to political machinations orchestrated to give short-term solutions.

(Applause)

It is not right to tell the world and the Kenyan people who overwhelmingly passed this Constitution that the Departmental Committee on Justice and Legal Affairs is in the Intensive Care Unit (ICU) or in the High Dependency Unity (HDU) and is completely unable to scrutinize a Bill as important as the Independent Electoral and Boundaries Commission Bill. It is a serious indictment. I do not think there is anyone in this country;

not even the President, the Prime Minister nor the Speaker who should be giving space for an anomaly and a contravention of the spirit of the Kenyan people to be perpetuated.

(Applause)

Either the issue of the Departmental Committee on Justice and Legal Affairs is resolved or we are told at political rallies and baraza and the National Executive Committees of ODM and PNU will make decisions which will disable this House. It is not right! On that point again, what are we saying? This is a parliamentary issue. The CIOC has very many Cabinet Ministers and most of them are officials of their respective political parties.

(Applause)

It means that if this Bill is submitted to the Constitutional Implementation Oversight Committee (CIOC), then we are saying that the resolutions of the political parties, the Cabinet and Cabinet Sub-Committees would be overwhelming. There is supremacy of the dialogue of the National Assembly as embodied by the principles and spirit of the new Constitution.

Shame to the Departmental Committee on Justice and Legal Affairs; and shame to the leaders of political parties that nominate Members to that Committee; Members who continue to show brinkmanship and political contests that are creating deceptions in a new dawn. We are renewing and recreating the politics of Guisilinks, Philistines, fraudsters and other hostages of political myopia. The integrity of Members of this Commission will also need, as the Minister brings the rules for elections as it is required by the new Constitution--- That is because this Bill does not highlight the rules. The rules need to be highlighted much more than a statement about adherence and agreeing with Chapter 6 of the Constitution. We must create a serious radical paradigm shift that will enable the Kenyan people to tell those guys who are running to say they wanted to be elected as County Assembly Members, Governors, Senators and Members of Parliament that, if you have stolen and appeared in a Parliamentary Report, or the Auditor-General's Reports or you are under investigation by Kenya Anti-Corruption Commission (KACC), your integrity is in question. You should not attempt or even dream of ever holding an important office in this country.

I strongly support this Bill.

Mr. George Nyamweya: Thank you, Mr. Speaker, Sir. I am sure most of what I had wanted to say has already been said. However, there are some things which I feel are important enough to be put on record. This afternoon, in this very House, a Question arose involving the nomination of councilors to various local authorities and so on. If you saw the form of agitation that was expressed, you will see that there was basically lack of faith in people who have the authority over things that are related to elections. From the side of the Questioner, the feeling was that the Minister was abusing his powers, and therefore, defeating the electoral verdict that the other side should enjoy. Why is this so important to us? This is because there is no other Commission that we will create which requires all our attention and our entire consensus to get this country back on its feet.

That is the IEBC. If we do not get this one right, then we will have failed. Everything else will not matter.

The biggest problem that we have in Kenya - and it is in the new Constitution and even in the other Constitution - is lack of respect for the rule of law. I have just listened to the previous speaker here. He was quite agitated in his own way. Of course, the simple question is one of the Standing Orders of the House which are not being complied with. I am a Member of that Committee. I do not hold brief for it and I will not apologize on its behalf. I wish to be on record and even wish to seek the Speaker's authority to seek a clarification. However, that is something for another day.

Mr. Temporary Deputy Speaker, Sir, I want to, very quickly, touch on certain very important things. The Commission must be truly independent. You cannot subordinate it to any other organ. What would be the purpose of subjecting the appointments of the chairperson, the deputy chairperson and all the other members of the Commission to the approval of the entire National Assembly if we are not going to give them the authority to manage elections? The very reason as to why we want them subjected to this process is so that they can have confidence and the approval of the National Assembly of Kenya. In that respect, I cannot quite comprehend why the Minister would want to have some of them as part-timers.

If the very basis for working on this is to ensure that we all have some stake in the Commission, are we going to say: "Those whom this side of the House is comfortable with will start in a year's time or in two years' time?" Of course, one may wonder what the relevance of his joining the Commission is if already the infrastructure of the Commission will have been done by the time he joins it. The Minister will not get the consensus he is seeking from this House. So, I plead with fellow hon. Members that we, at least, agree and do this one together.

Mr. Temporary Deputy Speaker, Sir, I have something to say about the chairperson of the Commission. Part of the Supreme Court's work is going to be arbitrating if there is a presidential election dispute or a presidential election petition. If that is partly the work of the Supreme Court, why would we want the chair of the Commission to have lower qualifications than those required for a judge of the Supreme Court? It would surely make more sense for the qualifications of the chair of the Independent Electoral and Boundaries Commission to be similar to those of a judge of the Supreme Court, because it is that chairperson who will also be announcing the results of the presidential election. So, I would urge the Minister to reconsider this particular provision.

Secondly, the Minister wants a substantive deputy chairperson for the Commission. We are now vetting judges for appointment to the Offices of the Chief Justice and the Deputy Chief Justice. The qualifications for those two offices seem to be similar. We are investing so much time in this institution. Why would we also not want to invest a similar amount of time in the chair and deputy chair of the Independent Electoral and Boundaries Commission? They should have similar qualifications?

Mr. Temporary Deputy Speaker, Sir, another issue we should give attention to is that of the Secretary, who will be the Chief Executive Officer (CEO) of the Commission. Surely, even if we intend to avoid micro-management of the Commission, we need to have somebody who has strong qualifications, and not just five years' experience. How would you manage a country of 40 million people with five years' experience? We need

to have somebody who has adequate experience. I have no problem with which particular field of study he may come from, but that person must be somebody who has been able to manage some organisations which require some form of experience.

As we all know, the Departmental Committee on Justice and Legal Affairs, which is currently being vilified, did, in fact, bring a report to the House. That report, very carefully and consciously, negotiated the very difficult areas that any Commission will face. I do not think we want to destroy the gains made by the Ligale Commission and the Departmental Committee on Justice and Legal Affairs. I believe that it is something we should build on. If we want to re-open the whole thing, then we will never be in time even for the elections. So, we must build on what we have gained. Soon after the promulgation of the Constitution, I remember the words of the President. He said that he had asked the late President Kenyatta how he managed to put the people together. I recall the words were: “keep the gains that you have made. Secure those ones and then move on to the next ones”. But the way we are going about our things is as if we want to re-open everything. We want to go back to the National Accord and start everything afresh. We have got to a point where we should move from where we are to the next level. I plead with my fellow Members, please, let us not lose the gains that we have achieved through the Ligale Report. I think they are important.

The other thing that I want to talk about is the question of funding. It must be very clear that, we, as a country, must have respect for our sovereignty and any money that we want, even if we have to get it from elsewhere, must go through the Treasury. Otherwise, we are not going to allow other countries through the NGOs and other bodies to manage our affairs for us. We must be clear that whatever money there is, even if it has to be raised by our development partners, should be channelled through the Treasury, so that it is Kenyan money which is managing Kenyan elections. I do not think we can compromise on that.

Finally, I believe there are certain other Bills which must come to the House in the coming few weeks. If we do not pass them, just setting up this Commission has not solved our problems. I have in mind, particularly the Elections Bill. If we do not have a way of conducting our campaigns in relation to our expenditure, then we are not going to have free and fair elections. So, I want to plead with the Minister to bring that on board and sort out the county boundaries, so that our people can understand them. We were not forthright with the councilors that they may well have lost their jobs. Let us sort out the boundaries for the counties, so that our people can know the new set up, so that when they begin campaigns, because they have began the campaigns and you are not going to stop them, at least, they know what they are campaigning for, how they are campaigning for it and the wards in which they are operating in.

With those remarks, I wish to support the Bill with amendment.

Dr. Otichilo: Thank you, Mr. Temporary Deputy Speaker, Sir. I have been sitting through the debate on this Bill since it started and I felt that I must contribute. First, I want to thank you for giving me the opportunity to contribute. Secondly, I want to thank the Minister for Justice, National Cohesion and Constitutional Affairs for sitting in all the time when we have had debate on this Bill. I can tell you that the Minister is serious and he is one Minister who is committed to the implementation of the new Constitution. I want to encourage him to continue with that spirit. We need Kenyans like him.

I want to support this Bill, which is important for this country. This Bill is going to bring a difference to this country if we are going to implement it according to the provisions of our Constitution. Once passed, this Bill will bring sanity to this country. When it comes to political issues, elections are the most volatile. That is where we have a lot of problems. I am very happy that this Bill is considering an issue that has been a thorn in elections in this country, particularly when it comes to the process of the nomination of candidates by the political parties. This is an area where there has been total abuse. The people whom Kenyans would like to elect to represent them have been denied a chance to represent the people through flawed nominations by most parties. About all the parties have never carried out fair and transparent elections. I will say that all the parties have never carried out a fair and transparent nomination process. I am sure that many Kenyans who sit in this House do not sit here because of the flawed process of nomination. So, I am very happy that this Bill has brought in a provision where this Commission will regulate and monitor the nomination process by parties. It even gives chance and power to this Commission to ensure that any disputes that arise out of the nomination process are resolved before any process continues. It also gives a chance for the Commission even to investigate and punish those parties that will be involved in a flawed process of nominating their candidates. So, I am very happy with this provision in the Bill because many Kenyans have suffered. I am one of those people who suffered because of this.

Mr. Temporary Deputy Speaker, Sir, secondly, I have also noted with a lot of interest that this Bill---

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Minister substantiate his suffering because he seems to be blaming somebody? How has he suffered? Could he let us know?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Midiwo! First, he is not a Minister and secondly, he has not breached any Standing Order to warrant the point of order. You are asking for more information, which he should not be at liberty to give.

Proceed, Dr. Otichilo!

Dr. Otichilo: Thank you, Mr. Temporary Deputy Speaker, Sir. The other provision within this Bill that is very good is the provision of code of conduct for all employees of the Commission. That provision is very important because most of the employees of the previous Commissions have been involved in situations where elections have not been conducted in a fair and transparent manner. However, with these provisions, I am very confident that in the next elections, the members of the Commission will observe these provisions. I believe there will be very stiff penalties for those who break the law. So, they will be deterred from committing any offence which would lead to not a fair and transparent election.

Mr. Temporary Deputy Speaker, Sir, as various hon. Members have indicated, the members of the Commission will go through a very serious selection and appointment process. So, after you take these important Kenyans through the rigorous process of selection and appointment, it does not make sense to appoint them as part-time members of the Commission. These are people we are entrusting to carry out fair and transparent elections in this country. So, I believe that these people should work on fulltime basis, so that they can discharge their mandate. So, I support those who have raised this matter and I hope that this issue should be looked into during the amendments.

Finally, on the issue of delimitation of constituencies and wards boundaries, I think what we need to do is clearly spelt out in this Bill. We will need to look at the Ligale Report, the Report by the Departmental Committee on Justice and Legal Affairs and at the Constitution so that the Commission can come up with a clear and fair way of deciding which constituencies should be constituted and which boundaries should be put in place. So we should not again ask to go back to reinvent the wheel. If we do so, as one of the hon. Members has said here, we will not be able to move forward.

So, I pray and plead with hon. Members that when it comes to the final passing of this Bill, we have to look into that so that we do not open a Pandora's box again and start afresh.

With those few remarks, I want to support this Bill.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, let me also join my colleagues who have supported this very important Bill. It is important because it brings to order some of the problems that we have faced in the past.

A vague ECK in the past; not only in 2007, but in previous periods, has caused this nation problems and chaos which led eventually to the very unfortunate incidents of December, 2007 and the chaos that we as a nation faced. Let me also thank the Minister for a job well done under very difficult circumstances in a very political environment. It is not easy to navigate this kind of document through a political process such as the one that we currently have. So, thank you, Mr. Minister for the work you are doing for this country.

Kenyans are blaming this House, the Cabinet and the political elite of which we are the best known members of that class. They are blaming us and telling us that in August last year, they approved a new Constitution. They authorized us to proceed and conclude its implementation. They even approved a timetable of how to present this. We, as Cabinet, Parliament, all of us have failed in meeting those targets that Kenyans had hoped to be met, so that our new Kenya can take off. This Bill is part of close to 50 or so that need to be passed by this House so that we can make progress.

Lastly, as I recall, there was a huge debate about one kilometre and one person representation. That debate, to me, was very healthy because it set the ground rules. Although at the time, it looked not right and we all argued highly emotionally and very strongly about what we believed, I think it was important for that debate to take place at that particular time. So, the result of that produced what we call the Ligale Report. It accommodated a major part of the elements of that particular debate that took place at the time. I would like to thank the Minister for including that in the new Bill that there is continuity and reference material that will be used in doing the future work of the Independent Electoral and Boundaries Commission will incorporate a lot of that material as reference material. That is as it should be because we do not have to reinvent the wheel. We already did a lot in the last two years when Ligale and his team went round. Yes, there were controversies, but it is good reference material as a way forward in order to speed up the process of what we, as a country, need to do in achieving and concluding this very important issue that we face. We all know the experience of the defunct Electoral Commission of Kenya (ECK). We know what happened. We know the vague law that was used. It often caused confusion between the commissioners and the secretariat. In our good old days, the commissioners became very powerful. I, personally,

like this professional secretariat. I like the way the commissioners have been proposed. Obviously, they should be more experienced. There is a bigger range of what one needs to have before becoming a commissioner. However, I like the concept of non-executive. In all the other commissions that we are creating, the concept of a very powerful board of governors or board of directors appear to be the way we are moving forward. We are creating a very powerful team of commissioners and board of governors. That happens all the time in our parastatals and companies. So, that is why I support this concept of non-executive. I know some support executive but I support the non-executive nature, where they have a role similar to a board of directors. We are not ignoring them. We need their wisdom and experience. But they must leave the procurement, printing of papers and things that must be left to a professional secretariat. Even in this Parliament, we have the Parliamentary Service Commission (PSC) but it leaves the Clerk to manage the day to day activities of this Parliament. He is supervised very closely by a very able team of PSC. So, yes, we need a powerful team of commissioners. Yes, they must be qualified.

Mr. Minister, I urge you to find a clear definition of a very serious role they must play. But they must also leave the professional side to the secretariat to do their job. That is because I saw it for many years. I have been in politics for a very long time. I have seen confusion between the commissioners and the secretariat. I remember what used to happen in Anniversary Towers. We all remember and we saw it. It did not happen in one election but many elections. We saw how easy it was. But the role of Parliament is important in having the right people in all cases. The Chief Executive Officer (CEO) of that team should be highly qualified. He should be a person who can earn the respect of all of us so that, when decisions are made, we accept them. He can easily convince his team of commissioners.

Mr. Temporary Deputy Speaker, Sir, let me talk about Chapter Six of the new Constitution on leadership and integrity. It has a very important aspect. We must never forget that we have a new Constitution that calls for a special breed of Kenyan leaders. If you want to be a public officer, you must accept to be thoroughly investigated. You must be ready to pass very high tests of Chapter Six. I like the concept that officers of the secretariat and commissioners will be people who will meet the conditions set out in Chapter Six of the Constitution. That should be widespread. It should not only be in that particular Commission. It is something that we should not take for granted now. It is assumed that even as we hire junior officers in the Government now, that should be a standard. From an assistant chief to all levels, we should start making the mental jump. We should change our attitudes and accept that from now on, there shall be a person who meets the requirements of Chapter Six of our Constitution. Of course, many will refuse to apply and that is what should happen. You should not apply if you are not prepared because there are challenges in being a public officer. A public officer has challenges in form of earning lower salaries. He performs duties on behalf of the public. But the American system has a president who is very poor like Obama. But the minute he leaves White House, one speech is US\$100,000. Clinton is rich today but when he went to those big positions, he was a poor or average man. We must get the same. Those people who want to serve the public must adhere to Chapter Six. But after they retire at 60 years or take early retirement, they will become extremely wealthy. That is because the network and contacts they have created enables them to become extremely wealthy. But when in

public service, they must agree to meet strict conditions that have been laid down by the Kenyan people through Chapter Six.

On the subject of continuity, the Constitution is very clear that there must be continuity. If you wipe out the history and the experience of this people, you have a problem. I am not clear in my mind how to deal with continuity. However, at Independence of this country, we had a Senate and a Lower House. When the two were merged to form what until recently you called the Kenya National Assembly, what happened to the people in the Senate? Those who had six years to go went to the ballot; some got three years, others four years and others six years. I am not suggesting that. What I am saying is that we need to think of how--- We cannot reappoint all of them on the same day and they all leave on the same day. We are saying that they must not overstay; if they do one term, we will have a problem. So, let us have a temporary arrangement, so that in the first Commission we allow at least a third to go to the second Commission.

With those few words, I wish to support this Bill.

The Assistant Minister, Ministry of State of State for Special Programmes (Eng. M. M. Ali): Thank you very much for giving me the chance to contribute to this Bill. I must say right from the outset that this is a very important Bill for this country. Election issues have been very contentious in this country for a very long time because of bad laws. Our new Constitution has set a new paradigm for the country, and for that reason, it is important that this Bill is before us today. I must congratulate the Minister and his team for putting the Bill before us and hope that we will pass it with some amendments.

Mr. Temporary Deputy Speaker, Sir, this Bill intends to put in place an Independent Electoral and Boundaries Commission. This will be the umpire for our elections, and also the body for the purpose of reviewing electoral boundaries in this country. Therefore, it will be very important. The Bill may have some drafting issues here and there. Overall, I think it is a very good Bill.

On the table of contents, I have a problem with the heading of the Fifth Schedule. It should be headed the way it was intended. The idea was that it was Sixth Schedule. It should refer to the first review and not what is in the Bill today.

Mr. Temporary Deputy Speaker, Sir, the functions of the proposed Commission are spelt out in our Constitution. The mandate of the Commission is very clear.

(Mr. Kioni gestured to Eng. M.M. Ali)

Mr. Temporary Deputy Speaker, Sir, my colleague, Mr. Kioni, is telling me to stop. I do not know what he wants me to do.

The Commission's mandate is in the Constitution but, of course, the functions assigned to it by the Bill, I must say---

Mr. Temporary Deputy Speaker, Sir, the Minister is asking me to allow the closure of debate. May I oblige?

(Applause)

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, the reason I did not want to stand is because I need 20 minutes to address this important Bill. Right now, I am chairing the Conference of African Ministers of Public Service; so, I am not sure that I would get the first slot in the afternoon tomorrow, unless I closed that meeting. That is why I was waiting for the second chance.

However, thank you for allowing me---

The Temporary Deputy Speaker (Mr. Ethuro): Minister, except that the Government side should put its act together, because if a Minister asked another Minister to stop for purposes of closure of debate, then another Minister stands to contribute, then there is confusion. The rules of the House are that as long as there is somebody interested in contributing, I will allow them to do so. Okay, proceed.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I think it may not be fair to close debate right now. I wanted to address the governance structure, which has been proposed in this Bill. It is so important that this governance structure is understood by hon. Members---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Otieno! You will have eight minutes to continue when this matter will be on the Order Paper next time.

Hon. Members, it is now time for interruption of the business. This House is, therefore, adjourned until tomorrow, Thursday, 12th May, 2011 at 2.30 p.m.

The House rose at 6.30 p.m.