

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th April, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

CREATION OF SCHEME TO GIVE FINANCIAL ASSISTANCE TO THE ELDERLY

Mr. Mbadi: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting that the latest national population census indicates that there are about 1.8 million people aged over 60 years, a majority of whom are poor and cannot support themselves; aware that Article 57(d) of the Constitution makes it a requirement that the elderly receive reasonable care and assistance from their family and State; this House urges the Government to create a scheme to pay any person who is over 60 years and is not in receipt of a pension or any benefit from any organization or State agency an amount of not less than Kshs2,000 per month to enable them live in dignity and respect.

Mr. Speaker: Next order!

QUESTION BY PRIVATE NOTICE

OFFICIAL REQUIREMENTS FOR MINERAL PROSPECTING RIGHTS

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

(a) Could the Minister explain the criteria and official requirements for mineral prospecting rights and licence for gold mining?

(b) What criteria was used to award Mid-Migori Company exclusive prospecting rights and licence for gold mining in Nyatike Constituency and for how long has the company been operating?

(c) How much has the company spent in corporate social responsibility for the benefit of the local community, particularly in view of the obtaining tension between the company and the local residents?

Mr. Speaker: Minister for Environment and Mineral Resources apparently is not yet here. We will revisit the Question a little later.

Next Question by the Member for Lamu West!

ORAL ANSWERS TO QUESTIONS

Question No.813

TARMACKING OF NYONGORO-KIUNGA ROAD

Mr. Twaha asked the Minister for Roads when the Government will tarmack the road from Nyongoro to Kiunga in Lamu County.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, on behalf of the Minister for Roads, I beg to to reply.

Nyongoro–Kiunga Section is made up of three roads, namely; the section from Nyongoro to Hindi, comprising of a 70 kilometers road, Hindi–Budhei which is about 43 kilometers and the last section is Budhei Junction to Kiunga, which is approximately 126 kilometers.

Mr. Speaker, Sir, I am not able to tell exactly when the Government will tarmack this road. However, the Ministry of Roads has completed the design to bitumen standard of the section between Nyongoro and Hindi, and will now source for funds for construction.

For the section between Hindi and Kiunga, the Ministry of Roads, through the relevant roads authority, has proposed to carry out a design for construction to bitumen standard of that section of the road. Once the design is completed the Ministry will embark on sourcing for funds for tamacking of the road. In the mean time, I wish to assure the hon. Member that funds have been allocated and will continue to be allocated for maintenance of that road to ensure that it is motorable at all times.

Mr. Twaha: Mr. Speaker, Sir, Lamu County is the only one in the former Coast Province that does not have even one inch of tarmac. I hope the Minister appreciates how discriminated against, we feel. How long will it take to source for funds to construct the section from Nyongoro to Hindi?

Mr. Obure: Mr. Speaker, Sir, the Ministry of Roads appreciates that position. The Ministry also appreciates that this is one county with lots of potential in terms of economic activities, tourism and all that, and that there is need to open up this highly potential area. However, it is very difficult at this point in time to be precise about when the funding will be available. However, as I said, once the designs are completed, we will straight away embark on sourcing for funds.

Mr. Mwangi: Mr. Speaker, Sir, while we may accept the explanation and answer given by the Minister, I recall that yesterday, the same Minister said that the designs have been done for roads all over the country. It is not yet a confirmation that once a road design is complete, it will be tarmacked. Since he has explained that these are three roads the hon. Member is asking about, could he commit himself to do at least one road? When will the Minister be ready to start tarmacking the roads whose designs are ready?

Mr. Obure: Mr. Speaker, Sir, hon. Members will appreciate that there is a big need to raise our roads to bitumen standards all over the country. However, this cannot be done at once. As I said, the design for Nyongoro–Hindi has already been completed. I

will be giving instructions for work to start on sourcing for funds, so that we can start with that section, where practicable.

Mr. K. Kilonzo: Mr. Speaker, Sir, it is very disappointing to hon. Members and, indeed, Kenyans when they listen to Ministers coming to the Floor of the House and every time we ask questions they tell us: “When funds are available”. Could the Minister tell this House how much his Ministry has set aside to upgrade the roads to bitumen standard? Are the roads going to be done on county basis, and when will that happen?

Mr. Obure: Mr. Speaker, Sir, this road comprising of over 200 kilometers requires massive resources. Indeed, if we are talking about tarmacking all the roads that need to be improved around the country, then the resources required are very high and we know that we have limitations in meeting those demands. I have said that we will seriously consider the Ngorongo-Hindi section because that has been designed. We will start looking for funds because that is not very difficult, since that is not a decision that can be made by the Ministry of Roads alone.

Mr. Njuguna: Thank you, Mr. Speaker, Sir---

(Mr. C. Kilonzo stood up in his place)

Mr. Speaker: Order, the Member for Yatta! Please, conduct yourself with the requisite decorum and you will definitely catch the Speaker’s eye without overdoing anything!

Mr. Njuguna: Thank you, Mr. Speaker, Sir. While acknowledging the commendable reply that has been given by the Minister by assuring the hon. Member that, that road will be maintained to the required standards, could he indicate to this House how much money has been set aside for the routine maintenance? Could he also indicate when the works will commence?

Mr. Obure: Mr. Speaker, Sir, for routine maintenance, the three sections mentioned which comprise this road are on regular maintenance. I can assure this House that in the current financial year, some Kshs40 million has been set aside. Out of this amount, Kshs20 million has already been released and the balance will be released before the end of the financial year to ensure that this road is put into motorable condition.

Mr. Mututho: Mr. Speaker, Sir, you have heard that they do not have a single inch of tarmac. Can the Minister consider – even if for ceremonial reasons because very many people have been born and died without ever seeing a tarmac – putting at least that one inch so that the children of Kenya born in Lamu can, for once, know what a tarmac road looks like?

(Applause)

Mr. Obure: Mr. Speaker, Sir, I am very sympathetic. When I saw this Question, I felt that something ought to be done. That is why I am saying that the section between Ngongoro and Hindi will be considered first. In light of the sentiments expressed in this House, we will try and move quickly. I do not want to give any false indication in this House, but we will have to make a commitment once we know that the funds have been approved by this House.

Mr. C. Kilonzo: Mr. Speaker, Sir, every Government has a vision. This Government has a vision known as Vision 2030, but the Minister does not want to commit himself on the question of the timeframe. That is when this road will be done. Is it that the Ministry lacks a vision when it comes to the issue of planning for roads? All we want to know is the timeframe. Is it in one year's time, two year's time or ten year's time? It is as simple as that. Or, is it 2030? Is it that the Ministry does not have a vision?

Mr. Obure: Mr. Speaker, Sir, you will appreciate that the reason why I cannot make a firm commitment in this regard is because this will not be a unilateral decision on the part of the Ministry of Roads alone. This is done by the Government, which includes other Ministries, for example, the Office of the Deputy Prime Minister and Minister for Finance taking into consideration, all the other priorities around the country. However, I want hon. Members to appreciate what I am saying that there is commitment in this respect and I am very sympathetic. I know that this road will open up a huge chunk of land in Coast Province and I think it deserves a first priority from the perspective of planning.

Mr. Twaha: Mr. Speaker, Sir, for the last three years, the Government has been boasting about spending about Kshs100 billion a year on infrastructure. So, in three year's time, Kshs100 billion is Kshs300 billion. If you take the two constituencies, we are entitled to, at least, 1 per cent of that, which is Kshs3 billion. If you go by the county system, we are entitled to about Kshs6 billion. Could the Minister tell us where our Kshs3 billion or Kshs6 billion is because we have not seen any of that amount?

Mr. Obure: Mr. Speaker, Sir, really, I do not want to give very definite commitment because these are matters that ought to be agreed upon by all Ministries of the Government. However, I appreciate the fact that there is need to do something here and I will make sure that action is initiated.

Question No.826

INADEQUATE OF FACILITIES AT OLENGURUONE
SUB-DISTRICT HOSPITAL

Mr. Cheruiyot asked the Minister for Medical Services:-

(a) whether he is aware of the inadequacies at the Olenguruone Sub-District Hospital which has only one medical doctor and does not have the capacity to undertake even minor surgical procedures, laboratory tests and examinations; and,

(b) when the Government will equip and operationalise the surgical theatre at the hospital.

The Assistant Minister for Medical Services (Mr. Kambi): Thank you, Mr. Speaker, Sir.

I beg to reply.

(a) I am aware of some inadequacies at the Olenguruone Sub-District Hospital, including inability to carry out surgeries. However, the inadequacies do not include lack of capacity to carry out laboratory tests and examinations. The hospital has a functioning laboratory which is able to carry out basic laboratory tests on blood, urine, stool and sputum samples. It can even carry out HIV/AIDS test. The one medical doctor deployed

in the hospital is, for the time being sufficient for the hospital needs, bearing in mind the following: That the hospital has four clinical officers and 16 nurses. These are trained to provide clinical interventions up to certain limits and do so with the doctor providing support through clinical reviews.

Mr. Speaker, Sir, there is presently no capacity in the hospital to carry out surgery, which is supposed to take more time for the doctor. Without theatre facilities, the doctor can actually be considered underutilized. The hospital has a fairly low work load with an average of 110 outpatient attendants and 10 admissions daily.

(b) The Ministry plans to operationalise the theatre at Olenguruone Sub-District Hospital before the end of the current year, 2011. Already, the theatre has been equipped with an operational table, an anesthetic machine and an operating lamp. These are the major capital equipment necessary in an operating theatre.

Mr. Speaker, Sir, additional requirements that the Ministry shall address include the following; a suction machine, operating sets and instruments, theatre nurses and anesthetists. The Ministry is presently short of anesthetists and has to earmark one for Olenguruone Sub-District Hospital from those currently undergoing training.

Thank you, Mr. Speaker, Sir.

Mr. Cheruiyot: Mr. Speaker, Sir, while thanking the Assistant Minister for giving a long essay, I want to express my concern that he has not answered the Question at all. This hospital covers a very large area with a population of over 300,000. When will the Assistant Minister operationalise the theatre? Is it during this financial year or calendar year?

Mr. Kambi: Mr. Speaker, Sir, I have said clearly that we will operationalise the hospital this financial year.

Dr. Kones: Mr. Speaker, Sir, you heard the Assistant Minister say that one doctor is enough to serve 300,000 people in Kuresoi. I do not know whether that is possible. Is he saying that this doctor cannot rest even for a day? Could he tell us whether really, one doctor can serve 300,000 people in a district?

Mr. Kambi: Mr. Speaker, Sir, Olenguruone has a patient capacity of 110; so, it is not a matter of the population. However, if you look at my answer as given, I have clearly said that there are some clinical officers who help the doctor to carry out his duties.

Mr. Ochieng: Mr. Speaker, Sir, I want to believe that the Ministry has decided to equip that particular hospital as a result of this Question. When does the Assistant Minister intend to roll out this kind of equipment in other hospitals?

Mr. Kambi: Mr. Speaker, Sir, if you look at our Development Vote, we will do so during this financial year. We have also come up with a policy to make sure that there will be a fair distribution of equipment in all sub-district hospitals, district hospitals and referral hospitals.

Mr. Cheruiyot: Mr. Speaker, Sir, I would like the Assistant Minister to confirm whether he will send adequate staff to this hospital. He has been promising to do so, in the last three years. Could he actualize his promise?

Mr. Kambi: Mr. Speaker, Sir, this is a sub-district hospitals with 16 nurses and four clinical officers. I believe they are adequate. If they are not, I will look into it and see what additional personnel we can send there, although we have shortage of clinical officers, doctors and other staff in this country.

Question No.742

WATER PROJECTS IN WAJIR SOUTH/KITUI CENTRAL/
TURKANA CENTRAL CONSTITUENCIES

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

(a) whether she could provide a list of all water projects undertaken by the Ministry in Wajir South, Kitui Central and Turkana Central constituencies from 2008 to date;

(b) What measures the Ministry is taking to mitigate the acute water shortage in the vast Wajir South Constituency; and,

(c) whether the Government could consider establishing an irrigation scheme along the Waso Belt (Lorian Swamp) in Habaswein District.

Mr. Speaker: Minister for Water and Irrigation not here? We will revisit the Question a little later.

Next Question, Member for Garsen!

Question No.779

SETTING UP OF EQUALIZATION FUND

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

(a) what preparations the Government has undertaken towards setting up of the Equalization Fund required under Article 204 of the Constitution; and,

(b) What the actual initial amount is, that the Government proposes to set aside for the fund.

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

(a) The Government has constituted a Committee to advise on pertinent issues regarding setting up of an Equalization Fund as provided under Article 204 of the Constitution.

(b) Once the revenue base for shared revenue between the National Government and County Governments is determined by the Committee, the actual initial amount to be set aside for the Fund will be decided.

Mr. Mungatana: Mr. Speaker, Sir, I am very disappointed by the Assistant Minister's answer. In Article 204 (2), the Equalization Fund was set up specifically to; quote:-

“The National Government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.”

Mr. Speaker, Sir, that affects Tana and Lamu counties, among others. According to the Constitution, half per cent of this fund is supposed to take effect in the first financial year after promulgation of the Constitution. Why has the Government not ring-fenced that fund? Why is it not in the current Budget? It has nothing to do with a Committee.

Dr. Oburu: Mr. Speaker, Sir, the same Article 204 which the hon. Member has referred to specifically states how this Fund shall be established.

Mr. Speaker, Sir, Article 216(4) says as follows:-

“The Commission shall determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalised areas for purposes of Article 204(2).”

Mr. Speaker, Sir, that formula is yet to be determined. If you look at the implementation schedule, this particular section on financial sector was given one year. We still have up to August 27 to introduce the Finance Management Bill, which will set out clearly, how these funds will be managed. As it is now, even the structures in the counties have not been established. So, if you ring-fence funds; funds are very scarce resources and there are competing needs. We must, first of all, put into place the necessary legislation in order to start implementing and allocating funds. We do not know how much, because the same law even saw that the actual amount will be determined after auditing the revenues in the previous allocation.

Mr. Twaha: Mr. Speaker, Sir, the since we are told that there is a process of bringing a Bill and creating a Commission, could the Assistant Minister assure that when all the structures in the Counties and the laws are in place, he will give us this money in arrears from the day when the Constitution was promulgated?

Dr. Oburu: Mr. Speaker, Sir, that is not provided for in the Constitution.

Mr. Kiptanui: Mr. Speaker, Sir, could the Assistant Minister tell this House the composition of the membership of this Committee? When is this Committee expected to finalize its report?

Dr. Oburu: Mr. Speaker, Sir, the membership of the Committee is as follows: There is Parliament’s Budget Office which has technical people there, Attorney-General’s office, Kenya National Audit Office, Accountant General’s Office, Internal Audit Office of the Treasury, Budget Supplies Department in the Treasury, Economic Affairs Department and Debt Management Department in the Treasury. This is the composition. The Bill is almost ready. Once it goes through the necessary process such as the Constitutional Implementation Commission and the Constitutional Implementation Oversight Committee, it will finally come to this House for debate. We are within the deadline.

Dr. Nuh: Mr. Speaker, Sir, this Fund was set up for a very specific period of 20 years. The people from these marginalised areas would have lost on one year, if this Government does not budget for the 0.5 per cent in this Financial Year 2011/2012. The utilization of the Fund can wait for the Bill. However, setting up the Fund and pumping in the money for future use because the Fund is ring-fenced does not require any Bill. Why has this Government not factored in the 0.5 per cent of the Equalization Fund for the Financial Year 2011/2012.

Dr. Oburu: Mr. Speaker, Sir, the Article I read out here clearly states that it is the Revenue Allocation Commission (RAC) which is going to determine a formula that is

going to help us identify which are marginalised areas and which are not marginalised areas. So, how do we start allocating funds even before that is done?

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House? Under the Article he has referred to, the RAC will only identify the marginalised areas. The RAC will not identify the amount of money. The amount of money and the percentage thereof is already indicated in the Constitution. So, is he in order to mislead the House?

Mr. Speaker: That one appears genuine, Assistant Minister!

Dr. Oburu: Mr. Speaker, Sir, the allocation is 0.5 per cent of the total revenue. I want to read again Article 216(4) of the Constitution, which says:-

The Commission shall determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalised areas for purposes of Article 204(2).”

Mr. Speaker, Sir, it is RAC which is supposed to determine the criteria. How do you allocate money before you even know which are the marginalised areas?

Mr. Speaker: Order, Assistant Minister! As I understand it, that provision, in fact, seems to be straightforward. It is clear. It gives you the formula. It says “0.5 per cent”. So, set aside 0.5 per cent, put it in the Fund and wait for the criteria to disburse. It follows like day follows night. It is so obvious!

Dr. Oburu: Mr. Speaker, Sir, I do not know what direction you are giving me, but let me confirm to this House that the Budget for the next financial year has already been prepared and this particular Fund has not been factored in.

Mr. Speaker: Order, Assistant Minister! I am directing you to implement the Constitution. Please, do so. Stop at what you must do. Implement the Constitution. Let it take effect from the effective date. That is all I am asking you to do. Is that all right?

Dr. Oburu: Mr. Speaker, Sir, we shall consult and interpret the Constitution.

Mr. Speaker: Very well!

Last question, Member for Garsen!

Mr. Mungatana: Mr. Speaker, Sir, I really want to thank you for that direction. Even if you look at the Sixth Schedule, on page 192, on Suspension of the Provisions of the Constitution, you will see that the provisions of Article 204 are not suspended. We are not talking for the sake of argument. What the RAC needs to do, as you said, is to determine the marginalised areas but the percentage is already set. So, Assistant Minister, can you undertake that you will consult with your Treasury Department to make sure that you obey the Constitution and put this in the Budget? Can we have your undertaking?

Dr. Oburu: Mr. Speaker, Sir, I have undertaken to do that with not only Treasury, but also with the Attorney-General.

Mr. Speaker: Very well.

Next Question, Member for Molo.

Question No.848

ESTABLISHMENT OF LANDS CONTROL BOARD IN NJORO DISTRICT

Mr. Kiuna asked the Minister for Lands:-

(a) whether he is aware that Njoro District has not had a Land Control Board since its creation over a year ago; and,

(b) when the Board will be constituted considering the backlog of land related cases.

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

(a) Njoro District has an existing Lands Control Board, which was gazetted vide Gazette Notice No.1267 of 12th February, 2010.

(b) The gazetted members of Njoro District Land Control Board are as follows:-

- (i) District Commissioner, Njoro, chairman;
- (ii) District Land Registrar, secretary;
- (iii) District Agriculture Officer, member;
- (iv) Dorcas Wanjiru Gachoka, member;
- (v) Joel Cheruiyot Rogon, member;
- (vi) Cyrus W.G. Wambua, member;
- (vii) Ngugi Njoroge, member;
- (viii) Thomas Ndabi Murimi, member;
- (ix) Monica Wairimu Kamau, member; and,
- (x) Naomi Ng'ang'a, member.

Mr. Kiuna: Mr. Speaker, Sir, while I appreciate the Assistant Minister's answer, I would like to know whether he is aware that although the Board is constituted, it is not operational, and that land owners are forced to go to Molo District, from where they are referred to Nakuru District. If the Board is operational, I would like to know why it is not working.

Mr. Bifwoli: Mr. Speaker, Sir, as I have told the hon. Member, we have gazetted the Board. If it is not yet operational, there must be some logistical problems, which we can sort out.

Mr. James Maina Kamau: Mr. Speaker, Sir, I would like to appreciate the answer given by our good Assistant Minister for Lands. In some areas, these boards are not operational. As you know, most of the members of those boards are volunteers. They are not paid their allowances. What is the Ministry doing to make sure that their allowances are paid in good time?

Mr. Bifwoli: Mr. Speaker, Sir, the issue of non-payment of allowances to members of district land control boards does not affect Njoro District alone. It is actually a national problem. We have even written to the Treasury on the matter, in respect of which arrears are in millions of shillings, but the Treasury has not given us the money. On the day we will be given the money, we will pay allowances to all members of district land control boards across the country.

Mr. Ochieng: Mr. Speaker, Sir, I raised a similar Question here last week but the Ministry is unable to pay members of these boards. Most of the people who sit on those boards do not have any other jobs. They keep on arbitrating on land issues in the districts but the little allowances they are supposed to be paid have not been paid to them for the last three years. What is the Ministry doing to make sure that these people are paid as soon as possible?

Mr. Bifwoli: Mr. Speaker, Sir, I want to agree that we have not paid members of those boards their allowances, which are in arrears. Leave alone those who have not been

paid for the last three years, there are others who have not been paid for the last five years. We have written to the Treasury. We will pay them even tomorrow if the Treasury gives us the money.

Mr. Speaker: Last question, hon. Kiuna.

Mr. Kiuna: Mr. Speaker, Sir, from the answer that the Assistant Minister has given, it is clear that although these boards have been constituted, they are not operational not only in Njoro District but also in the whole country. Could he consult the other Ministry to make sure that the members of these boards are well catered for, so that they can attend meetings of the boards?

Mr. Bifwoli: Mr. Speaker, Sir, the issue of operationalising lands control boards is a matter for the DCs to initiate. So, if the DC, who is the chairman, has not started operations of the lands control board in his area, I would request the hon. Member to liaise with him, so that they can operationalise the land control board in that area.

Mr. Speaker: Ordinary Question by the Member for Wajir South.

Mr. Sirat: Mr. Speaker, Sir, before I ask the Question, I would like to inform you that I have not been supplied with a copy of the answer. So, I need to be supplied with the answer, and be given time to go through it, if the Minister has the answer.

Mr. Speaker: Yes, Minister!

The Minister for Water and Irrigation (Mr. Ngilu): Mr. Speaker, Sir, first, I want to apologize for not having been present when the Question was called for the first time. It is true that I have not supplied the Member with the written answer. For that reason, I would like to answer the Question tomorrow in the afternoon, so that I will have all the details. I want to apologize once again.

Mr. Sirat: Mr. Speaker, Sir, is the Minister saying that she is not prepared to give me the answer today?

Mr. Speaker: The Minister has said that she wants until tomorrow afternoon to furnish you with a written answer and proceed to deliver the answer in the House.

Mr. Sirat: Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well. It is directed that the Question appears on the Order Paper tomorrow afternoon at 2.30 p.m.

Question No.742

WATER PROJECTS IN WAJIR SOUTH/KITUI CENTRAL/
TURKANA CENTRAL CONSTITUENCIES

(Question deferred)

QUESTION BY PRIVATE NOTICE

OFFICIAL REQUIREMENTS FOR MINERAL PROSPECTING

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

(a) Could the Minister explain the criteria and official requirements for mineral prospecting rights and licence for gold mining?

(b) What criteria was used to award Mid-Migori Company exclusive prospecting rights and licence for gold mining in Nyatike Constituency and for how long has the company been operating?

(c) How much has the company spent in corporate social responsibility for the benefit of the local community, particularly in view of the obtaining tension between the company and the local residents?

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Speaker, Sir, I apologize for coming late.

I beg to reply.

(a) The requirements for exclusive prospecting licences/special prospecting licences are:-

(i) The name of the prospecting right holder.

(ii) A receipt for deposit with the Provincial Commissioner of the province in which mineral resource is to be prospected.

(iii) A written consent from the land owner.

(iv) A written consent from the county council of the mineral prospecting area.

(v) A map showing the proposed mineral prospecting area.

(vi) A schedule description of the area based on a map scale of 1:50,000 where possible.

(vii) A detailed work programme.

(viii) An expenditure proposal for implementing the work programme.

(ix) Name of the company represented by the applicant.

(x) Certificate of registration of the company/partnership.

(xi) A copy of the Memorandum and Articles of Association of the company (if liability).

(xii) Name and nationality of the directors/partners of the company.

(xiii) Position of applicants in relation to or under the company.

(xiv) A statement of technical capability and experience in previous similar work/programme.

(xv) Financial capability of the applicant; please, give the supporting bank statements.

(xvi) The name and the qualifications of the supervisor/manager who will be responsible for the programme.

(b) The Mid-Migori Mining Company Limited was granted two licences after satisfying the requirements for the grant of special licences. They have been exploring for gold in an area for which they were licensed since 1989. This is the year they were granted the licences. The licences held by the Mid-Migori Mining Company Limited are exploratory licences and not mining licences. In this regard, therefore, their social corporate responsibility is limited to employment benefits. This is so because the company is at the stage commonly referred to as spending stage of mineral development.

We hope that with the aerial surveys completed and having commenced a detailed drilling programme, the company would soon be considering starting a mining project in the area. However, it is important to note that the company has spent quite a huge amount of money so far and it is prudent that it be supported in all ways possible.

(c) With regard to the corporate social responsibility, the company is trying its best to employ the locals.

Mr. Anyanga: Mr. Speaker, Sir, I sympathize with the Assistant Minister. He has outlined the requirements for exclusive rights for gold mining. This company has been operating within Nyatike District without the consent of the county council. I have a letter from the Migori County Council and signed by the Clerk of the County Council confirming that they have never given any consent to the Mid-Migori Mining Company, which I will table. I wish also to confirm to the Assistant Minister and to this House that the company has never got consent from the land owners in Nyatike. I will also table this letter, which is signed by the land owners.

Could the Assistant Minister confirm to this House that the Mid-Migori Mining Company has been issued with an illegal prospecting licence without following the laid down procedures?

(Mr. Anyanga laid the documents on the Table)

Mr. Kajembe: Mr. Speaker, Sir, there is nothing illegal. The licence was legally issued to the company. As to whether some letters were traced or not by the local authority, we are doing it according to the law.

Mr. K. Kilonzo: Mr. Speaker, Sir, Article 69(1)(a) of the Constitution reads that:-

(1) The State shall-

(a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources and ensure the equitable sharing of the accruing benefits”.

This presupposes that the locals must benefit. This is not different from the coal mining in Kitui County where the locals do not benefit. Could the Assistant Minister table evidence to this House to show that the Mid-Migori Mining Company is sharing resources with the people of Migori County?

Mr. Kajembe: Mr. Speaker, Sir, I am very happy that hon. K. Kilonzo is referring to the new Constitution. The prospecting licence was issued in 1989 before the new Constitution was in place.

Mr. Mbadi: Mr. Speaker, Sir, there is a tendency or a habit in this country where some people use their power to exploit resources in other regions without compensating for them. The Assistant Minister has said that the company was given the prospective licence in 1989. How long was this prospecting supposed to take? Is it not true that now, they are mining and not prospecting? Nobody can prospect for 22 years? How long was this prospecting supposed to take?

Mr. Kajembe: Mr. Speaker, Sir, when the prospecting licence was awarded in 1989, the law did not talk about the expiry date. Therefore, it can go on forever.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Assistant Minister confirm who the directors of Mid-Migori Mining Company are? Could they be, for instance, farmers or Ministers in this House?

Mr. Kajembe: Mr. Speaker, Sir, that is a supplementary question. I want to make it very clear that this licence was legally awarded to Migori Farm.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mrs. Mabona!

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir, for acknowledging that I am Mrs. Mabona because I am hearing some, miss-announcing the name. It is Mrs. Mabona.

Mr. Speaker: Yes, I said so!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, is the Assistant Minister in order to evade answering the question? I am very specific. Who are the directors of Mid-Migori Mining Company? Does he or does he not know? Could a Minister in this House be one of the directors of that company?

Mr. Kajembe: Mr. Speaker, Sir, let me be very specific. That is a different Question. If the hon. Member would like me to answer it, let her follow the laid down procedure so that I can come to this House and reply.

Mr. Njuguna: Mr. Speaker, Sir, in Nigeria, we have seen communities rising against international investors, particularly, in the oil industry. What has the Assistant Minister done to make sure that the Nyatike community will not rise against Mid-Migori Mining Company, as a result of not sharing these important resources with the community?

Mr. Kajembe: Mr. Speaker, Sir, now that we are implementing the new Constitution, the Ministry will abide by the rules and contents of the Constitution. The Ministry will do what the new Constitution stipulates should be done.

Mr. Imanyara: Mr. Speaker, Sir, you heard the Assistant Minister while answering this Question say that a written consent from the county council of the prospecting area--- You saw a letter that has been tabled here from the County Council of Migori, specifically denying ever issuing a licence. Is it in order for the Assistant Minister to mislead this House when there is documentary evidence that the council has never given the written consent, as he has stated in his answer?

Mr. Kajembe: Mr. Speaker, Sir, those documents have been tabled in this House now and the Ministry should verify them. We are not sure whether those documents really---

Mr. Olago: On a point of order, Mr. Speaker, Sir. The House should not let the Assistant Minister get away with what he has just said. He said that the prospecting licence issued to Mid-Migori Mining Company is indefinite in period. I wish to draw his attention to the fact that the Mining Act, Cap.306, Section 13 talks about renewal of licences. It says:-

“Application for renewal of a licence to prospect shall be lodged with the Commissioner not later than two months before the date of the expiration of such licence.”

Mr. Speaker, Sir, effectively, that means that a licence to prospect must have a date of expiry. Is it, therefore, in order for the Assistant Minister to tell the House that there is no expiry date?

Mr. Kajembe: Mr. Speaker, Sir, with regard to the expiry of the licence, that is considered when the prospecting licence is to be renewed.

(Laughter)

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. It is unfortunate because we all know that the gold from Congo – Kabila’s gold – has disappeared under the

watchful eye of this Assistant Minister. Is he in order to purport that a letter which his addressed to his Permanent Secretary and copied to the Commissioner of Mines is not genuine? The letter has been tabled here.

Mr. Kajembe: Mr. Speaker, Sir, I did not say that the document is not proper but I said that I have not verified the letter. With due respect to Mr. C. Kilonzo, he cannot make reference on whatever gold was stolen from Congo to this Question.

Mr. Speaker: Order, hon. Members! Mr. Assistant Minister, I want to urge you to try and calm down, because the matters being addressed in this Question are, obviously, very grave and you cannot afford to be dismissive of questions raised by hon. Members.

Mr. Assistant Minister, I have actually looked at the documents which have been tabled and they all pass the test of admissibility in this House. It cannot be for you to determine whether or not, you will accept these documents. *Prima facie*, these documents are genuine and original. They have dates and names of signatories. Unless you can adduce evidence that these letters are forgeries, I am afraid they are admissible and you must take them seriously.

Mr. Kajembe: Mr. Speaker, Sir, I have not denied that those documents are genuine. What I am saying is that I have not seen those documents.

Mr. Speaker: Order, Mr. Assistant Minister! These documents have been tabled in the House this afternoon, actually seven minutes ago. Why would you not have looked at them before you reacted?

Mr. Kajembe: Mr. Speaker, Sir, when they were tabled here, they were rushed to the Chair and I respect the Chair!

Dr. Nuh: On a point of order, Mr. Speaker, Sir. With your indulgence, the Assistant Minister has been giving misleading information to this House. On one occasion, he said that the prospecting licence does not expire, when the law was very clearly read to us. Secondly, we have produced authentic letters here, where the county council says that it has not given consent, and he is denying and saying that consents were given. Would I be in order to request that this Question be deferred to a later date and let the Assistant Minister produce and adduce evidence of consent by the County Council of Migori?

Mr. Speaker: Order! I will determine that in a moment.

What is it the Member for Mutito?

Mr. K. Kilonzo: Mr. Speaker, Sir, this is a very important Question and the Assistant Minister cannot just assume it. Mrs. Odhiambo-Mabona did ask who the directors of this company are and the Assistant Minister said that, that was a different question. I seek your indulgence to look at the question and see whether it meets the provision of this Question or it is a different question and give direction thereto.

Mr. Speaker: I will determine that as well.

Last question, Member for Nyatike, before I give final direction.

Mr. Anyanga: Mr. Speaker, Sir, thank you so much for giving me another chance. Personally, I am talking about the gold of Nyatike and the gold is here!

(Mr. Anyanga removed the ring on his finger and displayed it to the Members)

This is the gold I am talking about! One person plus the Assistant Minister has been taking Nyatike people for granted. Would I be in order to request you to refer this Question to the relevant Departmental Committee because I think he cannot go outside the Question? Even hon. Michuki himself has counter-signed every page. That means he does not trust his technical staff. He thought another person might remove one page and replace it.

Mr. Speaker, Sir, kindly, refer this Question to the relevant Departmental Committee.

Hon. Members: Table the gold!

(Mr. Anyanga laid the gold ring on the Table)

(Laughter)

Mr. Speaker, Sir, there is one bit that I have not indicated to you. This man is called Mr. James Mathenge was once a Permanent Secretary in this country, and Cap.306(81) does not allow a civil servant to have prospecting rights! I need your assistance in this because these are our lives. My people depend on this gold. I wish to table this particular Act.

(Mr. Anyanga laid the document on the Table)

Mr. Speaker: Mr. Assistant Minister, could you, please, respond to those points of order and the last question before I give final direction?

Mr. C. Kilonzo: That is Kabila's gold!

Mr. Kajembe: Mr. Speaker, Sir, with due respect to Mr. C. Kilonzo, to connect the Kabila gold with this Question, that one is really hurting me.

Mr. Speaker: Mr. Assistant Minister, I am actually surprised by your reaction; so is the rest of the membership of the House, this afternoon. This is a very serious matter. It pertains to prospecting and mining rights or enjoyment of those rights. There is nothing wrong with hon. Members paralleling the Kenyan situation to a similar situation relating to minerals and mining of minerals. There are minerals in Congo, just like there are minerals in Kenya. What would be wrong with comparing Kenya and the Congo in so far as minerals are concerned? There may be no basis for comparison in so far as governance is concerned, but for minerals, that is perfectly in order.

Mr. Assistant Minister, the manner in which you have handled this matter is a bit too casual; bordering on being reckless. You have been confronted with documents which are genuine. If I were in your shoes – and thank God I am not – I would have looked at those documents before I make any response. But you have not even cared to do so.

You have asserted very strongly that the licence is for prospecting. There is a golden ring which has been tabled in the House said to be from Nyatike. You cannot be prospecting and yet mining and processing final products.

In those circumstances, I am afraid that this relates to the natural resources of this country. It pertains to the welfare of Kenyans which can be better looked after if these resources are applied correctly.

That being the situation, I am afraid I will refer this matter to the relevant Parliamentary Committee and I will urge the Committee to come up with a report which should be tabled in this House within 30 days because of the urgency and the gravity of the matter. Kenyans are fighting. Even this afternoon during the business conducted in this House, more than two Ministers have said: “When we get the money” and yet, perhaps, the money is in these minerals.

So, that being the situation, I am afraid it is a matter that calls for urgent attention on behalf of all Kenyans that belong to this nation. I so direct.

Hon. Members, the ring which was tabled will be returned to the Member for Nyatike.

(The ring was given back to Mr. Anyanga)

PRIME MINISTER’S TIME

Mr. Speaker: Order, hon. Members. That now takes us to Prime Minister’s Time. We have Question No.014 to the Prime Minister. The indication I have is that this Question was directed to the Prime Minister’s Office, but that subsequently it was agreed that this Question would be answered by the Minister in charge of sewerage and because it also relates to water in a river, that it could similarly be answered by the Minister for Water and Irrigation. I understand the two Ministers are both prepared to answer this Question.

So, Prime Minister, now that we have the advantage of you being present in the House, could you determine which of your two Ministers will answer this Question?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, you are right that the two Ministers are prepared with answers, but the answers actually complement each other. I do not know whether in our practice it is possible for the two Ministers to answer this Question. In that case, one will be giving information to the other Minister.

Mr. Speaker: That will be unprecedented and we do not want to encourage that practice. So, I do not want to set that precedent now. It is a bit dangerous.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, in that case, the Question will be answered by the Minister for Public Health and Sanitation.

Mr. Speaker: Very well. Mrs. Mugo, if you are able to proceed---

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

Mr. Speaker: Order, Member for Juja. You have caught my eye, but to ask the Question.

So, proceed. Ask the Question.

Mr. Kabogo: Mr. Speaker, Sir, I was proceeding to ask the indulgence of the Chair---

Mr. Speaker: Proceed as I have directed. Ask the Question first.

Mr. Kabogo: Mr. Speaker, Sir, with difficulty, I rise to ask Question No.014. My difficulty is that you did send this Question to the Prime Minister because---

Mr. Speaker: Order, Member for Juja! Why do you not be obedient for once? Comply with my direction. Ask the Question and then you can raise any other issue if there may be.

Mr. Kabogo: I have asked the Question.

Mr. Speaker: Order, Member for Juja. My senses are still very good. You started off by saying: "I have difficulties in asking". That is not the same as asking the Question. So, do what I have directed.

QUESTION

Question No.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 Prime Minister (Mr. Raila): Mr. Speaker, Sir, as I have already said, this is an issue which cuts across two Ministries. One Minister has got the information which the hon. Member requires in part "a" of his Question. The other Minister has got the funding for the money that is needed to resolve the problem. That was the reason why I had a problem regarding who should answer the Question. It is because the answers were complementing each other. But the other Minister can more competently provide the information to the House as to how this matter will be resolved. The other Minister can give the information.

Mr. Speaker, Sir, we always allow information when we are, for example, answering Questions. I thought that maybe that would, probably, be a practice that could be adopted in this House in respect to this Question.

Mr. Speaker: Order, hon. Members! Rt. Hon. Prime Minister, much as I agree that we allow information in the conduct of business in this House, we, on the same note, respect the import and provisions of the Standing Orders, which do not allow anticipation. So, we cannot anticipate information. But in view of what you have had to say, that the answers to this Question are spread between two ministries, the conduct I want to encourage, and which embraces the practice that we have adopted in this House in the past, would be that the two ministers sit wherever they can, compare their notes, harmonise and synchronise the answer, and then one of them answers the Question. That, in effect, incorporates the concept of collective responsibility which, Right Honourable Prime Minister, we have encouraged you to nurture and grow in the Executive. But your response is not that good. It is not very encouraging and so, in those circumstances, I will direct that this Question be deferred, subject to the Member for Juja being available, to Tuesday afternoon at 2.30 p.m., and one Minister will answer it. The Member for Juja, will you be here on Tuesday?

Mr. Kabogo: Mr. Speaker, Sir, first and foremost, you have labelled me disobedient, sometimes. I am not disobedient to the Chair. I just wanted to alert you that this Question involved three ministries. There is the Ministry of Environment and Mineral Resources, the Ministry of Public Health and Sanitation and the Ministry of

Water and Irrigation. I was just trying to catch your eye to note that two ministries have talked. But the Ministry of hon. Michuki has not been involved. So, I do agree with you. I will be available on Tuesday and, hopefully, the Prime Minister should consult the Ministry of Environment and Mineral Resources so that, that problem is solved once and for all. It is a huge problem.

Mr. Speaker: Very well. Order, I will not allow further points of order on this. I have directed that the Question comes on Tuesday at 2.30 p.m. The two Ministers should compare notes and harmonize their answer. Now, with your input, Member for Juja, they should also check the position of the Minister for Environment and Mineral Resources, so that it is carried on board.

Member for Juja, I want to confirm that you are an obedient citizen and that I have known you for more years than your life in Parliament. We are neighbours in some exclusive residential area in Mombasa. I know that you are of good conduct.

(Laughter)

(Question deferred)

Right Honourable Prime Minister, now that Question No.14 is deferred, we will take your Statement.

Next Order!

PRIME MINISTERIAL STATEMENT

ESCALATING COST OF LIVING: GOVERNMENT INTERVENTIONS TO ASSIST THE POOR AND VULNERABLE

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, today, I have chosen to address the House on the cost of living and the Government intervention to assist the poor and the vulnerable.

Mr. Speaker, Sir, Kenyans are experiencing a very sharp rise in the cost of living. The high cost of petroleum has ignited a spiral effect. Until recently, the national rate of inflation stood at 3 per cent. It has increased to 9 per cent. Increased food prices are responsible for 60 per cent of the total inflation. Local prices have risen sharply largely due to the emerging drought. Globally, surging demand in growing economies like China, India and Brazil, severe drought in China, massive floods in America and Australia, tsunami and earthquakes in Japan and increased use of maize to produce ethanol have raised food prices. The international price of crude oil has been rising due to high economic growth in China, India and Brazil, as well as the current turmoil in North Africa and parts of the Middle East. It has risen from US\$73 per barrel in July 2010 to US\$115 per barrel in April this year.

Mr. Speaker, Sir, our people are adversely affected by these high prices. The Government will implement a strong package of measures to cushion the poor and the vulnerable. Such measures are both short-term and long-term to find solutions that are sustainable. For immediate relief, the Government has removed all taxes and levies on kerosene to reduce the cost of lighting and cooking energy. This will reduce the kerosene

price by Kshs5.66 per litre, in addition to the reduction of Kshs2 per litre announced by the Treasury last week. That makes a total reduction of Kshs7.66 per litre.

Mr. Speaker, Sir, proper legislation will be introduced in this House as soon as possible to give effect to these measures. I expect that this House will act with outmost urgency so that Kenyans receive this much needed relief very soon. The rates of the current taxes and levies on petroleum products have remained constant since the year 2000, with the exception of the Road Maintenance Levy which was raised by Kshs1 per litre in the year 2007. In addition, the Government reduced the profit margin on regulated products such as kerosene, diesel and petrol from Kshs6 per litre to Kshs4.

Mr. Speaker, Sir, in addition, the Government, within the framework of the East African Community, will remove import duty on wheat and maize imported by private millers. We have directed the National Cereals and Produce Board (NCPB) to provide storage facilities for use by the private millers who import wheat or maize. The Government, itself, will not import wheat or maize. Given the hike in international prices, duty free import of maize and wheat will not adversely affect our local farmers. Rather, together with the available stock of maize, the private imports will make sure that there will be adequate supply of maize throughout the year. The Ministry of Agriculture estimates that 23 million bags of maize currently exist in the stores. That includes about 3 million bags held by the NCPB. The Government is also expanding the famine relief assistance to cover more people and regions. A total of 4 million people will be covered, up from the current 2.4 million people. We are working on improved co-ordination and logistics with development partners. We have waived the secondary school fees in areas affected by the drought.

Mr. Speaker, Sir, in the longer term, it is crucial to reduce dependency on imported oil and to secure self sufficiency in food. We will achieve these goals by going green in this country. We will maximize generation of geothermal and other renewable energy, and totally replace kerosene with clean energy. The Government will also mandate blending of gasoline with ethanol, both to reduce costs and to ensure cleaner and safer air to Kenyans.

Mr. Speaker, Sir, it should be recalled that the maximum wage was increased by 10 per cent just last year. The Government has agreed to further increase the minimum wage to be announced on Labour Day. Such increment should have come after two years but we will do it now to address the sharp rise in the cost of living. Going forward, the Government intends to shift from “cost of living” wage adjustments to productivity-based wage adjustments. Resources are being provided by the Ministry of Labour to set up a productivity centre.

Mr. Speaker, Sir, creating jobs is equally important. Therefore, the Government will ensure that Kenyan industries remain competitive. Moreover, we need to create jobs immediately, particularly for the youth. After due diligence and in consideration of views of Members of Parliament and Kenyans, the Government has decided to relaunch the *Kazi Kwa Vijana* (KKV) Programme and continue with most of the Economic Stimulus Programmes (ESP). The KKV and the Kenya Youth Empowerment Programme will be implemented jointly with the World Bank. Under this programme, the World Bank is providing US\$60 million. Out of this, US\$43 million is funding 1,200 labour intensive projects at district levels across the country. This will employ 190,000 youth in

the 18 to 35 age bracket. Another US\$15 million will fund an internship programme for 16,000 urban youth from the 18 to 29 age bracket.

Mr. Speaker, Sir, to address the adverse implications of high oil prices in the long term, the Government will fast-track the development of the Nairobi Urban commuter rail. This will greatly reduce the cost of transportation within and around Nairobi. It will also take a lot of motor traffic off our roads. We will also introduce a mass transport system in and around Nairobi. Furthermore, the Government will substantially and immediately strengthen our social protection programmes. The Ministry of Gender, Children and Social Development, the Ministry of Special Programmes and the Ministry of Agriculture have such programmes in place. A comprehensive targeted food subsidy programme will be introduced to complement these programmes and buttress the Government's social protection initiative.

The joint GoK/Oxfam/World Food Programme pilot programme on urban food subsidy based on cash transfers has been successfully completed. Five thousand families in Korogocho and Mukuru Kayaba and 2,500 families in Mathare were beneficiaries of this pilot programme over a period of eight months. Each family received, *by M-pesa*, Kshs1,500 per month for food. A memorandum on the implementation of a comprehensive targeted food subsidy is already before the Cabinet to support the food insecure in urban areas. Once this proposal is approved by the Cabinet, the Government will expand the pilot programmes to be providing Kshs2,000 per month to over 100,000 families in informal settlements in Nairobi, Mombasa and Kisumu. In order to assure long term sustainability of this and other social protection programmes, Treasury has been instructed to propose a package of tax measures that will be sufficient to fund these programmes in the long run but also that will not impact the poor negatively.

Mr. Speaker, Sir, as our ordinary citizens suffer from high costs of living, we in the Executive, the Legislature and the Judiciary must share the burden. We need to be frugal and prudent in our expenditure.

Thank you.

Mr. Speaker: Order, hon. Members! I note that there is a lot of interest in this matter but we have to be awake to the fact that we have serious business coming soon. So, we will restrict ourselves to what is absolutely necessary.

Mr. Mureithi: Mr. Speaker, Sir, I want to thank the Prime Minister for rising to the occasion, considering that people are really suffering due to the high cost of living and the escalating fuel prices. However, there is one issue that I would like to raise with the Prime Minister which, if not put in a proper policy framework, will continue to create a problem in this nation. That is what we call in economics, the value chain. When we talk about the value chain we are talking about those who manufacture, import, distribute and retail. Therefore, if the policy framework is not in place for determining the cost of a unit, the prices will continue to go up because there is no policy guiding the way the price should be. We brought a Motion here to propose some controls on essential food stuffs but it was declined and yet we have seen that in controlling of prices, whether we remove imports or not, the prices do not come down. I would like a clarification from the Prime Minister on how to deal with the value chain of commodities with a very weak policy framework.

Mr. Speaker: Order! Those who are coming after, please, do not take advantage of this opportunity to debate. Just ask for a clarification.

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, thank you for giving me a chance to seek a clarification from the Prime Minister. He has talked about grains like wheat and maize. He has said that they are going to be zero-rated. At the moment, there is no maize or wheat. So, that policy may not work. What I expected the Prime Minister to come up with is for the farmers who have maize to get a good price. What can he do for the farmers to plant for next year with a good price on inputs so that Kenya, as a nation would be self-sufficient in food? Worldwide, there is a grain shortage.

Eng. Maina: Mr. Speaker, Sir, I want to thank the Prime Minister for promising to do something though this House has always risen to the occasion regarding the difficulties that Kenyans are facing. In fact, we passed a Bill here and the Government rejected it. What is surprising is that in all the promises that the Prime Minister has given us, there is no guarantee that it will be listened to out there. For example, we do not know how much a packet of flour or a litre of kerosene is going to be today. These are the things that Kenyans are crying about. Could the Prime Minister give a guarantee that the cartels which he never tackled; companies that are making over Kshs20 billion in profits and banks that should be helping to grow this economy are making astronomical profits--

Mr. Speaker: Order, hon. Member for Mathira! What clarification do you want from the Prime Minister?

Eng. Maina: Mr. Speaker, Sir, could the Prime Minister, being the head of Government, give assurance to dying Kenyans that from today after this speech, the prices of commodities that they are complaining about will be that much or that much?

Mr. Keynan: Mr. Speaker, Sir, first, I would like to know how the waiver of school fees is going to be implemented. Secondly, taking into account that certain parts of this country are still affected by serious drought, why has the Government been reluctant to declare the drought situation a national disaster? The Prime Minister came to my constituency on 14th February, 2011 and in his interaction with the public, made a number of promises. I wish to recall that of all the promises and announcements made by the Prime Minister on that particular public occasion, none has been implemented. What assurance do we have that this beautiful announcement by the Prime Minister on the Floor of the House is going to be taken seriously by the Government and implemented to the letter?

Mr. K. Kilonzo: Mr. Speaker, Sir, I also want to join the rest of hon. Members in thanking the Prime Minister for rising to the occasion. However, I must say that the Government is not doing enough. I would want the Prime Minister to confirm that the Government should lead from the front. As an austerity measure similar to the one the Deputy Prime Minister and Minister for Finance took last time when he asked all the Ministers to use small cars, could the Executive merge the Ministries to have at most 24 of them so as to cut down on cost? We, as Members of Parliament, should also join them by foregoing our sitting allowances until such a time as the economy improves in order to identify with wananchi.

Mr. Imanyara: Mr. Speaker, Sir, the Right hon. Prime Minister did indicate---

(Loud consultations)

Mr. Speaker: Order, hon. Members!

Member for Central Imeni, please, proceed.

Mr. Imanyara: Mr. Speaker, Sir, the Rt. Hon. Prime Minister did express the hope that when the policy measures are brought to this House, the House will pass them as soon as possible. The words used are, “as soon as possible”. How soon is “as soon as possible”, given that some of these measures are still awaiting Cabinet approval, and it is a Cabinet which we know does not meet that often? When can we expect these policy measures to be introduced in the House?

Mr. Ngugi: Mr. Speaker, Sir, I have listened to the Prime Minister’s Statement on escalating cost of living. What measures is the Government putting in place to contain the rise in cost of living, which is going to rise again from the level it is today, tomorrow, the next day and next year? Secondly, on the issue of assisting the poor and the vulnerable, most of the measures are short term. What measures is the Government taking on a long-term basis to ensure that the poor and vulnerable are not in the situation where they have to be assisted all the time?

Mr. Speaker: Rt. Hon. Prime Minister, we will want you to respond to those issues and when we finish, we will do a maximum of another seven and that will be it.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I did say at the outset of my Statement that this Statement was after extensive consultations within the Government, including His Excellency the President. So the Statement is the official Statement of the Government of Kenya.

The Member for Ol Kalou, Mr. Mureithi, was concerned about the management of the value chain. In other words, Mr. Mureithi was revisiting the subject of price controls. He was saying that the Government needed to introduce the framework with which to intervene in order to control prices. However, we did say that this is now a liberalized economy, and that we will want the market to be the main determinant of prices and allocation of resources. Having said that, we are not trying to implement crude capitalism, where we say that everyone to himself or herself and God for us all. We are saying that it is a free market economy, but with a human face. The Government has the responsibility to intervene when it is necessary to ensure that the people do not suffer unduly.

This is what we are dealing with. We do not want to know how you manufacture, how you import, how much it costs you to do it, so long as once you have done it, you sell it at a price that is affordable and acceptable to the people. This is what I would say in the answer to that question. We do not want to micro-manage industries and businessmen. We are more concerned with the final product that is put in the market for the people.

Mr. Oyongo Nyamweya was concerned about zero-rating of maize and wheat. This is a decision that was reached after very lengthy discussions and debates. We considered the price that is prevailing right now on the international market and its stability. It is generally now accepted that the prices on the international market are not likely to go down soon given the fact, as I mentioned, the major emerging economies have become net importers of food. They are the ones which have driven the price of food that high. Therefore, we are certain that even if we do zero-rate, it would still be much more expensive to land it here in Nairobi compared to maize and wheat produced here, in which case we would avoid hurting our local farmer.

Mr. Speaker, Sir, the hon. Member needs to understand that the Government is concerned about the farmers; we want to ensure that they get a fair price for their produce and value for their money. At the same time the Government is also concerned about the consumer. It is the same equation. If you want to understand it, if you increase here it will increase on the other side. We are also concerned about the plight of the poor, who will suffer if the price of *unga* goes up. So, as we root for a better price for the farmer, I would really invite the hon. Member to also sympathize with the consumer of the same product. The Government has the responsibility to protect both, the producer and the consumer.

Eng. Maina basically repeated the question which was asked by the hon. Member for Ol Kalou. It was just in different words, and about the prices of basic goods. Of course, Eng. Maina was the sponsor of the Price Control Bill, which is still hanging somewhere. I have already answered that question when I answered the question by Mr. Mureithi.

Mr. Keynan was concerned about the implementation of the waiver of school fees. This was a decision which was taken after extensive consultations within the Government. Instructions were given to the Minister for Finance, together with the Minister for Education, to work out modalities of implementing that decision. I have not yet received information from the field to the contrary, that the decision has not been implemented. If that is the case, we will revisit that matter within the Government.

I want the hon. Member to understand that once decisions are taken within the Government, they are supposed to be implemented. I admit that we have bureaucracy within the Government system that tends to delay implementation of certain decisions that are taken. We are working towards elimination of this bureaucracy through reforms within the Government itself. That is why we introduced the system of performance contracting, so that we can hold most of the civil servants to account for their actions or inactions.

Mr. Speaker, Sir, the hon. Member for Mutito, "Mr. Mutiso"---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. I asked three questions on three issues---

The Prime Minister (Mr. Raila): And drought---

(Mr. Raila stood up in his place)

Mr. Speaker: Order, the Rt. Hon. Prime Minister! When another hon. Member stands on a point of order, you resume your seat until he finishes!

(Applause)

Mr. Keynan: Thank you, Mr. Speaker, Sir. With due respect to the Prime Minister, is he in order--- We know that this Government is very good on policy issue and documentation but very poor on implementation. For example, the Prime Minister, who is the second senior person in the Government---

Mr. Speaker: Order, Mr. Keynan! You know you have stood on a point of order!

Mr. Keynan: Thank you, Mr. Speaker, Sir. Let me raise my point of order. Is it in order for the hon. Prime Minister to refuse to answer my question when he knows very well that he has been to my constituency? In fact, I have said---

Mr. Speaker: Order, Mr. Keynan! You have made your point; that is it in order for the Rt. Hon. Prime Minister to fail to respond to your request for clarification? You have made it so well! So, why do you want to go further?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I am sorry if I tried to respond to the hon. Member before he completed his point of order. However, I understood what he was concerned about.

Mr. Speaker, Sir, that was about the drought situation and I sincerely sympathized with the hon. Member's constituency because I have been to the ground and I know the suffering of the people which we have tried to alleviate. In my Statement – I do not know whether the hon. Member listened carefully – I said that we will declare drought and famine a national disaster very soon.

(Applause)

Mr. Speaker, Sir, hon. Mutiso---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, Mr. Kiema Kilonzo---

Mr. K. Kilonzo: On a serious point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Mr. K. Kilonzo?

(Mr. Raila stood up in his place)

Order, the Rt. Hon. Prime Minister! You have a point of order there!

Mr. K. Kilonzo: Mr. Speaker, Sir, I have been here with the Rt. Hon. Prime Minister actually for nine years and he has repeatedly called me “Mutiso”. Is he in order to do that?

(Laughter)

This is not a laughing matter! I really take serious offence because the Prime Minister is a person who does not forget names. I am wondering whether it is deliberate or something else.

Mr. Speaker: Order! The Rt. Hon. Prime Minister, if you want you can respond to that.

(Loud consultations)

Order! Order, hon. Members!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, sometimes my eyes synchronize with the sound around me. When the hon. Member asked the question, he was sitting on this other side, and then he went to this other side. I am only seeing “Mr. Mutiso” here.

(Laughter)

Mr. Speaker: Order, hon. Members! Let us hear from the hon. Member for Yatta!

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Rt. hon. Prime Minister in order to refer to me as Mr. Mutiso? Is it possible that---

Mr. Speaker: Order! The Rt. Hon. Prime Minister, you need not to respond to the concern by the hon. Member for Yatta because I did not see you single him out. However, you still have to respond to the point of order by the Member for Mutito.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I know Mr. Charles Kilonzo very well. I did not mean that he was Mr. Mutiso. I am very sorry.

Mr. Speaker, Sir, I basically confused “Mutito” with “Mutiso”.

(Laughter)

Mr. Speaker, Sir, having done that, I apologise to the hon. Member for Mutito, Mr. K. Kilonzo who was actually suggesting that we reduce the size of the Government and I could not agree more with him. He went further to say that hon. Members should cut down their sitting allowances and I would like to hear that from the hon. Members who are here.

Hon. Members: Hear! Hear!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, reducing the size of Government does not necessarily mean reducing the numbers of Ministries. However, I agree that we need to cut down on some expenditures of the Government. That is why in my Statement, I said that we need to be frugal and prudent in our expenditures so that we only spend in areas where it is absolutely necessary and cut down on waste. That is what I mean; that we look at the budget and see where savings can be made so that we fund the very needy activities in our economy. If we do not do that, then we have to go to the local financial market and borrow with the attendant consequences of increasing inflation in the country and we do not want to do that. So, the Government has actually decided that we are going to be frugal and prudent in our expenditure.

(Applause)

Mr. Speaker, Sir, the Member for Imenti Central wanted to know how soon these policy measures will be implemented or how soon is soon? I have already said that the Memorandum is before the Cabinet and it will be approved in the next sitting of the Cabinet. It will then come to the House for discussion.

The Member for Kinangop wanted to know what long-term measures we are undertaking. The long-term measures are contained in the Statement that I have issued here. How, for example, we will introduce subsidies in order to target particularly the poor and vulnerable in our society in order to help them.

Mr. Speaker, Sir, we have talked about increasing our food production so that the country can be self-sufficient in food production. We have also talked about constructing dams to be able to harvest rain water during the times of excessive rainfall and it is flooding. That is when there are *El-Nino* rains.

There are several other measures, some of which are contained in Vision 2030 and several Policy Statements that the Government has brought before this House to deal with this situation. So, I want to assure Mr. David Ngugi that the Government is seized of this matter and that the Government has got the capacity to deal with it.

Mr. Speaker: Hon. Members, like I did indicate, we will just take another seven and each of you has strictly one-and-a-half minutes.

Yes, the Member for Nambale!

Mr. Okemo: Mr. Speaker, Sir, I also want to join my colleagues in thanking the Prime Minister for the statement on the cost of living.

I will be very happy to see the Prime Minister categorize these problems, because it is a cocktail of problems. He has given a cocktail of proposed measures. There are problems that are immediate such as the problems of fuel and food. Both in terms of availability and affordability, that is immediate. What is the immediate solution? With regard to energy, the prices are up. The Government has taken measures to reduce it by Kshs2 because of taxation, and you have proposed another reduction of Kshs5. How quickly can this be done? How would it be done? It is one thing to propose, and it is another to make sure those price decreases actually takes effect.

So, could he emphasize---

(Mr. Shakeel stood up in his place and consulted loudly)

Can you stop interrupting me?

Mr. Speaker: Order, Member for Kisumu Town East.

Mr. Okemo: Mr. Speaker, Sir, I would really like the Prime Minister to emphasize the immediate and short term measures. I do not think we may have enough time to wait for long term measures to take effect.

Mr. Speaker: Very well, Member for Igembe South.

Mr. M'Mithiaru: Mr. Speaker, Sir, it is Igembe North.

Mr. Speaker: Proceed, that is in your neighbourhood.

Mr. M'Mithiaru: Mr. Speaker, Sir, I thank the Prime Minister for the statement on escalating cost of living and Government interventions to assist the poor and the vulnerable. One of the programmes he has mentioned is the *Kazi Kwa Vijana* Programme (KKV).

Mr. Speaker, Sir, the KKV programme was rolled out two years ago and had no impact on the ground. If anything, there we complaints all over the country. What repackaging has he done to ensure the KKV is attractive on the ground and addresses the plight of the youth unemployment?

Mr. Mbuvi: Mr. Speaker, Sir, the Government has always been giving false promises to Kenyans. Could the Prime Minister give further assurance to Kenyans on the time frame as to when these food and fuel prices will go down?

Mr. Mwathi: Mr. Speaker, Sir, sometime back the Prime Minister indicated and gave guidance on the pricing of maize flour at Kshs52. As I check today's presentation, he has put food subsidy programme under the long term measures. The current issue is food on the table for the poor and vulnerable like he has rightly put it. What immediate short-term programme does he have to subsidize wheat and maize flour? Secondly---

Mr. Speaker: Order! One request at a time, particularly in the prevailing circumstances.

Mr. Joho: Bw. Spika, ninamshukuru sana Waziri Mkuu kwa taarifa yake. Baada ya ziara yake ya siku nyingi nje ya nchi, sasa anajishughulisha na kupanda gharama kwa maisha ya Wakenya.

Tunashukuru Serikali kwa kupunguza ushuru unaotozwa mafuta ya taa na diseli. Ni mipango gani Serikali itaweka au tayari imeweka kuhakikisha wananchi wanafaidika kutokana na kuondolewa kwa ushuru huu? Je, kuna mpango wowote wa kuhakikisha matajiri walafi watapunguza bei ya bidhaa muhimu ili wananchi wetu wafaidike?

Eng. Gumbo: Mr. Speaker, Sir, I wish to thank the Prime Minister for the exposition on what he is doing to bring down the prices of essential commodities.

Mr. Speaker, Sir, the tragedy for our country has always been civil servants who conceive very good projects on paper, but the sole intention is for personal enrichment. You will remember that two years ago, both the President and the Prime Minister were duped into opening an incomplete line one expansion programme for the Kenya Pipeline whose purpose was to help in stabilizing prices and improve availability of fuel supplies. What has emerged and that report is here in Parliament, and also with the Ministry of Energy, is that there was an entity in Kenya Pipeline Corporation, which does not exist in law called the Technical Tender Committee, which seems to have been formed for no other reason, other than an evil special purpose vehicle, for plundering public funds.

This project which was conceived and has been admitted here without proper engineering designs, pre-tender estimates by the engineer cost the Kenyan taxpayer over Kshs7 billion. What is the Government doing to ensure that those who are responsible for this economic crime of monumental proportions are, not only taken to court, but jailed?

Mr. Langat: Mr. Speaker, Sir, the cost of food and fuel is a very serious problem. Kenyans are getting impatient every day. What the Prime Minister has given us is majorly a text book approach to the problems that we have. Kenyans want to know by how much he will reduce petrol and diesel and by when. Could he answer those questions?

Mr. Wambugu: Mr. Speaker, Sir, this issue of the escalating cost of living is seriously affecting the IDPs in the camps. Most of these IDPs do not have food to eat. Unfortunately, when the Government tries to resettle some of them, some Cabinet Ministers have been opposing this idea of settling them in some parts of this country. What action is the Prime Minister taking against some of the people in the Executive who have refused the IDPs to be resettled in their areas?

Mr. Waibara: Mr. Speaker, Sir, I want to ask the Prime Minister whether the Government could consider establishing a Fund to cater for the poor and the vulnerable and cushion them against inflation.

Mr. Speaker: Finally, Mrs. “Mabone”!

(Laughter)

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. It is “Mrs. Mabona”!

Mr. Speaker, Sir, I have listened to the Prime Minister and he has given long term measures. However, we need some short term measures that address the urgent needs of

the people. Could he tell us what the Government is doing to lift the ban on Omena fishing?

Mr. Speaker, Sir, what is happening is that even when our fishermen chase *omena* to Uganda, they are arrested, yet *omena* has no passports or visas. So, you cannot tell whether they are Kenyan *omena* or Ugandan *omena*. What is the Government doing to lift the ban on *omena* fishing for the short term?

Mr. Speaker: Try and run through quickly, hon. Prime Minister.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, a number of the questions are actually repeated. They are only asked in different words, but talking about the same thing.

Hon. Okemo wanted to know how the fuel and food prices will go down. Fuel and food prices are inter-related; because when the price of fuel goes up all the other prices go up, including that of transport. We have actually established that about 40 per cent of the cost of food in town is basically attributable to an increase in the cost of transport. So, that is why we have targeted fuel.

Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Finance introduced some measures which were taking place immediately. For example, there were reductions in the price of diesel and kerosene. That takes effect immediately. We hope that by next week, people will feel the effect of that reduction. What the Deputy Prime Minister and Minister for Finance did is what he is currently allowed by law to do without coming to Parliament. The other measure I have mentioned requires Parliamentary sanction. That is why I said we are shortly coming to Parliament with a Bill to zero-rate, for instance, kerosene. As soon as that is done, it will be implemented.

Mr. Speaker, Sir, hon. M'Mithiaru was concerned about the repackaging of *Kazi Kwa Vijana* (KKV) programme. I would like to seek the indulgence of the House; I intend to hold a *Kamukunji* with hon. Members and bring here the experts who have worked on the repackaging of the KKV programme. This is because when this matter was brought here; hon. Members did not fully understand what we were introducing.

First, the World Bank did due diligence on KKV Phase I, and we found weaknesses, which we have agreed to seal. That is the reason as to why the World Bank has agreed to give about US\$60 million to that programme. However, what we have in mind cannot be discussed within the short period of time that I have here. So, I am asking that I will hold a *Kamukunji* with hon. Members, so that we can explain in full detail to them what--

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

Mr. Speaker: What is it, Member for Naivasha?

The Rt. Hon. Prime Minister, I am sorry, I have to allow that point of order.

Mr. Mututho: Thank you, Mr. Speaker, Sir. Is the Prime Minister in order to continue misleading this House by saying that the KKV programme will, indeed, sort out the food problem whereas we know that the KKV programme in Bura led to the production of 500,000 bags of maize? Is he further in order to mislead the House by saying that we have three million bags of maize in the National Cereals and Produce Board (NCPB) depots when he knows very well that that maize is for the Strategic Grain Reserves (SGRs), and that even himself, as the Prime Minister of this country, cannot buy even one bag of cereal from NCPB stores? In essence, it is zero.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have said that I would like to have time and discuss this matter at length with hon. Members in a *Kamukunji*, so that we are able to explain to them how we have repackaged the KKV programme on the basis of the due diligence that was done by the Government. We have, in fact, dealt with the challenges that the hon. Member is referring to. I would, therefore, request that I be allowed to have a meeting with hon. Members in a *Kamukunji*, so that I can explain this in detail.

Mr. Speaker: Very well! We will grant that request, but there is the second side, which is talking about the bags of maize which you alluded to as being available. The Member for Naivasha says that they are not available because they are part of the SGR. Therefore, they are not available to wananchi.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the SGRs are there as an assurance that in case of emergency, they can be made available. They are not for consumption by goats. They are for consumption by human beings. The SGRs are there so that when what is available on the commercial market is exhausted---

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

Mr. Speaker: Order, Member for Naivasha! I can guess where you want to go.

The Rt. Hon. Prime Minister, you see, what is important is that ordinary Kenyans are in a state where they do not have adequate food. So, if the maize is in SGRs, and is not available for purchase, then it is not helping to ameliorate the situation, unless you direct the NCPB to now make that maize available to wananchi for purchase.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I think the hon. Member did not fully understand me. I said that from the Ministry of Agriculture, we know that we have 23 million bags of cereals available in the country. Some of them are available with farmers elsewhere, and millers can access them. Millers will only go to the SGRs when what is available commercially is exhausted. So, this is just like money we have put in a fixed deposit account in a bank. It will be available to us when we need it. Right now, we do not need it but when we need it, we will make it available to the market.

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

Mr. Speaker: Order, Member for Naivasha! Relax!

Proceed, Rt. Hon. Prime Minister. Please, try and expedite the rest of your responses.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I think I have answered the question that was asked by Mr. Mbuvi, because I have already said that the measures that were announced last week became operational immediately. Therefore, we expect to see a reduction in the fuel pump prices.

Mr. Keter: On a point of order, Mr. Speaker, Sir. On that issue, I thought the Prime Minister said that in order for some taxes to be reduced, the Government has to come with an amendment Bill for Parliamentary approval. He cited the example of zero-rating kerosene. So, it is very important for the Prime Minister to be very clear as to whether the removal of duty on kerosene takes effect immediately or it will await Parliamentary approval. I am saying this because, already, there is an alert by 411 saying that the price of kerosene has been reduced by Kshs5.66 and that for petrol, by Kshs2.00; Import Duty on wheat and maize has been abolished and wage increase will be effected on Sunday. So, it is very important for the Prime Minister to clarify the timelines, so that Kenyans out there do not think that these measures will take effect at midnight. If these

measures are going to take effect at midnight, he should say so clearly. If they are going to await approval by Parliament, let him be clear.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I said that the Deputy Prime Minister and Minister for Finance is allowed by law to introduce the measures he announced last week – that is up to 30 per cent tax reduction – without having to come to Parliament. So, the reductions that the Deputy Prime Minister and Minister for Finance announced last week, relating to reduction in the prices of diesel and kerosene take effect immediately. However, the additional measures I have just mentioned here require approval by Parliament. That is why I said we are going to bring an amendment to Parliament by next week. So, it will depend on Parliament. As soon as that matter is approved by Parliament, the measures will take effect.

Mr. Chepkitony: On a point of order, Mr. Speaker, Sir. Is it in order for the Prime Minister to say that price reductions will take effect immediately and yet the reductions that were announced by the Deputy Prime Minister and Minister for Finance last week have not even been effected?

Mr. Speaker: I am not so certain that you are not being repetitive, but I will leave that to the Prime Minister.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I agree with you. I said that they take effect and that we expect to see the fuel pump prices go down. We need to give the businessmen reasonable time to clear some of the stocks they have but I am sure that by next week, all this will have been effected.

Mr. Speaker, Sir, I have already answered the question that was raised by the Member for Limuru about the---

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

Mr. Speaker: Order, Member for Kisumu Town East! We are actually running against time. I am afraid that I will not allow that point of information. You can find the Rt. Hon. Prime Minister at BP/Shell House as soon as we finish this business.

Proceed, Rt. Hon. Prime Minister!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I want to assure hon. Joho that if businessmen want to take advantage of this reduction in order to make a kill or make bigger profits, action will be taken against them.

The Member for Rarieda raised a very fundamental issue, but that is a specific issue which is not connected to the food prices that I was talking about. However, I want to assure the hon. Member that those people who are involved in graft are going to be prosecuted. There are people who are involved in cheating the Government, as he has mentioned. The report was prepared by the Efficiency Monitoring Unit (EMU), which is housed in my office. Action will be taken against those officers.

Mr. Speaker, Sir, the hon. Member for Mathioya was concerned about the resettlement of the IDPs. I think the House needs to discuss this matter because you will have seen that this resettlement scheme has run against a lot of resistance in different parts of the country. You have seen this in Lamu, Taita Taveta, Narok, Endebess and other parts of the country. It is an issue that requires to be discussed as a matter of national importance, so that an agreement is found on it. There is also a school that is gaining currency that the IDPs need to go back to where they came from. That is also another issue which is hanging. So, we, as a Government, are resolved to try to fund a bond for these people and to use public money to buy land. The Government has very

little option, if, once it has acquired land, then there is resistance by the local community against the resettlement of these people in those lands.

Mr. Wambugu: On a point of order, Mr. Speaker, Sir. I think the Prime Minister is just going round the specific question that I asked him.

Mr. Speaker: Order! Be a bit respectful even as you make your point of order.

Mr. Wambugu: Mr. Speaker, Sir, I am sorry about that. Is the Prime Minister in order to go round the clarification that I had asked on the action or the disciplinary measures that he is going to take against the Members of the Executive who have deliberately refused to take orders from the Government on the resettlement of the IDPs?

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

Mr. Speaker: Order, Dr. Nuh!

The Prime Minister (Mr. Raila): The hon. Member ought to understand that Members of Parliament, including Ministers represent the people and, therefore, when the people are resisting, the Members have got very little choice because they are being driven by the people. That is why this issue requires a different approach. It is an issue that needs to be debated here, so that an agreement is found and some message is sent from this Parliament to the people on the ground. Sometimes, Members find it very difficult to go against the wishes of the people that they represent in this House. So, the hon. Member may not appreciate this, but I know that some of the Members have this problem. I think that if the matter is discussed in this House, it will strengthen the hands of the Members when they go back to face their people on this issue. We must find a way of settling these unfortunate Kenyans. We must find a way, otherwise, we are going to fail as a Government unless Members are willing to lead from the front.

The Nominated Member, Mrs. Odhiambo-Mabona, was concerned about the ban on fishing of omena. There are feeding systems in the lake. The Government is concerned about over-fishing in the lake, which has the negative effect of depleting the stock of fish in the lake. There are times when fishing of particular species of the lake is banned in order to allow for breeding that species of fish. The Government is not doing this in order to punish fishermen. On the contrary, the Government is doing this in the interest of those fishermen. If the Government allows over-fishing of the lake, ultimately, these fishermen will have nothing to fish. So, I plead with the Member to be understanding on this matter.

Mr. Waibara: On a point of order, Mr. Speaker, Sir. I have not heard the Prime Minister answering my question.

Mr. Speaker: Right Hon. Prime Minister, the Member for Gatundu North is normally very genuine. He does not rise too often, but when he does, I think he ought to be responded to.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I said that a number of questions were repetitive. That is why I have skipped it. It is not that I did not notice it.

Mr. Speaker: Right Hon. Prime Minister, if you heard me, I implied that the Member for Gatundu North deserves attention. He is being tied elsewhere. You know that he has been tied in court most of the time and now that he is here and he has risen to ask for a clarification, please, give him attention!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I did not understand that the hon. Member was also vulnerable and, therefore, requires special attention. His question was vulnerability---

Mr. Speaker: Order, Right Hon. Prime Minister! This Member is facing an election petition. So, obviously, he deserves sympathy.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I understand. I fully understand. I was just saying that I did not know at the time that he is having those problems. I know that he would not have asked if he had known that other people had asked a similar question. But this question had been asked. It is about vulnerability versus inflation. I have talked about the socio-safety net, which the Government is introducing. I said that the experimental phase has already been passed and the Government is going to roll it out countrywide to target those people who are particularly vulnerable in order to cushion them against the adverse effects of the increase in the cost of living. I hope that answers the Member's question.

Mr. Speaker: Yes, I think it does.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. Likewise, the Prime Minister completely avoided answering my question. With the indulgence of the Chair, I can repeat it because it was very critical. It went like this, in simple terms: The food subsidy programme has been put under the long-term measure, but currently, the crisis is food on the table for the poor and vulnerable. What is the short-term measure to provide subsidy especially on wheat or maize flour, so that our people can have food on the table immediately?

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

Mr. Speaker: Order! Dr. Nuh, you are persistent. Can we hear you, so that the Right Hon. Prime Minister takes those together?

Dr. Nuh: Mr. Speaker, Sir, the question that I wanted to ask, which was also asked by hon. Joho, has not been answered. How is the Government going to effect the zero-rating of wheat and maize flour into price reduction, so that, that benefit is transferred to the public?

Mr. Speaker: Very well! Right Hon. Prime Minister, I think the one by the Member for Limuru, you actually addressed, but maybe, it bears repetition. So, you may want to do that.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I did say that we are trying to have the prices go down. That is the reason why we are zero-rating the imports of this stuff. But right now, the price of maize and wheat on the international market is too high that even if it is brought in zero-rated, it will still be higher than the price of locally produced maize.

So, the measures that we are talking about here are the ones that are aimed at lowering the price of maize flour. So, whether it is imported or local, it will still be subjected to these other measures which the Government is introducing in order to reduce the cost of maize or wheat flour to the consumers in the country.

Mr. Speaker: Very well! Hon. Members, we must then come to the end of that order now. There would have been a Statement by the Minister for Energy on the outpouring out of the nuclear plant in Japan. Although that matter is urgent, we will take that Statement tomorrow because we have run out of time on this order.

Let us move on to the next order!

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 26.4.2011)

Mr. Speaker: The Member for Eldama Ravine had the Floor and he still has 17 minutes.

Mr. Lessonet: Thank you, Mr. Speaker, Sir. While I was contributing yesterday here, I did mention about my observations on the selection panel. I wish that as this Bill goes to the Committee stage, we should be able to review how we appoint the membership to the selection panel.

Mr. Speaker, Sir, the other issue which I wish to raise is about the qualifications and experience of the Secretary to this Commission. The drafter of this Bill has basically given very basic qualifications to this very serious position. The basic qualifications includes, for example, that this person should have been in a managerial position for, at least, five years. You will realise that a managerial position includes even the very low positions in an organization. Five years is really a very short time for this person to obtain the necessary experience to run this serious Commission.

The Bill also says that the Secretary should have a university degree. I want to believe that a university degree is a very basic requirement. We should definitely go further and require that the Secretary should, at least, have an advanced degree, that is Masters, if not a PhD.

Mr. Speaker, Sir, I wish to talk about the plight of the existing employees. This Bill has not told us anything about the employees who are currently employed by the Interim Independent Electoral Commission (IIEC). We cannot year in, year out, just be firing Kenyans. These are Kenyans who left their jobs elsewhere to join the IIEC. I would like this Bill to accommodate the existing employees. Of course, we will not mind if such accommodation does not include the current Chief Executive Officer (CEO). However, the co-ordinators in the constituencies and the employees who run the Accounts and Information Technology (IT) departments should definitely be accommodated.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Imanyara) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, I would also like to make some my observation on this very emotive issue. This country, in the last two years spent a lot of money, time and resources--- We even put in a lot of time here in Parliament, the Kenya

Institute of Administration and Naivasha on the issue of the Ligale Report. This Bill, definitely, attempts to re-invent the wheel. This Bill requires that the new Commission even goes back for hearing on the issue of boundaries. It is my wish that this Bill is amended to stipulate that, at least, the Ligale Report goes for gazette. Anything outside that will still drag us for a very long time. I hope the Minister will listen to us on that; that we do not need any further contests on the Ligale Report. We did enough contest and we passed it on the Floor of this House. Very many of us agreed that it should go for gazette.

Mr. Temporary Deputy Speaker, Sir, finally, let me comment on the issue and procedure of the appointment of the commissioners to this Commission. If you read the First Schedule on the procedure for the appointment of the Chairperson and the Members of the Commission, you will realise that it does not capture the fact that this country is a tribal country and this Bill must recognize that. When we require the selection panel to call in people for interviews, at the end of the day, very many regions and communities may be left out. I want to believe that we want to have a fair election next year. We want to have an election through which we can believe in the results considering the fact that we fought in 2007 immediately after the elections just for one reason that we did not believe the results. For us to believe these results, we must seem to take everybody on board. The appointment of these commissioners should take into consideration the regional balance and community interest. This Bill should even go further, for example, and tell us that when we have nine commissioners, like we have in this proposition, it means two are from Rift Valley Province. This Bill should go to that extent. When there are nine Commissioners, we should have one from each province, with two from Rift Valley Province. If we do that, we shall not see the problems that we saw---

Mr. Chachu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that there is something called "Rift Valley"? I have the new Constitution of this country and as far as I know, we do not have things called provinces. Is he in order to mislead the House?

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, I am sure that my friend, the Member for North Horr, has not just arrived in this country but he has been with us for close to 40 years and he definitely knows that even as our children study geography this time, there is something called "Rift Valley." When I talk about "Rift Valley", I exactly mean that. Whether it is in the former Constitution or in our mind, we know what we mean when we say "Rift Valley."

Mr. Temporary Deputy Speaker, Sir, as we debate this Bill, let us be factual. Let us go down to the real point that we want a Commission which will take all Kenyans on board.

Mr. Temporary Deputy Speaker, Sir, when I look at the procedure as detailed in the First Schedule, at the end of the day, it is even possible for us to get commissioners from one region or community. It is only after we amend this Bill that we can accommodate everybody.

Mr. Temporary Deputy Speaker, Sir, we want to have a fair election. We want to have an election next year which we can believe in. We do not want anything in this Bill that will deny us a chance to have a competitive election. We want to elect a President that we can believe in. We want to take our time as we look at this Bill so that we do not make mistakes.

With those few remarks, I beg to support the Bill with amendments which will be raised at Committee Stage.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I want to support this Bill very strongly. I think the fact that this country promulgated the new Constitution and passed it by 67 per cent was really a great thing for Kenya.

This country voted two or three times and we were not able to get the Constitution. Let us talk about the Lancaster House Constitution. What happened? After the Lancaster House, an agreement was reached at by all communities, including the White community, KANU and KADU, but when they came back in 1964, it did not last. It was abrogated. The Senate was sent home reeling. The majimbo system was also disbanded. We accepted and adopted a culture of dictatorship. We adopted a culture of grabbing. We adopted a culture of the Head of State being a semi-god who was actually able to do anything and who was above the law. It continued until just the other day when we got this new Constitution. It was a struggle. It was war to try and get where we are today. So, this is a golden opportunity for this country to try and implement this Constitution, so that our people will benefit. This Constitution definitely is a darling of the citizenry in this country. They passed it with a big majority. The thing is for us, especially this House, to really put ourselves in order; to be part and parcel of the implementation of this Constitution.

Mr. Temporary Deputy Speaker, Sir, I want to say quite frankly that we know that there are some people who want to scuttle this Constitution again. There are some people who do not want to implement this Constitution properly. They want to return us to the pharaohs. They want to return us to Egypt where we were slaves of a few people.

Therefore, I want to urge Members of Parliament here to be serious about the implementation of this Constitution, so that we can really put it in our minds that we are serious with every Bill that comes here and we pass it, so that we get a new fundamental law.

Mr. Temporary Deputy Speaker, Sir, I was surprised. I am saying this because I have no doubt that according to some investigation here, there are some people who do not want this Constitution to be implemented. I want to pass a good word to the Minister for Justice, National Cohesion and Constitutional Affairs, Mr. Mutula Kilonzo and the Chairman of the Commission of Implementation of the Constitution, Mr. Charles Nyachae, for their exemplary efforts in trying to make sure that this Constitution is implemented. We must help them. If we do not help them, we will go back to the deep holes of this world.

Mr. Temporary Deputy Speaker, Sir, I was surprised just yesterday when an hon. Member stood up and made a statement to try and block this Bill from being discussed just because, as he said, they did not agree in the Parliamentary Committee of Justice and Legal Affairs. You can see the sentiments of some of us here; we still want to block this Constitution. The main reason is because they disagreed in the Committee, because some rebel MPs decided not to have this Bill passed for reasons known to themselves. That is dangerous. Because we can see trends like these coming up, it is very dangerous and we must be very careful, so that we can stop these people from making the whole thing refuse to work at all.

Mr. Temporary Deputy Speaker, Sir, it is important to make sure that when the electoral laws come to be passed here and when they are actually passed into law, we should make sure as hon. Mutula Kilonzo said yesterday that there is no interference of the business of the Independent Electoral and Boundaries Commission.

The problem that we faced in this country in 2007/08 occurred because everybody interfered with the Electoral Commission of Kenya (ECK). Everybody wanted to have a hand in what the Commission was going to do. It was really so bad because the powers that be, right on top, were part of the confusion; the MPs were part of the confusion and the public servants were part of the confusion. Even the clergy became part of the confusion. What did we have? Chaos, death, dislocation of communities and people who were wounded! We have not yet come out of that kind of situation because people confused and interfered with the ECK at the end.

Mr. Temporary Deputy Speaker, Sir, I want to speak a little bit about the marginalized communities. The marginalized communities are known in this country. These are people who, for no fault of their own, were left by the British. They were really downtrodden. They were put in the periphery and the borderlines of society. They did not really matter in many things. They did not matter in development and we are still behind.

Mr. Temporary Deputy Speaker, Sir, I am talking about areas like North Eastern Province, Maasailand, Samburu and all those other areas. Even the successive African governments were not serious to uplift those people as it were. If it comes to really appointing people, we should consider those areas so that they can get representation in some of those commissions. At least, two or three out of the nine posts of commissioners should go to North Eastern Province and those other areas. The Government knows where they are. I think they should have representation. I am saying that two or three out of those nine positions should go to some of those areas. That is because they have been forgotten and completely discriminated. This Constitution belongs to them.

Mr. Temporary Deputy Speaker, Sir, when you look at this Constitution, it really entrenches the freedoms and rights of the citizens of this country. The Bill of Rights, for example, is the longest, most elaborate and incisive. It deals with the rights of the people. I think the administrators in this country should be careful because they still think that they are the bosses. They still order the wananchi around. I would like to make sure that they are considered in some of those things when it comes to appointing the members of the Commission.

Mr. Temporary Deputy Speaker, Sir, I would also like to say that we should respect the recommendations of the Ligale Report. It is important that we respect them. Probably, the new Commission could, in one way or the other, make amendments here and there. But the body of the Ligale Commission Report should be adopted in this new thing. That way, we will start very difficult controversies again. I remember that, and I do not need to quote it really seriously, at the beginning, there was a big debate in this country as to whether we should support population for the increase of constituencies or the land mass. Some people started discussing acres and so forth. I am not for that right now. However, I am saying that there is one important thing; that is, marginalization. In some of those areas, there is no infrastructure. There are no roads, telephones and the distances are so great. The Member of Parliament could not reach his own constituency as it were. That is what must be considered when we really delineate the constituencies as it were. That way, those areas will get constituencies so that the Member of Parliament

can be able to serve his own people and, definitely, improve the infrastructure like roads and telephones. In some areas in this country, a Member of Parliament can reach about half of his people by telephone in less than one hour. What about some of those people who live in the *bundus*, trenches and all those other places where you cannot reach or hear them? They have no telephones. There is nothing. So, I think some of those areas must be considered. We can support them by giving them more Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, as I say again, we need co-operation between the people and the implementers. I think we must be able to tell the country what we are doing. I do not know whether the information coming up is enough to relay the information of what we are doing here to the people, so that they are part of the exercise. It is important that the Ministry of Information and Communications really starts to do something - and not really deal with Safaricom and Airtel or whatever it is. The Ministry is so much dealing with them. They should start many ways of communicating with wananchi so that they can know what is happening; so that they can be able, in their own way give us their feedback as to whether we are doing well; whether the laws are good or bad and how they affect them. That way, we can go on becoming felt.

I have said this because I want us to become a great nation. This Constitution is going to make us a great nation. It is going to give us respect around the international community but we must be there. We must not allow meddlers and some mad men, wherever they come from, to really make this Constitution flop again.

I beg to support.

Mr. Olago: Thank you very much, Mr. Temporary Deputy Speaker, Sir. As we appreciate the effort of the Minister in bringing this Bill to the House, let us also appreciate the efforts of other Kenyans who have assisted in the crafting and formulation of ideas that form the core of this Bill. I have in mind the Law Reform Commission of Kenya (LRCK), the Interim Independent Electoral Commission (IIEC), the International Commission of Jurists (ECJ), Federation of Women Lawyers (FIDA), Law Society of Kenya (LSK), Kenya National Commission on Human Rights (KNCHR) and all Kenyans of goodwill who have worked together to bring this Bill to what it is.

Mr. Temporary Deputy Speaker, Sir, you will recall that on 16th December, 2010, this House, after very long deliberations, adopted the Report of the Committee on Justice and Legal on the Report of the Ligale Commission. That is what was adopted by the House. However, the way the Bill handles that Report in the Fifth Schedule is something that we must look at very carefully. I do agree with the Minister that we need to look at Schedule Five of this Bill very carefully to see how best we can handle the issue of boundaries and the delimitations of wards. However, I do agree that, as we set up an independent Commission, we must understand that independence cannot stand alone. Independence is the mother of inter-dependence. So, the Commission we are setting up must also appreciate the fact that there are other bodies that it is going to work with.

However, the aspirations of Kenyans, by and large, are captured in this Bill. That is because never again should Kenyan experience what it experienced in late 2007 and early 2008. Never again shall we have a chairman of a commission on elections who has the temerity and the casualness to reply when asked by the media who won these elections to say: "I do not know". Never again should we have a chairman of the electoral commission who, when confronted by questions on delay in receiving Form 16As from some constituencies has the temerity to tell the nation that his staff is cooking, but he

does not know what they are cooking. That casualness of the Commission must be a thing of the past.

Mr. Temporary Deputy Speaker, Sir, if you look at the foundation of this Bill, we should appreciate the fact that it is founded under Article 88(4) of the Constitution in Chapter 15. It states:-

“The Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by this Constitution and any other election as prescribed by an Act of Parliament.”

So, the Bill has its foundation in the Constitution. That is a matter that we must not lose sight of.

Mr. Temporary Deputy Speaker, Sir, I was part of a team of members of the Committee on Justice and Legal Affairs that observed the elections in Tanzania in October last year. When we had a chance to go to the hall where results for the presidential elections were being announced, we sat down and noticed how peaceful the process was; how orderly Tanzanians waited for the chairman to announce the results. However, as we walked out of that hall, my brother Isaac Ruto, who was with me, remarked: “This is the most uninspiring. There are no riot policemen here. There are no horses here. There are no crowds shouting here. What elections are these?” That is the mindset of Kenyans where as a colleague said yesterday on the Floor, for Kenyans, election is a matter of life and death whereas it need not be. I am glad that it is founded in this Bill that election must be done in a civilized manner where the loser will shake hands with the winner. As Mr. Orenge said yesterday, you wait with two speeches one to read if you win and one to read if you lose.

Mr. Temporary Deputy Speaker, Sir, as we look at this Bill carefully, let us look at what Justice Kriegler said on the report of the Independent Review of the Electoral Commission. He had this to say about the Commission that he wanted Kenyans to seriously look at when establishing it. He said:-

“The Electoral Commission of Kenya (ECK) has professional staff in many of its departments; all the departmental heads are at least professionals. Given the Commission’s committee system, however, they will continue to be nothing more than senior assistants to the commissioners if they are not given room to apply their professional minds to the issues. This does not bode well for the ECK in a body where policymakers come and go”.

This Bill must set up a truly professional Commission where the staff have their duties clearly lined and set out for them. As Ms. Karua said yesterday, the electoral law that we are going to set up after this one must have clear penalties for officers who are given tasks and who knowingly abuse their power. That way, the officers who are tasked with responsibility will bear personal responsibility and if they act knowingly, it will amount to crime. That is the only way to make staff truly answerable to Kenyans.

Mr. Temporary Deputy Speaker, Sir, there will be delimitation of boundaries for constituencies and wards in the Fifth Schedule. This is a matter that should be handled very carefully. While the Committee on Justice and Legal Affairs and Administration of Justice was tasked with the responsibility of looking at the Ligale Report and making decisions on what needs to be done, the Committee went to great length and took a lot of pain to come up with a report. The report was debated here and you will recall how Members of Parliament were divided on how to treat the Ligale Report.

When this Bill comes to the Committee Stage and amendments are introduced, I urge my colleagues to look at the provisional schedule in a way that will not bring us again to argue and argue and argue but in a way that simply informs the Commission on what to do to the Ligale Report. That way, we shall avoid having to argue, shout and fight on the Floor of the House here once again.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by addressing issues of amendments that may come in this Bill. Indeed, from the remarks of hon. Members since yesterday, it is clear that there will be amendments that will be proposed on the Floor of the House. How these amendments will be handled is going to be a cause of concern not just to this House but to the nation. I say so because the only avenue that Kenyans and interested parties have in having an input in the Bill is to forward their views through the Committee on Legal Affairs and Administration of Justice. In the absence of a working relationship in that Committee, it becomes impossible for the public to have their input but there is a way out. Being a Member of that Committee, I do know that the problem is to handle the issue of lack of confidence. The issue that we are handling now in this Bill has nothing to do with the chairmanship of that Committee. I wish to urge my colleagues in that Committee that for purposes of addressing issues arising from this Bill, let us forget issues to do with a vote of no confidence. Let us come back together and deal with this Bill. If need be, the issue of lack of confidence can be handled later. If we do that, then all the amendments that hon. Members may propose will then come to the Committee and the Committee will have a chance to formulate them in an orderly version and bring them to the House. If that does not happen, then each Member of this House is going to come up with independent proposals and we are going to get into a quagmire and to a stalemate. If we are not very careful, this Bill may either not see the light of day or what we are going to come up may be so different from this one, that we may wonder if it is the Bill that came from the Minister.

With those few remarks, I wish to say that personally, I will have amendments that I will bring but I will not disclose them now.

Thank you.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I want to join other Members in supporting this Bill. I do so because for the last 14 years that I have been here, I have been able to follow debates in this House and at one time, Parliament has not given these Bills a close look. That is why we have always been facing problems. Even currently, we are facing a problem with the new Constitution just because we decided to omit one thing or the other. Just because we could not agree on a few issues, we took the Constitution to the people the way it is and we were not able to amend what was very crucial for us. Today, we can see that we are calling for amendments to the same Constitution. That is because we could not sit down as brothers and sisters, put this country first in our hearts and know that this Constitution and this country will be there and it will outlive all of us.

I also remember that before the General Elections of 1997, an able team from the opposition put on a strong fight and came up with the Inter-Party Parliamentary Group (IPPG). Once again the issue in question was that of leveling the playing ground. We expected that the then Government would have allowed Kenyans to have proper rules of engagement and have a law that will be able to pass the test of time. Today, we are here once again, because in 2002, we could not agree on the appointment of this body to

oversee the elections. As a result, this country has never been threatened into civil war the way it was three to four years ago. We should learn from history and be able for the first time do the proper knitting when it comes to addressing this Bill. We should all be very much alert and not be scared of the size of this Bill. Even if we come up with a document as big as a Bible, it is important to incorporate everything that we feel is very necessary so that nobody will talk about issues that we have forgotten. That is why I would urge hon. Members that even if it takes another three days to debate this Bill or even if it will take us time to go out for a treat so that we can agree on this Bill, then let it be so. That is because this might end up being the alpha and omega of our politics. If we go wrong on this Bill, it means that once again, we will end up with chaos come the next general elections.

Mr. Temporary Deputy Speaker, Sir, the question that we should ask ourselves here is whether this Bill is really important. For me, the rules of engagement are not proper and we cannot be able to determine whether we want peace or war in this country. That can only be determined by this document. If we really have the interest of the country and the dignity of our own people, then we should be able to agree on this important Bill. Today, we are being mocked internationally because we are a country that was supposed to set an example for other African countries, but we lost all that because we cannot trust each other. We have the best brains in this country. We have a Parliament here that is full of professionals but we just want to serve our own interests. We come here and pretend that we are fighting for the interests of our people but we are fighting for our own small interests. For example, whom do I support so that I am in this or that position tomorrow or who can support me when I am doing this or that?

Mr. Temporary Deputy Speaker, Sir, when we decide that we have a country then trust me we shall be able to come up with a Bill, hence an Act of Parliament that will be for prosperity. The problem we have is that we play hide and seek, laying traps, harbouring hidden agenda and playing dangerous cards for each other. There are some of us who might have tried to lay traps in it. I say, "might have tried". There are people who already know what they want in this document, and that cannot stand the time of nationalism. If you are really a nationalist, why are you just looking at what will happen in the next one year? Unfortunately or fortunately at my age I am seeing my kids grow; I really want this country to be at peace. This is because in the next 20 years I will still have a toddler in the house. I care a lot. I really would not be able to go for a system that tomorrow is going to hurt my daughter. I look at all these things. That is why, for example, Laikipia and Nanyuki towns are cosmopolitan and have all the tribes; almost every tribe in this country has a village in Laikipia. There was nothing during the post-election violence. Being a Christian, I know whatever goes round will always come round.

Mr. Temporary Deputy Speaker, Sir, it is good that we will have a platform for politicking whenever we want to politic. Let us know for sure that if anything happens in this country, we will all have to taste it. During the post-election violence I was sometimes wondering how to get to Laikipia. I stay at around Hurlingham but going through the city centre to Kasarani and into Nanyuki was a nightmare, because I did not know who was on the road. Therefore, nobody can pretend that when there is no peace in this country they can have peace for some people. We should look at this Bill objectively.

I have looked at it and there must be clarity. I have looked at the functions of the commissioners and the secretary. It is very important that you look at it. We should make sure that we do not go back to a repeat of what we did after the post-election violence, where we entered into a National Accord, which is tying us together today. We do not have a Chief Justice because we cannot interpret, today, the meaning of “concurrence” and “consultation”. If we cannot interpret this, it is important that we have clear separation of powers between the commissioners and the secretary. If you look at the powers given to the secretary--- If you appoint me a secretary today, with these powers, I will never even consult the commissioners themselves, even in a single day. Why? We have looked at the role of the commissioners as laid out here and they are going to be non-executive. They will be summoned to come and work, formulate policies and then go. That is very good for an advanced country.

Mr. Temporary Deputy Speaker, Sir, I am not saying we are not advanced, but if this Bill was for United Kingdom (UK) and other countries, I would say it is fine. However, we have not learnt to respect institutions. I am not saying that the Minister erred, but let us live in our time. We pretended to make a Constitution which we do not understand even today. Some of us do not understand it; maybe some of my colleagues are lucky to understand it. It is so complex that even the Americans themselves have difficulty following it. It is our own creation. It is our own Constitution; nobody has ever experienced that kind of a Constitution. Today, let us accept our limitations.

Mr. Temporary Deputy Speaker, Sir, the fact of the matter is that if we want to have commissioners, give them powers. Let them be in charge. If you want to give powers to the secretary let the powers go to the secretary. There is no question about it. If the powers in this Bill are given to me, I want to assure you that I will exercise them fully. I want to assure you that what is happening today is that we have a Managing Director, or Chief Executive Officer of a parastatal or a State Corporation; this person who call meetings. The chairmen who are supposed to head those corporations, or parastatals, are rendered irrelevant. Take all the Managing Directors we have today; none of them will listen to the chairman. There is lobbying where CEOs make five directors go to five or ten committees. When a Managing Director wants favours he can call them to go to Mombasa and others to Seychelles, depending on how they want to play about with them. We should not create this situation in this Commission, where the secretary will call upon three or four commissioners, or even the chairman to play certain roles that cannot be questioned.

It is important for this first Commission to have commissioners with the powers that they deserve. As we advance, we can say we are becoming disciplined and experienced; so, let us cut the expenses and either have the commissioners or the secretary to be in charge. For now I would propose that the secretary answers to the commissioners; let him be given his role; let him know for sure that the commissioners are in charge, or remove all the commissioners and leave all the work to the secretary. That way, we will be doing a favour to this country. It will be good for all of us.

Mr. Temporary Deputy Speaker, Sir, I argue because I have read Schedule Six of the Constitution of the Republic of Kenya. Section 31 is very clear about the existing officers. They have already been protected. There is no way we can come here to argue that we can remove anybody from office now. The Constitution is very clear. You cannot contravene the Constitution. It is very clear that the secretariat will be in charge, but let us

not argue just because I do not like a person; that way we shall be making a Constitution for an individual. Let us sober up; let us have the existing offices respected. By the end of the day I have a lot of respect for the existing electoral body. I pay tribute to them.

After the elections that were conducted, much as you would want to say--- As usual politicians never go to the tallying station when defeated, and always never accept any defeat; give the devil his own due. The fact of the matter is that they have worked very hard. They are all qualified, including those who were members of the Interim Independent Boundaries Review Commission (IIBRC). They are all qualified and can continue with the job. However, what I am saying is, Mr. Ligale has his own rights; we should not challenge him because he was not good for me or you. This Commission is so important. This is the Commission that is going to do the delimitation of boundaries. It is the Commission that is going to make sure that the rules of engagement will be followed properly. Let us separate powers of the Commissioners from those of the secretariat.

Lastly, you are also aware that Kenyans have become so litigant that even today a person who is not shortlisted for a job, will go to court to argue his or her case. Let us not have a Bill that will make us have people in court day in day out. For example, the functions of the commissioners have been laid out; they have not addressed a simple question of who is going to designate polling stations or who is going to announce election results. These are so crucial. They are the nitty gritty that we must tie together. There is no way we can pretend that we can have trust in each other in the beginning. Let us look at all these issues. Let us avoid litigation.

Look at the question of discrimination. It is very clear in our new Constitution that we shall never discriminate. Already what are we starting with in this Bill? We have said we have a limitation on the age of commissioners. We have not even been able to set the age of the President. It was contested at the Bomas of Kenya during the writing of the Constitution that we did not come up with. We might have people who are 70 years old; I say this out of respect for Mr. ole Ntimama. His argument can be more sober than that of a 30-year old or 20-year old. So, we cannot say that because somebody is 70 years old they cannot serve in this Commission. Let every person be tested; even if you say that, it will be challenged in a court of law. I will go to the court tomorrow and say that this Act is discriminative. I will challenge it.

Mr. Temporary Deputy Speaker, Sir, look at the powers given to other Commissions, for example the Commission on the Implementation of the Constitution (CIC). They have already appointed their chairman to be their spokesman. He even has a lot of powers. Why do we want to discriminate against one constitutional office? This will be a Commission like any other commission. It will be a constitutional commission. If we are going to have a law to guide only one commission, then it will be discriminative and will be challenged in a court of law.

Mr. Temporary Deputy Speaker, Sir, when we get to the Committee Stage, let us agree. It is important for us to lobby. We had a meeting or a caucus today as hon. Members. I encourage that those caucuses be extended to every hon. Member of Parliament. Let us not have an ODM one; let us not have a PNU one or a Grand National Union one, where I am the Chairman.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, we should be able to take care of this Bill as a Parliament so that we are all heard, we respect it and when we come here we support all the amendments in total.

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, Sir, because I can see my fellow Members are anxious to contribute, I beg to support this Bill.

The Assistant Minister for Livestock Development (Mr. Duale): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. I think it is very fundamental and it will shape the development of democratic ideals and institutions in this country.

The integrity of an electoral system, the integrity of electioneering and the integrity of electoral management cannot be taken for granted by the people of this country again after what happened in 2007/2008. Whatever the allegiance, voters in this country have all the right to a fair outcome of results in a general election.

For us to develop quality election and for us to develop and nurture democratic institutions, we must set our acts and electoral management systems in order. A number of times people talk about political accountability and the culture of impunity. They also talk about corruption. The link between these vices and the people who are supposed to enjoy the link is the elections and we must make sure that, that Act is put in order.

*[The Temporary Deputy Speaker
(Mr. Imanyara) left the Chair]*

*[The Temporary Deputy Speaker
(Dr. Laboso) took the Chair]*

Madam Temporary Deputy Speaker, as a country, we must not forget what the defunct Electoral Commission of Kenya (ECK) of 2007 under the leadership of Mr. Kivuitu did. Today, in my opinion, they are the first people who should be taken to court. The people who should go to The Hague, in my opinion, should be the ECK Commissioners who managed the 2007 elections or those who stood in broad daylight and said they do not know who the winners are; those who stood in broad daylight and said that they cannot trace the Returning Officers! It is also those people who went out, put off the lights and made sure that the General Service Unit personnel replaced the officials who were supposed to man the election data.

This Bill that the Minister for Justice, National Cohesion and Constitutional Affairs has brought to this House is a panacea to the problems of this country in terms of the management of the electoral system. I want to thank the Interim Independent Electoral Commission (IIEC) under the leadership of Mr. Issack. This Commission has restored the confidence of the Kenyan people; this Commission has successfully done a referendum; this Commission has, for the first time, compiled the national voters register from scratch where 12.4 million Kenyans were registered, which is equivalent to 72.2 per cent of the registered voters of this country. I would like to say that 90 per cent of the Kenyan masses expressed their confidence in this Commission. As we debate this Bill

and form a new Commission, we must not forget that these men and women did a wonderful job in the by-elections, the referendum and in the voter register.

Madam Temporary Deputy Speaker, what are the features of a good electoral system? A good electoral system must give us an efficient and an effective secretariat which, in my opinion, this Bill, starting from the Title to the Fifth Schedule need some improvement.

If you look at Section 34 of this Bill, you will find that the Minister is talking about “delimitation during first review.” If you go to the Fifth Schedule, you will see a totally different thing. If you look at the Constitution, and I want my colleagues to look at the Constitution at all times, you will find that Section 89 of the Constitution is very clear on the first review. Let us not cheat ourselves. The first review was done by the body headed by Mr. Andrew Ligale. The next review will be done after a minimum of eight years and a maximum of 12 years. For us as hon. Members, the first review is well documented in the body of the Constitution; that is in the Sixth Schedule in Section 27 of the Constitution.

Mr. Chachu: On a point of order, Madam Temporary Deputy Speaker. Is it in order for hon. Duale to state on the Floor of this august House that we, actually, did complete the first review when he knows that we never did? Is it in order?

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I want my colleagues to read the Constitution. It is not about chest-thumping and being very emotional. I want my colleague, Mr. Chachu, to read Section 89(2) and the Sixth Schedule, Section 27 of the Constitution and understand that the Ligale Commission, being one of the Agenda Four reforms, did its work and that was the first review. So, whether we make noise or decide not to read the Constitution, as far as this Bill or the Minister is concerned, Section 34 says; “Delimitation during first review.”

Madam Temporary Deputy Speaker, I want to say it very clearly. Section 98 talks about how these delimitations will be done. Further, to my colleagues who feel that Mr. Ligale never did good work, I want to take them back and tell them that some of their constituencies, under the first review, are protected. So, if we open up, I can tell them that 27 hon. Members in this House will lose their seats. That is what the first review is all about.

Madam Temporary Deputy Speaker, Section---

(Mr. Chachu stood up in his place)

The Temporary Deputy Speaker (Dr. Laboso): Mr. Chachu, is it another point of order?

Mr. Chachu: Yes, Madam Temporary Deputy Speaker.

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

Mr. Chachu: Madam Temporary Deputy Speaker, is it in order for the hon. Member to state that some of these constituencies were protected when some of them have fictitious figures in the census, shooting by 2 million people and, as a result, the census were nullified? Is it in order?

The Temporary Deputy Speaker (Dr. Laboso): But is that a point of order, Mr. Chachu? Continue, Mr. Duale.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, thank you very much. That is not a point of order and I will continue. I want the hon. Member to read the Sixth Schedule of the Constitution. Section 27 talks about protected constituencies. It is not Mr. Duale; it is not Mrs. Odhiambo-Mabona; it is not any other Member but it is the Constitution and we want hon. Members to read the Constitution. We must delink ethnic emotions and political parties when we are debating this Bill.

Madam Temporary Deputy Speaker, if you look at Article 4(c), which talks of delimitations of constituencies and wards using appropriate technologies and approaches, that is not in line with the Constitution. What technologies? Why should it not cover the whole operations of the Commission? Why only the delimitation of constituencies? When you look at Sections 4, 5 and 6, on the administration, Part II, the issue of saying we want to stagger, the issue of saying we want a Chairman and a Vice-Chair, and the rest of the other members of the Board--- This is an area we need to relook at and see who will take the greatest responsibility, when it comes to election offences in this country.

If you look at Section 9, there are a lot of issues. For example, whether the secretary of the Commission is from Nyanza, Rift Valley and North Eastern; it is about that. It is about a qualified Kenyan who will get this job. It is very clear that Section 9 of the Bill says that the Commission shall, through an open and transparent competitive recruitment process, appoint a qualified secretary. There are those of us who believe that could be given for parliamentary approval for us to feel that the person who will get this job is a person who has the confidence of the majority of the leadership of this country.

I have a problem with the Sixth Schedule. I want to go back to the sensitive issue of the Sixth Schedule that talks about delimitation. In this Parliamentary Report adopted by this august House, this must come out very clearly, that after the hullabaloo of hon. Ligale, the Departmental Committee on Justice and Legal Affairs sat and listened to all the concerns of the people, including that of my good friend, hon. Chachu. Your concerns are in this report. This report plus the Ligale Report must be the primary source. We are not saying that everything that Ligale did is 100 per cent correct. We are saying that the few concerns, which were mentioned to this Committee, which are in this report, will be used. So, we do not want hon. Members to take us through the acrimony that was seen last time. We do not want that to overshadow the beautiful Bill that will give this country a better management in terms of electoral affairs. Please, for heaven's sake, let us rise above party politics. Let us rise above ethnic interest. Let us forget about the 2012 political leaders of this country. For the first time, let us listen and reason together. Let us give this country, 80 new constituencies under the law. As I can see now, those who will bring amendments to this Bill, you had a chance to appear before the Justice and Legal Affairs Committee. But now the ball game is different. There is a Bill here that has been brought by the Minister for Justice, National Cohesion and Constitutional Affairs. We do not want to go back to the murky business of delimitation, or the murky business that my community must get more seats, or murky business of the census. The census belongs to the Ministry of State for Planning, National Development and Vision 2030, not hon. M. Kilonzo. It belongs to those people who conducted it and those who were aggrieved went to court. Those who feel that they have an issue with that, wait for the determination of the court. Leave this Bill alone.

Madam Temporary Deputy Speaker, finally, I want to say here that we need an efficient and effective secretariat to be formed. We need to work for the promotion of free and fair elections. We need to develop a modern system for collection, coalition, transmission, and tallying of electoral data.

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

Dr. Eseli: Thank you, Madam Temporary Deputy Speaker, for giving me a chance to contribute to this Motion.

From the outset, I support this Motion. However, I have various reservations. This Bill is about part of the election process in this country. It should have been better if we had this Bill coming together with the Political Parties (Amendment) Bill and Electoral Bill, so that we pass these things as a package and have them concentrated in one Bill rather than having them separated. As you look at this Bill, I feel there is a lot of inadequacy, yet for the last quarter century, elections in this country have been a painful experience. Every time we get towards elections, people are displaced and lose their lives and properties. In the process, not just the voter is hurt, but even some candidates are hurt. Some of the aspirants are actually injured. Therefore, this requires that we put up something that would safeguard this country.

The power to manage elections totally is what we are looking for now, right from the appointment of the commissioners to the way they conduct themselves, the way the electoral staff conduct themselves to the way the candidates themselves and also voters conduct themselves. We need that in a nutshell. We need it altogether. Separating it like this, we will again end up with our electoral laws distributed in various Acts. The way it has been so far, and might not be very good for us.

Madam Temporary Deputy Speaker, another issue we must learn is that it is not so much the law, but it is the way we behave. It is the political culture. The body politics of Kenya is riddled with impunity and corruption. This is not just about laws; it is about the conduct of individuals. Even as we speak right now, there are people who are slowly trying to create small tribal chieftains. These are the seeds that will eventually lead to the conflict that we see around elections. Those are things that cannot be avoided through laws. Those are things about integrity in leadership.

We need an electoral law that will come together with this to dictate, therefore, who amongst us is fit to lead, because then they will be able to set proper examples. Some of these things are beyond laws. Even as I speak now, one of the potential tribal chieftains has just landed in Kimilili Constituency at a nomination of a councillor with a motorcade of 100 motor vehicles and it is rumoured that he has spent Kshs3 million. That corruption is what causes damage to this country.

Madam Temporary Deputy Speaker, the other thing we are facing here is honesty. We do not have a lot of honesty in our electoral system. One way that we can instill that honesty is that we have to spend money and go electronic totally. That is one way that we can ensure that we reduce these conflicts.

I hope that the Minister, when he comes to consolidate all these things, will be able to take care of some of these things that I am saying. This body must be able to command, trust and respect everybody in the country. If they do not command that respect and confidence of Kenyans, then they will be unable to run the elections properly. With this Bill, we have actually put potential problem to the Commission in the sense that we have given them a very dangerous thing to deal with; that is boundaries review.

The people who were in Naivasha as they formulated the Constitution did us an injustice by not following Kriegler's recommendations, that boundaries review should be separated from electoral commission. They failed to do so. Right now, we want to appoint another commission and charge them with the issue of completing the emotive issue of constituency demarcation.

Madam Temporary Deputy Speaker, by doing so, we risk discrediting the new Commission, even before it conducts the 2012 General Election. Those people who will be dissatisfied with the outcome of the constituencies review will blame the new Commission, and will not have confidence in it. Why is it that we, Kenyans, do things in a very interesting way? For activities we can accomplish easily, we take the longest and most painful route to accomplish.

As I said earlier, a law alone might not be able to help us, unless we have something about the integrity of the leadership. If I may quote a Malawian musician, Oliver Mtukudzi, he poses: "Where does justice hide when it sees money?" We can have the best laws but if we have impunity, and the Bench is not behaving itself, justice will hide when it sees money. So, a good law alone might not be a safeguard for all Kenyans.

Madam Temporary Deputy Speaker, as Parliamentarians, we can go through this Bill and bring the amendments we require, if the Justice and Legal Affairs Committee is not up to the task. I believe that the membership of the Committee is a victim of impunity. The previous appointments, which were subsequently discarded, are the ones which have brought about this split in the Committee.

So, the Members of the Committee are actually victims of impunity. Therefore, they should sit down and find out whether they are part of the problem or part of the solution, so that they can come together and move this country forward in terms of the implementation of the Constitution.

Madam Temporary Deputy Speaker, the Political Parties (Amendment) Bill should also be brought here, so that we can put all these things together. Right now, we are observing a lot of political party promiscuity. We are seeing people belonging to certain political parties behaving "incestuously" and things like that. We need to change this course.

I believe that the Bill that the Minister for Justice, National Cohesion and Constitutional Affairs has brought here is skeletal. He has to put some meat on it by quickly bringing The Political Parties (Amendment) Bill and the Electoral Bill, so that we can put everything in a proper perspective.

Madam Temporary Deputy Speaker, the incoming Commission will be tasked with heavy responsibilities. For instance, they will have to address the issue of pre-rigging of elections, as it is happening right now. Kenyans are silent. They have not realised that there is pre-rigging of the 2012 General Election going on. People are not getting national identification cards (IDs). There is no printing of IDs going on right now.

All the counties in the western Kenya region are waiting with bated breath for the issuance of ID cards. There is a large population with no ID cards. So, by the next general election, they will be disenfranchised. That is pre-rigging. So, the incoming Commission will have to address this issue.

Madam Temporary Deputy Speaker, as I said, the Bill itself looks more of a skeleton, and there are some things in it which are interesting, if not absurd, to say the

least. I would like to cite the issue of staggering the appointment of members of the Commission, as provided under Part II, whose Clause 7(5), says:-

“7(5) Four other members of the Commission shall be appointed not more than twelve months from the first appointment under subsection (4).”

This means we can appoint four Commissioners today and appoint another four Commissioners next week, because it is not more than 12 months since the first appointment. So, the use of language here is questionable. I do not know whether it is mischievous. I want to believe that this is a misprint.

Madam Temporary Deputy Speaker, the second provision under the Second Schedule says:-

“2. A meeting of the Commission shall be held on such date and at such time as the chairperson shall decide”.

How do you leave it to one person to decide when to hold a meeting, where and at what time? He can decide to hold it at midnight. He might decide to call a few Commissioners and hold the meeting. I want to believe that these kinds of clauses are misprints rather than mischievous intentions; if they are mischievous intentions, then that will be a very big flaw in this Bill.

Madam Temporary Deputy Speaker, by and large, this country needs healing. Even as we come here to pass laws to operationalise the new Constitution, let us re-examine ourselves. Are we moving this country forward, or are we moving it backward through our utterances and deeds?

With those few remarks, I beg to support.

The Assistant Minister for Tourism (Ms. Mbarire): Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill that is in front of us. I want to congratulate the Ministry of Justice, National Cohesion and Constitutional Affairs, the CIC and all the stakeholders that have played a role in putting together this Bill.

The setting up of the Independent Electoral and Boundaries Commission is very critical. As you all know, one of the things that Kenyans cried about through the years as we moved from one election to another was to have an independent commission and also that had teeth to bite. As I look at this Bill, I feel that these two issues have been sorted out to some extent. It is important that we look into them and ensure that we truly have a clearly independent Electoral Commission and also one that has teeth to bite. As I look at some of the clauses in the Bill, they state that one of the roles of the Electoral Commission will be investigation and prosecution of electoral offences by candidates, political parties or their agents. You know that one of the biggest challenges that we have with our electoral system is that electoral offences are committed and nothing is done to the perpetrators of those offences. That alone is not enough and that is why I agree with the former speaker that we need to be very clear about these offences. That is why the Electoral Offences Bill needs to have come together with this particular Bill, so that we are very clear on these particular offences and we know the punishment to expect in the event that these offences are committed.

I want to be very tough on this. I am very sure that part of the rigging that has happened in the past and why we end up in trouble all the time and have wars like we encountered after the 2007 General Election was because people were vested with power to oversee elections and they did things without fear and with impunity because they

knew that they would be taken nowhere. In this Bill and in the Electoral Offences Bill, there is more focus on the electoral offences committed by candidates. What happens when these offences are committed by the Commissioners or the staff of the Electoral Commission? You know that right at the grassroots level, we have the Returning Officers and the Presiding Officers, who are the most notorious officers in any rigging. I do not think there is any rigging that can take place in any part of this country without the direct involvement of the Returning and the Presiding officers. I would like to see some serious action and effort put into how to deal with the staff of the Electoral Commission. How do you deal with the Commissioners when they commit electoral offences like they did to us in the last general election? They went scot-free. Nobody talks about them anymore, yet they caused bloodshed in the whole country. How do you deal with them? How do you deal with the Returning Officers and Presiding Officers who tampered with Form 16A? That is very important and we need to come up with a clear code of conduct that should be signed by these particular officers.

I want to reiterate hon. Karua's comments yesterday where she said that we must have very severe penalties for these officers, so that an officer who commits an electoral offence, whether he is a Commissioner or a member of staff, a permanent staff in the Commission or on contractual basis during elections, for example, the Returning Officers, should lose his or her job. If you are a Civil Servant, you should not hold any public office for ten years. That will help to deter officers from committing electoral offences.

Madam Temporary Deputy Speaker, I am also happy that this Bill has looked into the issue of Article 10 and Chapter 15 of the Constitution. Chapter 15 talks about Commissions and Independent offices and Section 10 talks about national values. I think it is important that these Commissioners meet the threshold as set out in Chapter 6 of the Constitution on leadership and integrity.

There must be a very delicate balance between the powers that are given to the Commissioners and those that go to the secretariat. One of the things that we must be aware of is that Article 250 of the Constitution is very clear. If you look at the composition, appointment and terms of office of Commissions, you will find that they are very clear. Article 250(12) says:-

“There shall be a Secretary to each commission who shall be-

- (a) appointed by the Commission; and,
- (b) the chief executive officer of the Commission.”

Therefore, we cannot wish away that position. However, the danger we are finding ourselves in –and I had hoped that we had learnt lessons good enough to make us not go back there – is that we are not able to separate offices from individuals. Here we are, as politicians, setting up offices, but thinking about: “Who will sit in that office? Is it my man, tribesman or friend?” We must realise that all the Commissioners who were in the defunct ECK belonged to tribes of Members of Parliament who are seated here or even Members of Parliament in the last Parliament, and yet they did not stop bloodshed in this country. So, we must be able to rise from our own petty tribal fears that do not help us, and put a law where even your worst enemy can sit and you are comfortable. I think that is the challenge that we have to today, as Members of Parliament. We are already thinking who will be the Secretary and Commissioners to this Commission. I think we must be able to put a delicate balance between the powers we vest on the

Commissioners and those of the Secretariat – in this case, the Chief Executive Officer (CEO) – and make sure that the CEO is able to work without the manipulation of the Commissioners. Again, even if you give too much power to the Commission and have a CEO who has no teeth at all, that CEO is open to manipulation by the Commissioners. So, we need a delicate balance. I hope the Minister is hearing this because it seems to come out from every single speaker that I have listened to today and yesterday, so that we can ensure that we have a Commission that can withstand the test of time. Remember that we do not have much time. There is very little time and elections are just around the corner. We are yet to know the exact date, but clearly, it is just around the corner.

Madam Temporary Deputy Speaker, I have an issue that I would like to raise with the Minister. I think even the former speaker has mentioned it. That is on Clause 7(3), (4) and (5). Clause 7(3) reads:-

“The seven other members of the Commission shall be non-executive and shall serve on a part-time basis.”

I think we need to be very clear what that “part-time basis” means. This is because I imagine that the ones who will be appointed immediately after this Act will have a lot of work.

Two, they say that they will stagger the appointment of these Commissioners. Why would you appoint four commissioners now and then after a period of not more than 12 months, appoint the rest? Of what use is it to appoint some commissioners, and especially at this point in time when we are starting a new and energized commission? Why not appoint them all together and then stagger the period at which they complete their terms, so that there is no vacuum at any one time? For now I feel that at the beginning we need them all on board because there is a lot of work. They need to move together in sync instead of coming in at different times and each one comes with their own way of doing things.

Madam Temporary Deputy Speaker, the other issue that we need to look at is how political parties manage their nominations. I am very happy that this Constitution has given a lifeline to politicians and that is the issue of independent candidates because this will push political parties to ensure that there are inbuilt democratic institutions and ensure that when it comes to nominations we have level playing ground for all.

I would like to know if the Minister can look at how we will ensure that political parties are held to account on this issue. Although the Commission will oversee the nominations, we need to be very clear on the procedure. This is because if, at the end of it all, the Commission asks political parties for money to pay the officers on the ground as it happened in 2007, you will find many political parties will not afford to do so. Therefore, the process of nomination will not be fair and we will not afford it. So, I hope that the Minister will be able to see how to tie up these loose ends, so that we have a more comprehensive Bill that we can depend on even in the future.

With those few remarks, I beg to support and urge hon. Members to really support this Bill. We should look at it above our party and tribal interests.

Mr. Kiptanui: Thank you very much, Madam Temporary Deputy Speaker, Sir. I would like to take this opportunity to thank the Minister and his staff for having prepared this Bill. I hope and trust that in future, the relevant Departmental Committees will have an opportunity to go through the Bill before being debated in this House.

I would like to say that a good law in itself is not enough for us, as a country. We had a law in 2007, but all of us know what happened. Currently, we still have a law and we know what happens in different Ministries and Departments where Ministers and some officers do not follow the law.

As we attempt to have a good law in this country, we must ensure that we have men and women of integrity, who are accountable to this nation and men and women who are loyal to the nation and not loyal to their godfathers or their party leaders. Therefore, as much as we would like to have a good Bill, we must ensure that the people that we elect as commissioners must be, first and foremost, men and women of integrity.

As we debate this Bill, we must remember that in the next two years we shall have elections. With a good law alone, I want to tell you that we shall not have free and fair elections. We need men and women of integrity who are willing to serve this nation.

Madam Temporary Deputy Speaker, I want to make a few comments on this Bill. As I have said, the commissioners to be appointed to this Commission will be men and women of integrity. As we start the process of selecting these Commissioners, I would like to ask the Minister to ensure that the names given reflect regional balance and show the face of this nation. Indeed, my thinking is that if we have eight or nine Commissioners, each region must be represented, if we were to go by the former provinces.

Madam Temporary Deputy Speaker, I really wonder why the drafters of this Bill thought about the staggering of the appointments. In my own opinion, if we have four Commissioners today and then we have others after 12 months, then we are contradicting ourselves in this Bill. That is because if you look at Section 7(5), it states:-

“Four members of the Commission shall be appointed not more than twelve months from the first appointment under subsection (4)”.

If you turn to page 173 on the provisions relating to delimitations of boundaries, it says that the Commission shall resolve all the issues within a period of five months of the date of its appointment.

That means if you have four Commissioners within five months, they will have cleared all the issues arising from the Ligale Report. What will the other Commissioners be doing if, indeed, the first four will have completed the work of Ligale? My question, Mr. Minister, is this: If, indeed, we are staggering for 12 months, which region, if we are talking about regional balancing, will be waiting for its Commissioner to be appointed after six months or 12 months? Unless we have volunteers here who will say our region will wait for 12 months--- The first Commissioner should come from my region. That is my view. So, let us have all the Commissioners appointed at the same time.

When it comes to years of service, this Bill proposes that they should serve for six years. We are now in the year 2011. If you add six years, it will be 2017. The year 2017 is an election year. What will happen? We might have a crisis the way we had in 2007. So, I want to request the Minister to have a fresh look at this so that he can make sure their term expires, maybe, in 2018, once we have other Members in this House leading the nation.

Madam Temporary Deputy Speaker, finally, Section 7 talks about the age limit of 70 years. I would like to know from the Minister: If somebody is appointed at the age of 66 years, does it mean that when he attains 70 years after four years before his six-year term expires, he or she will retire? If somebody is appointed at the age 68 years, will he

serve for only two years and then retire? We will need to look at it again. For me, I think we should remove the issue of age. We should say that if you are below 65 years old, you should not apply because your term will expire before you complete your six years.

Madam Temporary Deputy Speaker, Section 4 of this Bill proposes that the new Commission will use appropriate technologies to determine boundaries and wards. I wonder what those appropriate technologies are. We have a new Constitution. There is a formula in the Constitution and, therefore, we must use it. Let us not come up with new systems and ways of creating new boundaries and territories. Let us have the formula in the Constitution.

Finally, indeed, if we want to make the IEBC independent, by virtue of the fact that the Prime Minister and the President will approve the names, will it be independent? By the names coming to this House for approval, will it be independent? As we sit today, the name of Bethuel Kiplagat passed through this House and we passed it, but what happened? So, I am asking: Will it be independent once the President and Prime Minister have approved names and they have come before this House? Are we saying that the Commissioners or the process is independent? Those are my questions.

With those few remarks, I support.

The Assistant Minister for Education (Prof. Olweny): Madam Temporary Deputy Speaker, I will make a few comments to support the Bill. Since Independence, one can say that to some extent the best elections that we have had in this country have only been two; at Independence in 1963 and the elections that we had in 2002. The others have been terrible. Some of them were supervised by Provincial Commissioners (PCs), District Commissioners (DCs), District Officers (Dos) and the entire Provincial Administration group during Kenyatta's time and Moi's time. There was a lot of rigging and very poorly managed elections where people lost their lives. You can remember what happened in 1992 and 1997 towards elections. Many Kenyans have suffered and died because of poorly managed elections.

We are going to use this Bill to create an independent IEBC which will help in managing our elections. If you think of the way the elections were managed in 2007, it leaves a lot to be desired. It was probably one of the most poorly managed elections in this country and maybe in Africa. Even the person who was leading the Commission could not say who won. When he was asked who won, he said: "I do not know." What was that person, his Commissioners and secretariat doing if he could not even tell Kenyans who won the election?

Madam Temporary Deputy Speaker, Kenyans want a good system for managing its elections so that we can have peace and confidence among ourselves; that we can manage our affairs and politics. If you fail to manage elections, you fail to manage your politics. Look at what happened in Cote d'Ivoire the other day. They failed to manage elections and ended up with chaos and the former President and his wife were smoked out of their building simply because they mismanaged their politics.

We need a system that is independent of the executive and cannot be manipulated even by Parliament or anybody that thinks he or she has power in this country. That is the only way we can have confidence in the way we manage our politics. We do not want a system where, like the last elections, the agreements that had been done during the Inter-Party Parliamentary Group (IPPG) were trashed and referred to as a gentlemanly agreement yet it is what led us into having a good general election in 2002. At that time

the people who were in the last Government said that they did not care about it. I remember talking to one of the Ministers at that time and told him that they were leading this country into chaos if they threw away the resolutions of IPPG and it came to pass that we had chaos. Even Moi, whom we considered a dictator gave in and allowed for those resolutions that gave us the best elections that we ever had in 2002. I hope that the Commission that we are going to create using this Bill will lead us into a much better system in such a way that no other Kenyan will enforce his or her wishes on to us. That is what led us into chaos. We were forced to accept nominees of certain individuals or an individual to manage elections in this country during the last general elections. That was the main problem that led us into chaos.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Member! You will have 15 minutes tomorrow when debate on the Bill resumes.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): It is now time for us to adjourn the House, and the House is, therefore, adjourned until tomorrow, Thursday, 28th April, 2011 at 2.30 p.m.

The House rose at 6.30 p.m.