

NATIONAL ASSEMBLY HANSARD 18 MAY 2023 VOL 49 NO 41

PARLIAMENT OF ZIMBABWE

Thursday, 18th May, 2023

The National Assembly met at a Quarter-past Two o'clock p.m.

PRAYERS

(THE HON. SPEAKER *in the Chair*)

THE HON. SPEAKER: Hon. Biti, where are your colleagues?

HON. BITI: I am not sure. I spoke to the Minister of Justice and there is a lot of work to be done in terms of the Bills.

ANNOUNCEMENTS BY THE HON. SPEAKER

SUSPENSION OF PARLIAMENT BUSINESS

THE HON. SPEAKER: I wish to inform the House that the business of Parliament, including that of Committees will be suspended until 30th May, 2023 in respect of the Africa Day holiday in the coming week.

BUSINESS OF THE HOUSE

THE HON. SPEAKER: In terms of the motion moved by the Leader of Government Business, our sitting shall be limitless until business of the House has been completed.

SECOND READING

ELECTORAL AMENDMENT BILL [H. B. 11, 2022]

Fifth Order read: Adjourned debate on Second Reading of the Electoral Amendment Bill [H. B. 11, 2022].

Question again proposed.

***HON. MADZIMURE:** Madam Speaker, elections are held because there is a reason. Elections come so that people get the opportunity to choose the representative they want to lead them from councillor, Members of the Parliament to the President...

THE HON. DEPUTY SPEAKER: Order, order, you are not connected Hon. Madzimure.

***HON. MADZIMURE:** Thank you Madam Speaker, I believe now I am connected and can be heard clearly. I was saying Madam Speaker that elections are held at council, parliamentary to Presidential levels so as to fulfil the law, that is the Constitution.

Madam Speaker Ma'am, in every election you will find in different countries, especially those with stable currencies, when elections are held and results are announced, the currency becomes stronger or it depreciates. This is an aspect of election results. Economies in countries like Zambia, we saw their currency moving from 23 down to 16 and 15 because what people expected in the election is what obtained. Election results affect the economy when people are not satisfied with the outcome.

The reason why we go to elections is because when we go to elections after the reviewing of this law then whatever comes out of the results should be acceptable. We do not have to leave anything, but should consider everything that is good for our elections to be held peacefully without any cohesion.

Looking at our elections in Zimbabwe, at one point, it took a month before results came out. Zimbabwe is a very small country and with technological advancement, these days news travel fast. Zimbabwe has less than seven million voters but our elections take time. This Bill should address the delaying of results. Results should come out within the same day. In other countries where we

observe elections, you just go online and see the results as they come virtually - because of that, people prepare themselves.

In Zimbabwe, results are secretive. They go to the Command Centre and are announced later but with technological advancement, I believe Madam Speaker that results should be announced in real time as things happen from ward level when the councillor is announced as a winner. The moment that is announced, automatically people know that the President has how many votes in that ward. When the last result of our councillors in Zimbabwe is announced, the Presidential results will be known. What prohibits us from knowing the results in real time so that we know who has won as President? When the Members of Parliament results are announced, the Presidential results would already been known. Why do we not do that if we want the results to be known? There should not be excuses like security issues because no-one is above the law, the Electoral Act.

When we go to elections, we are all the same. The councillors results should be known by people; the Member of Parliament results should be known by people and the Presidential results should be known by people. We note Madam Speaker that when we go to elections, there is intimidation. The Bill should address intimidation because in Zimbabwe we have people who are educated. We have educated people in Zimbabwe because from Independence, even those who could not write went to school and now they are able. We have people who are assisted to vote. You will find a school headmaster being assisted with people saying that he cannot write.

When the ZANU PF primary elections were held, there were no assisted voters but when we go for national elections, you discover that some will be assisted to write. We need to address the law that those who cannot write even an X should dip their fingers into the ink then

use their fingers or finger print to vote. If we go to a polling station with 200 people and you are told that 125 people were assisted, only one person should assist one person. Where will these people coming from to assist? In Zimbabwe, no-one is illiterate and everyone can put their mark and vote.

The law is clear that campaigns end. If voting is on Saturday, it means 12 midnight Saturday voting ends. After that, no-one is allowed to campaign and to go to polling stations. There must not be a desk at the polling station or in a ward during the election day. I believe that this will be emphasized so that our people know that we are free. We went to war for one purpose and we got independence after fighting for one man, one vote and not that one person assists 20 people to vote, then this means that we are reversing the gains of independence. We must not force people to vote for what they do not want.

The other issue is what is used on election date, some say that driver's licence is not allowed. Some might obtain driver's licences through the back door but on election day, everyone who registered uses their national identity cards. On the driver's licence, the I.D. number is there. People should be allowed to use driver's licence on voting day because some might have lost or misplaced their national identification cards.

Registration for votes must be clear that voter registration should not be a challenge. It should be accessible. You find people being ferried by buses going to Cecil House or Makombe to register to vote. I am proposing that in every constituency, people should be able to register to vote even though there are financial challenges despite the fact that Zimbabwe is rich in resources. At constituency level, people should be able to vote. If we fail to do that, I propose that ZEC officials have some days that they visit constituencies to register people because

voting is every citizen's right. It is a good thing which allows leadership to know the mistakes that they might be making in their leadership and it allows them to know that they can be removed if they do not satisfy the electorate. Voting should be easy for people.

I spoke about the announcement of results, it is not clear whether the machines we requested (ZEC server), where it is and what it is doing. We still do not know what was in the ZEC server in 2018. This should be addressed; if we want to go electronic or digital then we should be fully digital and we should be able to determine and know where such records are kept.

On voter education, political parties should be allowed to participate in voter education. Voter education should not be restricted by police because we are not in election time. Voters should be educated on how to vote.

The other issue is what happens during elections on candidates who will be campaigning, they clash with the police. Zimbabweans are educated people. When we campaign and talk to people even without seeking permission from the police, you find that people are peaceful. They do not carry out violent activities. You find that when you request to have a meeting, sometimes you are restricted. It is important that there be an agreement on not restricting political parties from holding meetings because some parties will be barring other parties from campaigning freely. The issue of allowing people to campaign should be clear even as we work on this Bill. I thank you.

HON. MARKHAM: I would like to briefly contribute to the debate on the Electoral Bill. My first contribution is that the Zimbabwe Electoral Commission (ZEC) is supposed to be independent. As we are aware, the Delimitation Report that was presented to us for example, was not signed by all the Commissioners. To have a true and

independent Commission, there should be participation for everyone in this House in the selection of these Commissioners. It should not be presented by one man.

My second issue is, when we get to the voters' roll, the Electoral Bill must clearly explain the access we have to the voters' roll. It is unfair and untrue to say that there is a cyber security risk to the voters' roll. When you control the voters' roll as ZEC, you have the hard drive and you can copy this and give me a copy. You still retain the original copy. It is nonsensical to say that it is exposed. It is also nonsensical in my particular case where Harare North is being dismantled and it is now Harare East. I get an SMS purportedly from the President asking me to vote for him listing me as Harare East. What that means is that the person that sent that message to me now knows that on the new voters roll that I am now in Harare East, it means he has access to the new voters roll yet I am denied. The court ruled that I cannot have it but he has it. He knows that Ward 18 has moved from Harare North to Harare East. This Bill must cover those abnormalities and uneven playing field that is being thrown to us election after election.

This Bill must also cover the Statutory Instruments we get which sky rocket the cost of elections for the individuals who want to participate. How does a vendor stand as a councillor with the current fees? How does the man in the street stand as a Member of Parliament with the current fees proposed? How do Independents who want to stand as President with the current fees stand? It is ludicrous that you have thousands of percent increase in the cost of elections to the individual. This Bill must cover that. Madam Speaker, the biggest thing that must be covered clearly in this Bill is the issue of our diaspora. Our diaspora is the biggest foreign currency earner in this country. Our human resources that are being exported are the biggest owners of

money into the country and they do have the vote. Madam Speaker, I do not care if it is a postal vote, special vote or any other vote; there is no reason why the diaspora cannot vote if they are Zimbabwean citizens. It is in the SADC Protocol. Most SADC countries facilitated it and yet we deny them. Yet our biggest earner of forex is the diaspora.

Madam Speaker, I wish to draw the attention of the House that stakeholder engagement in all essence, for this Bill, did not take place. A 35 minute zoom meeting is not good enough. The only time we did something like this I cannot recall. However, even a PVO Bill and any other Bill we have done recently, even in COVID, we were getting to the people. Why on Electoral Bill we pushed it so quickly that one day will do and then use the media and say we had 1.2 million viewers.

Madam Speaker, I will move to the use of State Enterprises. There are three issues I have which the Bill must cover. I believe that any state enterprise or any State resource is going to be used by either party, should be publicly declared with receipts and invoices that they have paid for that resource, in particular the media, the billboards, the buses whether they be the ZUPCO or school buses. These must be a business transaction transparent to everybody. It is unfair that all these resources are used and not paid for.

Madam Speaker, my final contribution is on the issue of actual ballot paper. The 2018 ballot paper in my Constituency was so badly printed. You could not tell the face of the person from one to the other that you are voting for. You could not tell whether it was a male or female if you covered the names and that is inexplicable. ZEC is not doing its duty but it must be covered by the law. We must cover this very carefully.

Finally, Madam Speaker, I have a big problem with the introduction of the provincial councils only because we do not have a

Devolution Bill. I do not know how we can introduce another level of Government, to try to increase efficiency of Government when they have no Bill or Act. We have, for three years, been given our 5% of the Budget and we have no Bill. It is unaccountable. Madam Speaker, if we are going to do that, the Devolution Bill must be hot on the heels of it. I thank you.

***HON. TEKESHE:** Thank you Madam Speaker. My contribution is on the issue of the diaspora vote. I think His Excellency has already set the pace when he said the diaspora vote should be there. Hon. Minister of Justice, I think we just have to do as what His Excellency has said about the diaspora. Zimbabwe is exporting labour and are you saying when those people want to vote, they should take vacation leave come back home and vote? We have exported 500 teachers. Should they all take vacation leave to come back home and vote?

In the past, people used to think that the diaspora vote will go to the Opposition but that is not true. We have seen the likes of Nick Mangwana being offered jobs back home while they are in the UK, in the diaspora; which means there are a lot of people in the diaspora who support the ruling Party. We cannot deny people their right to vote because we are afraid, they might vote us out. There are others who are in the opposition who are supporting the gold mafias because they are benefiting in your presence and they will vote for you. I think the diaspora vote must be considered. I thank you.

***HON. CHINOTIMBA:** Madam Speaker, I would like to debate about the issue of political violence. There is no party in this country that can say they are not violent. I do not support the issue that police should not be notified about meetings being held. Police are law enforcement agencies, they are not for MDC, ZANU PF or even CCC,

but they are there to protect people. There is nothing wrong to first inform the police about the meetings and gatherings that are to take place so that police will be there also doing their duty.

I will give an example of Kwekwe where there was violence and people were beaten on the clash that happened between CCC and ZANU PF. Police must always be there and enforce peace and order. Madam Speaker, in this country – [HON. MEMBERS: *Inaudible interjections.*]

THE HON. DEPUTY SPEAKER: Order Hon. Members.

***HON. CHINOTIMBA:** Madam Speaker, there are British citizens and citizens of America who are in this country but America has never asked them to come and vote. I think those who want to vote should come back and vote in person. When we vote, there are agents for each party and we cannot take our agents to America, Britain or South Africa. In my own opinion, to say that people out there should vote, there are a lot of people here in Zimbabwe and those who are here should vote.

I do not know the Hon. Member when he engaged the President on that. If the President said he should bring it here, then we support it but if they talked secretly, we are saying no, we should stop and we can vote for each other as we are. If we want to remove Hon. Biti from North and put a white person there, we can remove him peacefully and vote for him. We do not want people who are clever and afraid of being exposed. I thank you – [HON. MEMBERS: *Inaudible interjections.*] –

THE HON. DEPUTY SPEAKER: May we have order in the House please.

^(v)**HON. WATSON:** Thank you Madam Speaker for this opportunity to briefly contribute to the debate. I would like to remind the Hon. Minister that when we bring new legislation or legislation for

amendment, we are always seized and told that we are here to align legislation with the Constitution. However, when it comes down – [HON. MEMBERS: *Inaudible interjections*] –

THE HON. DEPUTY SPEAKER: Order, Hon. Members.

^(v)**HON. WATSON:** We are told that we come to align amendments and Acts of Parliament to the Constitution yet when it comes to the Electoral Amendment Act, there are several provisions in the Constitution which we seem happy not to honour or even try to align. One of the primary constitutional provisions is the access to universal suffrage. This can only happen when citizens of Zimbabwe have easy access to two things; identity documents and voter registration centres as we currently do our voter registration. If, however, we took our national registration to our people rather than them having to come and it was done as we do our voter registration on a biometric basis, it could simply follow through and all of this continual going around country cost will be saved. It is time that we, in our legislation, started the first step in achieving this type of adding decentralisation and the move into more modern and access methods of voter registration and national identity documents.

The second thing is also the lack of access and ability for people with disabilities. Our voter registration process and the voting itself do not take into account many of our population and citizens who have disabilities and that is actually at this time in our political history very sad. The other constitutional provision which we seem to ignore and we did when we did Constitution Amendment No. 2 is the provision in the Constitution which calls for gender parity, 50/50. So, yet again we have gone into a Bill which has complicated things to say one third there and this there and whatever it is, why is it so difficult for us to go with the Constitution and simply have a simple method which deals

with gender parity. They were concerns expressed during the public hearings about the representation for women and youth despite Constitution Amendment No. 2. So, I really think as we go into the actual Bill, these are issues which we as Members of Parliament and the Minister of Justice Legal and Parliamentary Affairs, really need to consider.

We also need to consider that we do our voting registration on a biometric basis. People's fingerprints and photographs are taken and there are details, why is our voter's roll not issued mandatory on that basis so that they cannot be no question of scribbled I. Ds or any accusations of – [HON. MEMBERS: *Technical glitch.*] – that cause our elections to be – [HON. MEMBERS: *Inaudible interjections*] — [HON. ZIYAMBI: *Inga Speaker vaita ruling kuti vanhu ngavauye muHouse*] – [AN HON. MEMBER: *Vaudzei Madam Speaker*] –

HON. ZIYAMBI: I want to thank the Hon. Members for the debate on the Electoral Amendment and the Committee for their report. My Bill has got eleven clauses and the issues that were debated and only one emanates from my Bill that of the drivers' license and others indicating that it should be allowed to be an identification document when you are going to vote. It is one of the issues that was identified and recommended to us by several observers that we must use our standard national I.D as opposed to several. The argument that you are already registered, your name is there and you might as well bring your I.D from work if we are to follow that logic but we follow our national identity documents, that is the passport or your national identity card. So that is the issue that was largely debated in my Bill. The rest of the issues Madam Speaker, are issues that are being brought in where people desire those amendments to be made but they

were not part of the Bill. Therefore, Madam Speaker, having said that, I move that the Bill be now read a second time.

Motion put and agreed to.

Bill read a second time.

Committee Stage: With leave, forthwith.

COMMITTEE STAGE

ELECTORAL AMENDMENT BILL [H. B. 11, 2022]

House in Committee.

Clause 1 put and agreed to.

HON. P. D. SIBANDA: On a point of order! Hon. Chair, I seek to follow your guidance and the guidance of the House. I know that procedurally we are supposed to start from Clause 1. However, I have got serious issues with the Memorandum to the Bill. It is my view and my proposal that if indeed we want to deliberate on these clauses properly, then we should start by deliberating on the Memorandum itself because the Memorandum is restrictive of the clauses that are in the Bill. When you read the Memorandum, it specifically tells you that this Bill is to deal with the alignment of certain provisions of the Act with the Constitution as an amendment in 2020 if I am not mistaken. So, the amendments that need to be put to the Electoral Act go beyond those two amendments to the Constitution and if this Memorandum is going to remain in the manner it is, I believe that it will be restrictive of the amendments that are required to be done with the Electoral Act. I thank you

THE TEMPORARY CHAIRPERSON (HON. KHUMALO):

The Memorandum of the Bill is not part of the Bill; we will not debate it in the Committee Stage.

On Clause 2:

HON. MUSHORIWA: I move the amendments standing in my name that: The Bill is amended on page 1, in lines 7 to 25 and page 2, lines 5 to 7, by the deletion of Clause 2 (“**Amendment of section 4 of Cap. 2. 13**”).

And subsequent clauses are re-numbered accordingly.

HON. GONESE: On a point of order! I also have an amendment to the same clause Hon. Chair. Therefore, I propose that for expedience, we combine the two amendments. You will note that Hon. Mushoriwa’s amendment is for the entire clause and mine was only for the first part of the clause. On reflection, I am in agreement with Hon. Mushoriwa’s amendment. So I think we can just move his amendment and mine will then fall away.

THE TEMPORARY CHAIRPERSON: Agreed.

HON. MUSHORIWA: With respect to Clause 2, there are two fundamental issues that I thought are important. First and foremost, if you read the amendment in this Bill pertaining to disqualifying offences, I want to move that Section 125 of our Constitution does set out the grounds upon which candidates can be disqualified and I do not believe that the Electoral Act should actually add because the Constitution is actually exhaustive in terms of the grounds and I think we should be guided by the Constitution in terms of the issue of the candidates.

Then secondly Mr. Chair, the other issue relates to the question of proof of identity which I believe needs to be deleted. As you will see, I am proposing a new clause. Primarily, the reason why we need to remove this Hon. Chair, is to do with when a person goes out there to register as a voter, they go there with the requisite identification particulars, that is, your national registration card or passport with a picture on it.

The problem should be on the registration and not on the voter because once you are properly registered as a voter; whether or not you decide to use your national registration card with your face and national registration number on it, it does not matter because in any event, the voting system that we are now using will have your face and national registration number. Therefore, I think what we should be concerned with is on the voter registration and not on voting day because the issue is, let us start on the registration if you are properly registered. Then I think there is no need for the amendment that is being sought by this Bill. Yes, Hon. Chair, I so move these amendments.

HON. GONESE: Thank you Mr. Chairman. As I had already indicated, you will note that on the *Order Paper*, I had also moved a similar amendment. All be it that mine was dealing with the issue of the disqualifying offence but on reflection, I am in agreement with Hon. Mushoriwa's proposed amendment, which deals with both aspects.

In support of that proposed amendment Mr. Chairman, I would like to draw the attention of the Hon. Minister, as well as the august House, the provisions of Section 67 of the Constitution which is very clear that those who are entitled to vote are Zimbabwean citizens. When we look at the current Act, it is also very clear that registration is done by the Commission and there are certain requirements that one has to fulfil when registering. It is at that point that the issue of whether one is entitled to vote in terms of Section 67 of the Constitution comes into play.

When we are looking at the day of voting. We have had situations where people may have their national registration cards stolen. We also have the issue of intimidation in our country and there are situations where people with national registration cards will be taken away from them as a means of preventing them to vote. As you know Mr.

Chairman, most of the time when one has multiple documents, one prefers to use just one like if you are a driver and you are driving. You will then just move with your driver's licence which will serve the dual purpose. So, in my view, that clause should be deleted because it becomes obsolete. Once one is registered as a voter then it means what one is trying to do by producing the driver's licence is simply to show that this is the person who is duly registered as a voter. In any event, the national registration number appears on the passport.

I am aware and cognisant of the fact that there are people who are not entitled to vote who are referred to as aliens and so on but those people would not have been able to register in the first place because at the time of registration, there are certain requirements that one has to fulfil and all those requirements will already have been fulfilled by having your name on the voters roll. So, that is the reason why I believe that clause should then be deleted from the Bill.

Going back to the most important issue, the issue of the disqualifying offence, if you look at the provisions of Section 129 (i), they are very comprehensive. They deal with the scenarios where a sitting Member of Parliament, a councillor or whoever holding an elected office ceases to be qualified to remain in that position. I believe that this proposed amendment is actually violating the provisions of the Constitution. It is actually adding something more.

The Constitution is very clear on what one is required produce in order to be able to vote or to be elected into office, that is to be a Zimbabwean citizen above the age of 21 and all those requirements are fully set out in the Constitution. Why do you want to import additional requirements that will then disqualify members from contesting or citizens from contesting? I submit Mr. Chairman, that there could be some mischief in terms of this clause because even when someone is

wrongly convicted and has filed an appeal against that conviction, that person will remain disqualified to stand if this provision were to come into law. I submit Mr. Chairman that, this is not a good piece of legislation. We do not want to bar citizens from contesting.

Section 129 (i) of the Constitution is already comprehensive enough. It deals with situations where someone becomes disqualified. We do not need to put any additional disqualifications that are in violation of those hallowed constitutional principles. This Constitution was voted by the overwhelming majority of the people of Zimbabwe. I believe that we must adhere to its provisions. I am therefore, not in agreement with the provisions of Clause 2 insofar as it attempts to disqualify citizens who would otherwise be qualified to contest and to stand for those selected positions. Those will be my submissions Mr. Chairman.

HON. BITI: Mr. Chairman, I want to support the amendment by Hon. Mushoriwa. The provisions dealing with the qualifications of a Member of Parliament are set out in Sections 125 and 129 – those are the overriding sections and the Constitution is the superior document. So, Hon. Minister, it is superfluous to try and reproduce those disqualifying provisions in the Act when you already have them in the Constitution.

You will recall my submission when we were debating the Prisons and Correctional Services debate that I tried to persuade you to put the rights of prisoners that are given in Sections 50 and 70 and your exact answer was, but why do we seek to reproduce that which is already in the Constitution. So, *a fortiori*, I submit that it is unnecessary to have that provision. After all, it is just the interpretation, it is in Section 2, the interpretation provision. I suggest that you do not need it.

The most important issue is the question of the licence. The licence is not issued by a private actor. A licence in Zimbabwe is issued by the Government of the Republic of Zimbabwe. It is an official document recording a very important juridical act. The act that you can drive on the road, we allow you to drive on the road. So, it is an important document. It is like a wedding or a marriage certificate. A marriage certificate is an important juridical document establishing that you have chosen a partner in terms of Chapter 37; Chapter 5.11, now Section 5.11 of the new Marriages Act. They are all issued by the State, they are all issued by the Republic of Zimbabwe and that being the case Mr. Chairman, in an effort to respect the constitutional principle that voting should be accessible and open to all, there is nothing wrong in allowing a driver's licence issued by the Republic of Zimbabwe with your ugly face on it, with your national registration on it, to be allowed as a voting accessory. Remember Mr. Chairman, the key important issue is voter registration and our voter registration is now bio-metric. Your ugly face is put on the voters' roll so the Presiding Officer can see your face and dimples. So, your national registration card is just proving that you are on the voters' roll and you already have the face, number and so forth. I think sometimes we complicate the lives of our citizens. A licence is a document that is issued by the Republic of Zimbabwe after a certain due process. So, I suggest that we allow licences to be issued and we remove the disqualifying provisions. I thank you.

HON. R. R. NYATHI: Hon. Chair, I did not stand up to debate on the clauses given by the Constitution of Zimbabwe Section 1-9, but I just want a bit of clarity on the use of the driver's licence. What I understand is that when one is going to take a driver's licence, you do not normally take your finger prints, but when you go, it is not there on

your driver's licence and when you go and take your national identity card, you go through the processes of taking your finger prints even when you take your passport, you also do the same.

I do not see the argument whereby people say you must always bring a licence because if you know you are going to vote and the law says bring your passport or bring your I.D, what is difficult for you to bring that I.D.? Hon. Biti mentioned that we are now doing bio-metrical voting where you see your face there, which is very correct. I have just heard Hon. Markham complaining that at times you will not be able to see whether this one is male or female. The same fate still stands that you may not be able to identify the person because of the quality of the pictures. So, I still stand to say there is nothing wrong for one to bring his I.D. which is very well recognised and also to bring your own passport. That is my argument and that is how I see things. Thank you.

***HON. CHINOTIMBA:** Thank you Mr. Chairman. The Hon. Members who spoke before me expressed themselves very well but I would like to talk about the driver's licence issue. The police right now are busy arresting people who are making fake driver's licences, but we have not seen a lot of cases of fake identity cards except the driver's licence. I do not see anything much that is problematic. There are not so many people in this country who have driver's licences but national identity cards. Three quarters of Zimbabweans have identity cards and a quarter have passports.

So, I do not see the reason why we should argue over that issue. If you go to rural areas like my area Buhera, you will not see old men with driver's licences but they have I.D. cards. If you look at this issue of fake driver's licences, they are made from different material than original ones. If you lose your original driver's licence and get a duplicate, you will not believe that it belongs to you. It will be very

dark like what Hon. Markham said that it will not be clear. It will be very difficult to identify the individual except that some of us are well known.

The way these identity cards and driver's licences are made by the Registrar-General is very different. I hereby request for order in this House. We should respect each other and if the Secretary-General of CCC stands up, let us respect him instead of disrespecting the Hon. Member who stood up to speak. Let us keep quiet when one Hon. Member is speaking so that if this Bill is amended, it should do so regardless of which side the Hon. Member speaking comes from.

***HON. CHIBAYA:** Thank you Mr. Chairman. The issue that we are debating here pertaining the use of driver's licence or passport is meant to make it easier for people to vote. What we are saying is if you lose your identity card a day before voting, it will be very difficult for you to get a replacement. So, the person must be allowed to use a driver's licence or passport on voting day. We are not saying the identity card will not be used again, but we are saying it can only be used as a temporary measure when somebody loses their identity card because they are very difficult to get. Thank you.

HON. HAMAUSWA: Thank you Hon. Chair. I also want to add my voice in support of the view that Clause 2 must be amended to allow those with licences to be able to vote using their licences. My reasons are as follows: in Zimbabwe, for one to get a driver's licence, you need to have an I.D. card so, the national I D which is accepted and denying the licence. It is actually a pre-requisite for someone to get a driver's licence. On your driver's licence, there is your national registration number. There is no logic in denying someone to vote because they have a licence. We are complicating the lives of the Zimbabweans who would want to vote. I also agree with Hon. Chibaya that there are a

number of cases whereby one can lose their identity documents, for example there might be an inferno. Fire outbreaks are common in Zimbabwe and our IDs are not fireproof. One can actually lose their ID today by any other reason and they should be able to cast their votes.

I do not think we can sit as a serious Parliament to come up with a clause in amending the electoral laws – a clause that will then systematically deny the people of Zimbabwe from exercising their right to vote. It is something that should not be allowed, especially coming from this august House. We should be able to find all ways that will enable or make it easy for the citizens of Zimbabwe to cast their vote. If there is any other document that can be used in place of ID or valid passport, then we should bring them all rather than to limit to say we cannot use a drivers' licence.

The issue of licence was premised on the issue of aliens. It is now upon the Government of the day to make sure that all those with IDs written alien will go through a process where their IDs will be corrected and making it easier for everyone to have a Zimbabwe citizen ID. That issue should be addressed by the Government of Zimbabwe. It should not be invoked to deny the citizens their right to select the leaders who will lead Zimbabwe out of the economic challenges that they are facing today. Casting a vote is an inalienable right which should not be denied from the citizens.

HON. MARKHAM: I just want to clarify on both Hon. Nyathi and Hon. Chinotimba who referred to the smudging of documents. When I made my debate, the issue was on the ballot paper and not with these documents. Both these documents are convenient for a person to vote. We should be encouraging people to vote and not restricting them.

***HON. MUNETSI:** If we just use any form of identification, it is not ideal for the voting process. There is need for a national identification card only.

HON. ZIYAMBI: Hon. Chair, if there is a provision in this Bill that is extremely progressive, it is the first amendment on Clause 2 on qualifying offences that was put there. I will explain why. In the Constitution, in Section 125 and 129, it lists the offences. If I may go to Section 125 where it says, ‘a person is qualified for election for a Member of Parliament if he is not disqualified under the 4th schedule within five years before the election; he or she vacated a seat in the Senate or National Assembly in terms of Section 129(1) through having been convicted of an offence’. I will explain on this provision – all we are saying is there are two people here; me and my brother Cde Chinotimba here. He is not an MP and I am. We commit exactly the same offence or we are co-accused and then I am an MP and am recalled from Parliament – barred from standing in the next election but he is allowed. That is the mischief that we are trying to cure to say you cannot punish a sitting MP and somebody who is out there who was not in the august House is left to contest and become an honourable member. This is exactly the scenario we are looking at that a disqualifying offence relates to this. We are not talking about those that are already here that are covered in the Constitution. This provision will equalise and make sure that no *matsotsis* as prescribed by the Constitution because we picked the disqualifying offences exactly as it is in the Constitution so that the constitutional provision becomes applicable to those that were not in the House like the scenario that I gave. I do not see why Hon. Members are very much worried about this. It is a very good provision.

I will go to the second one which is proof of identity where proof of identity means on the definition, we had drivers' licence. I agree that it is national but it is not from our vital registration organisation. Ordinarily, the proof that we require almost everywhere it is from the Registrar-General which is the ID and the passport. This amendment arose out of what was highlighted by the majority of our observers to say, why are you including the driver's licence. I remember in one meeting I said, no the driver's licence is not there. Then I checked the Electoral Act and I saw it was there. That resulted in us saying let us use those from our vital registration organisation, the passport and the national identity card. The argument that you are already registered, we are not even talking about that. You are registered – why are you then required to produce proof of identity? The registration process is a separate issue and this also arose from the observers. They actually indicated why it is there. Ordinarily, when you want to get a passport, you cannot go with a driver's licence. You need to go with your identity card as proof but the information will be there in the database.

I think we may labour on issues that are not very important. This identity document, like Hon. Chinotimba said, if we say that my particulars are already there, we might as well say you may bring your Parliament ID or your work ID because it has all the details. We are saying bring your national identity document, either your passport or your national identity document. When you go to register, those are the ones that you produce as proof of identity. Hon. Biti said one's marriage certificate is a proof. Marriage certificates these days have pictures. If somebody is going to walk in with a marriage certificate because it has all the details and say it is applicable, I think let us just accept. Mr. Chairman, this amendment is not ridiculous. It is trying to

cure things that were identified to us but also to equalize, to ensure that people who commit the same offence at the same time must be treated the same. I submit that we put this clause to the House and we proceed Mr. Chairman.

HON. P. D. SIBANDA: Mr. Chairman, I thank the Minister for his response. However, I expected the Hon. Minister to touch on points that were raised by the Hon. Members, especially to do with how an Act of Parliament tries to change qualifications that are already laid down by the Constitution. Is it not an act of trying to put the Act of Parliament to be above the Constitution? I am sure that the intention in the Constitution is very clear and any attempt to try and vary it through an Act of Parliament defeats the whole process of the provisions that are in the Constitution. I would love the Hon. Minister to address that aspect.

HON. GONESE: Thank you very much Mr. Chairman. I believe that the Hon. Minister, in trying to respond to the concerns raised by the Hon. Members, is holding the whole end of the stick. I want to buttress the point made by Hon. Sibanda. The point being that Section 125 specifies the circumstances under which one is qualified to stand for office and also partly relates to the disqualifications which are adequately covered in 129 (i). The bottom line, Mr. Chairman, which the Hon. Minister has not addressed is the fact that this Bill, if enacted into law, we then have something which contradicts the provisions of the Constitution.

The provisions of the Constitution specify the circumstances under which a sitting Member of Parliament, and this also applies to councillors and other elected officials, the circumstance under which they will then lose their seats. We are now having a scenario where we are trying to put in a provision which contradicts what the supreme law

of the land says. It is for that reason that I am submitting that this amendment which is being proposed is not just unconstitutional but actually makes bad law. Let us stick to what the Constitution has already provided for.

In relation to the second issue, I want to refer to the proof of identity which is in the definition section of the Act. It is very clear that it says the valid driver's licence will only apply if it has the identity number assigned to the holder under the National Registration Act. So already, it covers the situation which the Hon. Minister and other Members are worried about. I do not want us to have double standards. As Hon. Sibanda alluded to at the beginning, we are having a very narrow Amendment Bill and when you look at the observer mission, they had various recommendations which during the debate of the Second Reading, I actually highlighted in my debate that we have ignored a lot of the recommendations.

I want to also point out that we are having double standards. When I looked at the reports from most of the observer missions, they never mentioned this issue which the Hon. Minister is referring to. I do not know about the meetings to which I was not privy. In terms of the concerns which were raised, they related mostly to the issue of intimidation, issues of coverage where opposition parties and opposition candidates were not getting the same coverage with the incumbent. Those were the principal issues which were addressed in most of the observer mission reports.

You will find that this Amendment Bill does not even deal with the majority of those recommendations and yet the Hon. Minister wants us to believe that this is coming from the observer missions. In any hand, we are entitled to interrogate whatever recommendation. From where I am standing, I think we have made it very clear what the

mischievous is and the Minister has not answered apart from just referring to the observer missions. Have we had problems of people impersonating others on the voters roll for example, which would then say to us let us amend what is already there? Here, we are not talking of a new provision. We are talking of something which is already in the Act which the Hon. Minister wants to amend. We believe there is no justification. There is no reasonable explanation. In the absence of such justification and in the absence of a reasonable explanation, we believe that even the second part of the amendment should fall away because at the end of the day, he has not told us what the problem is.

What has caused the Hon. Minister, apart from his claim that this was in his claim that this was in the observer mission, what has led him to believe we must amend that? I still stand by our original submissions and I would implore the Hon. Minister to reconsider his position so that we can move forward. Those will be my submissions Mr. Chairman.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Thank you Mr. Chairman. On the first issue, there is nothing unconstitutional about this amendment on disqualifying clause. It is exactly speaking to what is in the Constitution. My submission is, anyone who believes that it is unconstitutional, they are free to go to the Constitutional Court and I bet they will lose it because what it is simply saying Mr. Chairman is – I am actually surprised that Hon. Members are worried about people out there who are not Hon. Members because what the Constitution is saying, if you are an Hon. Member and you are declared insolvent within the last 12 months, you cannot contest if you vacated because of insolvency. If you vacated because of a crime of dishonesty and you were sentenced to a custodial sentence of six months, you cannot contest.

All this amendment is saying, because we have been barred, why is somebody who is outside this august House now stand and my dear brother is saying it contravenes the Constitution. It does not. All we are saying is, let us not have certain individuals who committed the same offence with me standing in this august House while I am barred from contesting because I was an Hon. Member. Anyone who says that provision is unconstitutional, I do not know how they are reading the Constitution.

The licence one, my dear brother and an Hon. Member is saying I merely referred to observer, no. I said the documents that we use even when we go to register are from our vital registration office, the Registrar General's and we are saying the passport and the national identity document and no other documents. That is exactly what we are trying to say. Those are the ones that we use, not from CVR. We trust that our vital registration will have authentic documents and those are the ones that we must use. I submit that it will not prejudice but the first one, it equalises. It is very constitutional and I am actually surprised *kuti* someone is defending *munhu aita mhosva yakafanana neyawatandanisirwa muno umu zvonzi muregei aconteste*. I submit.

HON. P. D. SIBANDA: As much as I have heard the Hon. Minister, I still believe like Hon. Gonese indicated, the Constitution is the supreme law of the land and if indeed the legislation has the intention to bar or disqualify those who are not Members of Parliament, then the Legislature should do so. It should amend the Constitution itself and indicate that if you are not a Member of Parliament and you commit such an offence, you should be disqualified. I believe and submit that there was a mischief and reason why the Constitution was drafted in the manner that it is drafted. Therefore, we cannot try to

amend the Constitution through the backdoor of an Electoral Amendment Bill. That is my submission. Thank you.

HON. MATARANYIKA: I agree with the Hon. Minister that there is nothing unconstitutional about this but I would try and attempt to answer his example, where someone is not a Member of Parliament. For example, for one to be voted into the National Assembly, they have to be a citizen of Zimbabwe and registered voter but that other person who is not a Member of Parliament is disqualified under the Fourth Schedule where it talks about disqualification of a voter. If the other person who has committed the same offence with the Member of Parliament is disqualified to be a voter, it therefore means that they cannot stand and be voted into the National Assembly, as simple as that. It is already provided for but probably what I would want to suggest is, instead of saying 12 months, perhaps let us bring it in line with the Constitution which talks of five years I think. Thank you.

***HON. CHIDZIVA:** My issue comes back to the issue of licences and I would suggest that we have these licences registered than to say they should not be recognised as suitable identification during voting process so that we at least have three documents which one can use. At least one should have either of the three documents than limiting to I.D. and the passport which we all know for a person to acquire a passport, it needs money which some cannot afford. If you lose your I.D. and passport but have you licence, your identity can be proven. Long back we used to have the voting card that were green in colour which were used to identify voters. We can in another way be proving that licences are fake, making it difficult for our Government. So, we should start making things right from now by making the licence permissible as proof of identity and it should be registered. So, we should register all the licences, I thank you.

HON. ZIYAMBI: I think we are just repeating the same argument. I think I have explained very well.

The Temporary Chairperson having put amendment by the Minister for debate.

HON. GONESE: Sorry Mr. Chair, I think you have put it wrongly. With due respect, the amendment was proposed by Hon. Mushoriwa and we have not dealt with that. I think that is the amendment which has to be put first procedurally. Hon. Mushoriwa proposed an amendment to delete Clause 2 which I supported but it has not been put to the House. How can you say it has been rejected, by whom?

THE TEMPORARY CHAIRPERSON: I am coming to that.

HON. GONESE: No, you start with the amendment by Hon. Mushoriwa because that is the amendment which is proposing the deletion. Only if that amendment has been rejected – [HON. ZIYAMBI: *He is right*] – Yes, I am correct. – [HON. MEMBERS: *Inaudible interjections*] -

THE TEMPORARY CHAIRPERSON: Order, order!

THE MINISTER OF JUSTICE, LEGAL, AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): I am proposing that we reject the amendment by Hon. Mushoriwa except for the one that pertains to the driver's licence. Therefore, I propose that we delete subclause (b) you will find it easier. *Mazvibataka?*

Amendment to Clause 2 by Hon. Mushoriwa, put and negatived.

HON. ZIYAMBI: Yes, so we just expunge (b), that is my amendment.

HON. BITI: Mr. Chairman, it is the Hon. Minister's proposal because he has amended the amended.

HON. ZIYAMBI: No, we rejected Hon. Mushoriwa's and then I proposed an amendment.

***HON. BITI:** Yes, so it is an amendment to an amendment, that is what he should put to us.

HON. ZIYAMBI: No, let me explain, they are right. We rejected that and then I moved to expunge (b). – [HON. BITI: *So they should expunge it.*] – They have already done it. – [HON. BITI: *Alright.*] – Let us proceed to Clause (3), the next one.

Amendment to Clause 2, put and agreed to.

Clause 2, as amended, put and agreed to.

On Clause 3:

HON. HWENDE: Mr. Chairman, I move for the adoption of amendments made under my name. The amendment intends to amend Section 9, it is a minor amendment.

3 Amendment of section 9 of Cap 2:13

The principal Act is amended in section 9 (“Chief Elections Officer and other employees of the Commission”) in—

- sub-section (5) by the repeal of the words “without the approval of the Minister”;
- sub-section (8) by the repeal of the words “with the approval of the Minister responsible for finance.”.

The idea is to enhance the independence of the Zimbabwe Electoral Commission (ZEC). ZEC is an independent institution, it must be allowed to hire, fire and set Conditions of Services for its staff without the need for the Minister of Justice, Legal and Parliamentary Affairs, for example, his approval. They must also be allowed to set Conditions of Service for their staff without need for seeking approval from the Minister of Finance and Economic Development. It is a minor proposal. I do not think we are going to take time on this one.

HON. ZIYAMBI: Mr. Chairman, let me respond. On a point of procedure actually, this amendment is not part of my Bill and it is not part of the context of which my Bill is premised. This particular clause was there when we did the last amendment and we debated it for a long time.

The responses that I made in the *Hansard* are still correct today. So, I will not respond to it because we debated it. In fact, Hon. Gonese, the same arguments that he wants to make now, he made in 2018. – [HON. MEMBERS: *Inaudible interjections.*] - I may forgive him but on a point of procedure, he can bring this when we have finished all the clauses. Then he will say, I have a new proposal because he cannot put it in there, it is a totally new amendment that I did not have, that was not even motivated by the Executive that I did not have principles on. He can bring all those amendments after we have finished my amendments and then we talk about them.

But, if we go to the record in the *Hansard*, we debated this and I can request that we pull those records. Hon. Gonese debated this at length, Hon. Biti debated and Hon. Sibanda and I remember we finished early hours debating on the previous Electoral Amendment and spoke about exactly the same issues. I gave answers why that is not practical in any Government setting. I submit Hon. Chair.

HON. GONESE: With due respect to my very good friend, he is forgetting that in 2018, that was in the Eighth Parliament, that is what I think he has overlooked. In 2018, you look at the current amendment, the current Electoral Act has been amended several times. The amendment that the Hon. Minister is referring is Number 6 of 2018 - [HON. ZIYAMBI: *After that we never...*] – No, no, no, it was not in this Parliament, it was in the last Parliament. I remember it very vividly

because I moved a proposal. His arguments do not hold any water because that was the last Parliament in 2018.

For your information, Hon. Biti was not even part of that Parliament at that time. – [HON. MEMBERS: *Inaudible interjections.*] - Yes, he was no longer a Member of Parliament in 2018, it was around February when we debated that amendment Bill. So, when you are in a new Parliament Mr. Chairman, we are starting on a fresh slate so we cannot make reference. For example, we have amendments that were made in 2004; 2008; 2014; Number 3, 2016 – we cannot start to make references to those because those were in previous Parliaments. We are talking of the Ninth Parliament and we are in the Fifth Session. In the first and Second Sessions, we never had any amendment to the Electoral Act.

Hon. Hwende is within his rights and again, the Hon. Minister has got it wrong. When you are having an amendment, you must do things chronologically and Hon. Hwende's amendment comes before the existing Clause 3. He is proposing to amend the current Act and, in any amendment, Hon. Members are entitled to make proposals, that is the point. So, we cannot proceed in the way that the Hon. Minister wants. It may be convenient for him but it is unprocedural.

What we have is that we have an Electoral Amendment Bill before us and any Hon. Member of Parliament is entitled to make suggestions in the form of proposals. Hon. Hwende proceeded in accordance with the rules. He made his proposal in writing and that is all that is required and because the proposal was made in writing and timeously, a day before these amendments were to be debated. We are obliged to debate the amendments on the merits. The Hon. Minister cannot pull the *Hansard* of 2018, of the Eighth Parliament, for what purpose? Those will be my submissions Mr. Chairman.

***HON. BITI:** I rise to support the submissions made by Hon. Hwende. We were not there in 2018, I was recalled from Parliament by Douglas Mwonzora –[HON. MEMBERS: *Inaudible interjections.*]- So these provisions, if we look at our Constitution, it says that these Commissions; ZEC, Human Rights, Anti-Corruption, Zimbabwe Peace and National Reconciliation, provisions which are being proposed by Hon. Hwende are correct. When people are being recalled, ZEC should do that independently without seeking approval from the Minister. Of course, they consult the Executive, this is well known but to put this in the Act, is not proper. That is all we are asking for *Shumba*. Thank you for understanding.

***HON. R. R. NYATHI:** Mr. Chairman, what boggles my mind is that Hon. Biti was once a Minister of Finance. Is it proper for someone to just present his/her bill to the Minister of Finance saying this is our salary structure of USD15 billion, without his approval? His mandate as a Minister is to make sure that we do the budget but there is need for control measures on the use of money. What I think is that this clause is good for us because it has controls on how money is spent. What I can support is the issue of hiring and firing of staff. On that one, they can do it on their own.

***HON. BITI:** Yes, I was once the Minister of Finance. That is why I say practically no-one will come with a bill of USD15 billion, when the National Budget is USD4 billion. So on the ground, what happens, those who are in charge of the national purse like Hon. M. Ncube, before they do the budget, in July or August they prepare a Budget Concept Paper. The Minister of Finance will inform everyone in Government the amount for the National Budget, so that every department is aware of the amount to be shared. Therefore, practically on the ground, the role of the Minister of Finance cannot be

underestimated. That is why I said we should not put it in the Constitution because practically even when that provision is there or not, it does not make any difference.

Now, the fact that the Constitution says ZEC is independent, let us remove the interference of the Minister of Finance and Minister of Justice on the issue of hiring and firing of staff.

***HON. MADZIMURE:** Mr. Chairman, there are two things that show that this thing is independent. On the issue of hiring and firing staff, the commissions should do that on their own accord. The moment they seek approval, depending on the mood of that person, he/she can stop the commission to do what they want. If they are sound-minded people, they cannot come with a USD15 billion. They are aware that they should do their budget in range with the National Budget but they should feel that they are independent. They are supposed to make certain decisions without the approval of the Minister.

Certain Ministers also have problems in analysing things, so we should not force them to seek approval from the Minister because it can affect them to efficiently deliver their mandate. The national purse is well-known to everybody, hence no one can come with a bill that is equivalent to the National Budget to say it is for one institution. That is all we want.

HON. P. D. SIBANDA: Hon. Chair, like my colleagues indicated, these commissions are supposed to be independent. The moment you say that a Minister has to approve the hiring and firing, approval, let me underscore, approval means that the independence of a commission becomes interfered with. I could have agreed somehow if the term was 'in consultation', not approval. The moment you say you are approving, then it means the Minister can simply say you

cannot do this. So the term ‘approval’ interferes with the independence of a commission.

HON. ZIYAMBI: Thank you Hon. Chair. My original Bill’s principles and the way it is couched, does not include that amendment. Like I said earlier, it was fully explained and debated and the position is very clear that I cannot include it in my current Bill. The suggestion that I can give to Hon. Hwende is, he can craft a Bill. It is allowed by the regulations; a Private Members’ Bill and bring it here. On the Bill that I have, I do not have authority to include that.

The process that will lead me to stand in front of you with a Bill, there are principles that have to be approved and those principles are the ones that will guide the Attorney General. When I am standing here, I do not stand representing myself. The mandate that I have does not include getting into issues of saying that independent commissions’ budgets, whatever they will be doing they peg themselves, the Minister of Finance should be excluded from doing that, which I think is extremely dangerous because we get our money from one source. The person who is in control of that purse must be able to rationalise the expenditure, not the Chairperson of ZEC and his Commissioners to determine that I am awarding this without the approval of the person who holds the national purse. That is very clear, it is standard everywhere.

The long and short of it, I will be over-stepping my mandate by bringing this when it was not part of the Bill that is before us. I thank you.

HON. P. D. SIBANDA: I am seeking a clarification from the Hon. Minister, when he is saying that he is not going to entertain any amendment that is outside the original Bill that he brought here. I might seek to understand what is the role of this House if we are going

to take his 11 amendments as they are without adding any value. What becomes the role of Parliament? If the Hon. Minister believes that Cabinet can pass that law, let him take it back to Cabinet. Why bring it here?

HON. ZIYAMBI: Hon. Chair, when I bring a Bill, you debate what we bring along the principles of that particular Bill. If you want to bring your own Bill, the role of Parliament is not interfered with – [HON. MEMBERS: *Inaudible interjections.*] – You can still, but what I bring, we debate along the parameters that are available to me, but you cannot then say I must broaden it. It might as well mean that every Bill that comes here, you can even smuggle anything that is not related to the subject matter that is there. That is not correct.

HON. GONESE: Yes, Mr. Chairman, I think that the Hon. Minister is failing to understand the fundamental principles of law making. If you go to Section 117 of the Constitution, it is this Parliament which enacts laws. That is where the Minister is getting it wrong. Procedurally, it is very clear it is this august House. So, when he made that point, Hon. Chairman, a Bill is gazetted and after gazetted it goes through public hearings and that is the reason why after the Second Reading debate we go to the Committee Stage.

Our Standing Orders are very clear. If any Member of Parliament wishes to make proposals for amendments, there are certain rules they have to follow. Firstly, they give notice through the Clerk and that notice was given. The only requirement is that, notice must be in writing and it must appear at least a day before the Committee Stage. These amendments were actually made several months ago. They have actually been on the *Order Paper* for a very long time.

So, the Hon. Minister has got his principles fundamentally wrong because the purpose is warped; perhaps I will let him listen to Hon.

Hwende because he is not paying attention to what I am saying. Hon. Minister, I think let us look at the principles which govern the law-making process. The principles which govern the law-making process are that amendments are proposed and once they are put on the *Order Paper* they are supposed to be debated. The last point I will make...

THE TEMPORARY CHAIRPERSON: You can proceed Honourable.

HON. GONESE: Yes, I would like the Hon. Minister to listen to what I am saying.

HON. ZIYAMBE: I am listening.

HON. GONESE: Hon. Minister, your role is where you believe that you need to consult. You simply defer consideration of a particular clause and then report progress on that particular clause and then seek leave to sit again so that you are able to consult your principal, the Attorney General or whoever, but that should not stifle us or prevent us from debating on principle.

The Hon. Minister's responsibility is to listen. Once he has listened, if he feels that the issue is so hot that he cannot handle it without consultation, he then says okay, can we have deferment of this particular clause. That is all, Hon. Minister, you have to do. If you feel that you need to consult, once we have exhausted the debate you can then defer consideration of that particular clause then we can go to the next one with the clear understanding that we will revert to it when the relevant and requisite consultations have been done.

So as a matter of principle, Hon. Minister, listen to what the import of the amendment is saying then you decide as to whether they are agreeable or whether you can accede to it. If you are not, then you seek leave to sit again on that particular clause. Those will be my submissions Hon. Minister.

HON. ZIYAMBI: Thank you Hon. Chair, I have already indicated that this amendment is not accepted in all fairness – [HON. MEMBERS: *Inaudible interjections.*] – No, let us move. This one we cannot. I am very clear on this one – [HON. MEMBERS: *Inaudible interjections.*] –

HON. MADZIMURE: Mr. Chair, I think the Minister, while he has his position, but the law making process is that the Executive brings Bills here and we can suggest any amendment as long as it is relevant to that particular law, not for him to say you cannot bring in amendments, no. Why do we then give notices for these amendments? So, it is wrong for the Minister to say that. If the Executive is to make laws on its own, let it then just declare the laws.

HON. HWENDE: Thank you Hon. Chairman. I would want to withdraw the proposal that I had moved under my name.

Motion put and agreed to.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Hon. Chair, I think my drafters got confused here. It says party list seat means one of the seats in the Senate referred to in Section 120 (1) (a) of the Constitution or one of the seats in the National Assembly reserved for women. Let us remove youths because youth, it is one. You cannot have a list of one and practically it is problematic even if you want to do what they want to say there.

I propose that we remove youth, and say reserved for women referred to, or one of the seats in the provincial council referred to. Youth is not a list; it is only one name per province. We leave it as it is

in the Constitution because there is nothing and parties will just nominate one per province whereas, the others, it will be a zebra where you have six female and male and then you have for women's quota, they will be six and so, depending on the percentages but the youths, the party that wins in that province then becomes automatic.

Hon. Chair, I am just proposing that we remove youths and leave women. I submit.

Amendment to Clause 3 put and agreed to.

Clause 3, as amended, put and agreed to.

On Clause 4:

HON. HWENDE: Hon. Chair, I would want to move for the adoption of the amendment that is under my name. Amendment of Section 10. The principal Act is amended in Section 10 under Staff of Commission during elections by the insertion of the following provision to subsection (1). Provided that such staff seconded to the Commission for the purposes of elections must not be a political party activists or have traceable affiliation to any political party. The idea is that a person like me, if I am working for example, for Government or for the local authority where Hon. Chinotimba used to work, they also second staff for purposes of elections. Someone like me obviously cannot be seconded. What we are trying to do is to ensure that those people that are well-known political activists for political parties should be excluded from secondment. Thank you.

HON. ZIYAMBI: Hon. Chair, the Act requires those that are supposed to be apolitical civil servants and those from local authorities

who are apolitical to be recruited during elections. That is what it says. I do not think we need any further amendment. This amendment is extremely problematic and subjective because who will be determining that? The problem with this is we are trying to smuggle in political parties to be part of the election process, yet ZEC is supposed to request from the civil service and statutory bodies. If we say we couch it as it is, who is going to pinpoint that he is a political activist and how are you going to verify it? It is problematic practically.

HON. GONESE: I just want to assist the Hon. Minister in terms of interpretation. First of all, let us look at the current Section 10 – that is the starting point. It says staff of Commission during elections, so we are talking about staff that is seconded to the Commission during elections because the Commission cannot have permanent staff that is adequate for the purpose of elections.

I would like to explain the rationale for Hon. Hwende's amendment. Firstly, we have had primary elections – candidate selection processes for the political parties. I want to give an example – someone who is a civil servant might submit a curriculum vitae intending to participate in the primary elections for party X. In that scenario, if that person fails or is not successful, we already know that this person is a civil servant but affiliated to political party X by virtue of them having submitted their CV and participated. The Hon. Minister posed a question as how one can tell and I have given you a perfect example of how you can tell someone's political party affiliation. This proposal is very clear.

The other example is that someone can be seen at a political party rally chanting a slogan or makes a political speech on television

because sometimes we have rallies that are covered on television. It then becomes clear that this person is affiliated to political party Y. That is why I am saying this amendment makes a lot of sense. It is now a question of interpretation but it does make sense and I hope that the Minister reads it carefully, provided that must not be political party activists. It now becomes clear that notwithstanding that this person is a clerk, teacher, nurse or whatever the case maybe; we are talking of that person now being seconded to become a presiding officer, it then becomes extremely problematic. For the sake of clarity, perhaps the known traceable affiliation, we may delete that then we leave it as political party activist, which is very clear.

Hon. Minister if you follow my reasoning, for the sake of removing any ambiguity, perhaps the clause ‘traceable affiliation’ might be problematic if we leave the political party activist to make sure that they are barred. Once you have said political party, the language is very clear – what is a political party activist? I have already given you an example. It is someone who tries to participate in elections and loses or a person who holds a political party position being a civil position. The constitution says they are not supposed to be political but we do have situations where people hold political offices and we need to vaccinate against that.

HON. MADZIMURE: Chair, I would like to buttress this point. We have had several situations where some people have been hired to participate in the elections as ZEC officers. Typical example is one Richmond Siyakurima who works at ZBC. He has contested on several occasions as a ZANU PF candidate and has lost but you then find him interviewing an opposition member who will have

succeeded. That cannot be allowed. We have had several situations where non-party activists are then found in ZEC regalia working as ZEC officers and this is exactly the mischief that we seek to avoid. These are some of the factors that cause disturbances in elections where non-activists are found to be ZEC officials. That alone is intimidation as far as voters are concerned. Why can we not just avoid it by making it explicit that those people who are non-activists, we know the activists ourselves. I do not think that it will be difficult for the Minister to accommodate that. We are not saying triple C, MDC or ZANU PF. We are just saying non-activists. Let us just avoid some of these things that can tarnish our elections.

HON. P. D. SIBANDA: Hon. Chair, I share with the Hon. Minister's apprehension especially on the manner this amendment is couched. However, I wanted to find out from the Hon. Minister what remedy is available to political players where ZEC, during elections, appoints a known political activist. That political activist might even be from the governing party but being someone that you stood against in the primary elections and you defeated and ZEC later on takes that person and puts them to be a staff of the commission during elections maybe seconded to your Constituency. What remedy would someone who is aggrieved by that kind of appointment have?

HON. ZIYAMBI: Hon. Chair, let us park this because we are not finishing today.

Clause 3 deferred

On Clause 4:

HON. ZIYAMBI: I think my drafters made an error. Each electoral province should be allocated six seats in the Senate and six seats reserved for women in the National Assembly – that is alright.

(b) Shall be allocated one seat reserved for youth members in the National Assembly, that is persons aged 21-35 years;

(c) is not correct. It should read “a Province shall be allocated ten seats in the Provincial council for the electoral province, not non-metropolitan because all the ten provinces including the metropolitan have got 10 provincial councillors. That is an error. So, it should read, ‘A province shall be allocated 10 seats’.

Amendment to Clause 4 put and agreed to.

Clause 4, as amended, put and agreed to.

HON. HWENDE: In light of the discussion that we had with the Minister and the spirit that this discussion has taken, I want to withdraw the amendment that I had proposed because *muri kuonaka kuti Minister vakufamba zvakanaka. Takufamba pamwe chete*. We understood his concerns regarding Ministers. Thank you very much.

On Clause 5:

HON. GONESE: I move the amendment standing in my name that:

After new Clause 4, insert the following — **5**

Amendment of section 12 of Cap. 2:13

The principal Act is amended in section 12 (“Funds and Finances of Commission”) by the repeal of paragraph (e) to sub-section (1).

And subsequent clauses re-numbered accordingly.

The amendment which is a proposed amendment by way of an insertion of a new Clause 6. The proposal is very clear. When you go

to the *Order Paper*, amendment of Section 17 (a) Chapter 2:13 and this proposal, Mr. Chairman and Hon. Minister, is simply to enhance the current provisions by stating that voter registration shall facilitate the enjoyment of rights provided for in the Constitution and must be governed by principles of trust, inclusivity, accuracy, comprehensiveness and transparency. I believe that this is a provision which will enhance the quality of our legislative provisions. I hope that the Hon. Minister will not have any objections to that proposal.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Thank you Mr. Chairman. With all due respect, this clause, all the things it is saying - while they are very good, extremely good, are not applicable. You do not have to trust me to register me to vote. You do not have to like me. Inclusivity is already there by being a citizen, by satisfying the requirements. So transparency – what transparency? If I am a Zimbabwean citizen, I qualify. Whether I am very ugly to the extent that I can take the title of Mr. Ugly, you must register me. In fact, you can even look aside while you make sure that I register. This clause does not add anything, to be very honest. Unless if you – what is the mischief that you want to bring out of this, because it does not bring anything? I do not know why we need it.

Voter registration – requirements are stated. Are you a Zimbabwean citizen, yes. Then you go to *usabhuku* and get a slip to show your village then you go and register. The official does not have discretion to say I like you, I think you are a disabled, you must be the first. They do not have all that discretion. While he is very correct, it is not applicable.

***HON. MURAI:** On the issue of registration, I am proposing for the decentralisation of registration centres from the district registration

centres to constituency registration centres. Whilst we are there, we need to also touch on the issuance of birth and national identity cards

...

THE TEMPORARY CHAIRPERSON: Hon. Member, all that does not apply in this amendment.

HON. GONESE: For the record purposes, I will not belabour the point, so I withdraw it.

On Clause 6:

HON. HWENDE: I move the amendments standing in my name be adopted, amendments that:

INSERTION OF NEW CLAUSE 6 (Amendment of section 17A of

Cap 2:13)

The Bill is amended on page 2 in line 8 before Clause 3 by the insertion of the following—

“6 Amendment of section 17A of Cap 2:13

The principal Act is amended in section 17A (“Voter registration to be conducted continuously”) by the insertion of the following paragraph after paragraph (b) in subsection (2)—

“(c) voter registration shall facilitate the enjoyment of rights provided for in the Constitution and must be governed by principles of trust, inclusivity, accuracy, comprehensiveness and transparency.”.

And subsequent clauses re-numbered accordingly.

The amendment seeks in Section 17 (a) voter registration to be conducted continuously after subsection 2 by the insertion of the following subsection: what we are suggesting Mr. chairman is that we

must have mandatory electronic voter register that is kept by the Commission ZEC and also by the Registrar General. I think if we word it properly, most progressive nations these days, when you register for your ID, the whole registration is done by the Registrar. They have all the details. There is nothing that stops us from automatically uploading the same information on the voters' roll that is kept by ZEC. We want to introduce a new roll for the Registrar General so that there is automatic upload of the data and also that they keep an electronic biometric voters' roll. That is what we are seeking to amend.

HON. BITI: That is already what is there. When you go and register to vote, they take your fingerprints and picture, so that is biometric already. This provision is already talking about what is there and there is a distinction between biometric voting and biometric registration. This is already recognizing what is there. Voting *hatisati tasvika tichazosvika ikoko* but at least Registrar must be biometric because *totorwa maziso* and fingerprints. I think it is consistent with modern technology and ICT, and that is in fact what we are doing anyway today.

We are basically saying voters' roll must be biometric because that is what pertains anywhere and that is why the current voters' roll has your picture there – [HON. ZIYAMBI: *Saka uri kuti hausi kuidai iyi?*] – *tiri kuisupporter*. I am making a distinction which is the current law. There is a distinction between biometric voting and biometric voter register. What is in Zimbabwe at the present moment is biometric register. We have not yet gone to biometric voting. When you go to biometric voting and I have witnessed three – four elections where there is biometric voting. Your fingerprints are taken. You go to a polling station, it has a little pad. You press your thumb and all your details pop up. Nigeria, Kenya and Lesotho do that. We are not yet

there. We are just saying the voter registration itself must be biometric, which is what is already there anywhere. We are not inventing a new wheel.

HON. MARKHAM: Just to buttress what has been said. There are two things; we have the Registrar General going round the country and has registered more than 1,8 million and documented. If this was adopted, those documented people would already be on the voter registration. If the Registrar General was automatically registering people to vote, which is their right, it will have been done already biometrically because the electric should be common. We now have to spend resources to go and do the same job to put them on the voter register.

The second thing, the migration from voter registration to voting biometrically is going to happen. We must make sure that the law keeps up before that happens. When we migrate to electronic voting, that migration must be captured now in this electronic vote because in the next election we might be there already once we have completed the registration. Everything that ZEC is doing has been done by the Registrar General *pachena*.

HON. ZIYAMBI: This is not a bad amendment but it is historical. I want to give a background to this. There is so much mistrust in the person of Mudede to the extent that people from the other side said we do not want anything to do with him and because of the compromise, we then said okay, let us have ZEC being the registrar of voters but technically it is costing this country a damn lot of money because the system that is at the Registrar General is biometric. It can do exactly what ZEC is doing.

Over and above that, ZEC currently cannot function without the Registrar General. If they want to update their voters' roll to remove

those that are deceased, they have to go and clean their system through the Registrar General's office. If they want to know who is now 18, they have to go through that system. In fact, we created this because of our mistrust *yamudhara* and we threw away the baby with the tub (bath water).

So, my suggestion is, it is not put under the Commission and the Registrar General, in fact we can park this and continue with it because we need to refine it and get further instructions. There is no need for the Commission to do voter registration. It is actually better to have the separation. The registrar of voters, being the Registrar General, makes sense but let us park it. What even Hon. Markham was saying makes sense. When the Registrar General was going, it was biometric registration and he could have easily said okay, do you want to be registered as a voter and the person will say yes and he is registered.

HON. MARKHAM: We are in total agreement. When it comes to registration, the address that you were given is the address that you were currently residing at. From then, your transfer relies on you but the automatic initial registration at the age of 18 is done automatically. If you move to Bulawayo and you do not register, that is your fault – [HON. BITI: *So, we park it?*] – [HON. ZIYAMBI: *Yes*] –

The Temporary Chairperson having put the question that the clause be considered later on

Clause 5 deferred.

On Clause 6:

THE MINISTER OF JUSTICE, LEGAL, AND PARLIAMENTARY AFFAIRS: Deferred.

HON. HWENDE: I move for the adoption of amendment standing in my name that: **INSERTION OF NEW CLAUSE 7**

(Amendment of section 20 of Cap. 2:13) After new clause 6, insert the following—

7 Amendment of Section 20 of Cap. 2:13

The principal Act is amended in Section 20 (“Voters Roll to be kept by Commission”) by—

- the repeal of sub-section (1) and the substitution of the following—

“(1) The Commission shall keep and maintain it in printed and electronic form a voters’ roll for each polling station, ward, and constituency, containing the names of all registered voters who may vote at the polling station, ward, and constituency as the case might be.

Provided that in the event that a voter is illiterate or physically handicapped and therefore would need assistance at the time of voting, the Commission shall ensure that a note of such condition is contained in the voters roll.”

The mischief that we are trying to create here, like what the Hon. Members have been saying during the debates, we have a problem of people who are forced to say they are illiterate. So, it will help at the time that they are registering for instance, if you cannot vote on your own maybe because you are disabled, a note should be placed in the voters’ roll in order to avoid the concerns that were being raised by numerous Members of Parliament who have debated.

- the insertion of a new sub-section after sub-section (5) as follows—

“(6) In order to identify a prospective voter, the polling agents shall be furnished with a voters roll bearing pictures of all registered voters such that upon entry at the polling station to record their votes, the election official shall cause the announcing of their names for all polling agents

to validate the facial features and name of the aspiring voter on the voters rolls provided.”.

And subsequent clauses are re-numbered accordingly.

The problem that we have like in the past elections, there are buses that ferry people with bold heads who will be voting multiple times in various constituencies. So, for us to enhance transparency in a polling station, when a voter enters, the agents inside will be having the same voters roll with ZEC with people’s faces and there should be an agreement as to the credentials including photos and the person voting. Other countries in the region have already started doing it to try to enhance the system, for transparency so that all parties can be happy with the process. Therefore, those are the three amendments that I am proposing. I thank you.

HON. ZIYAMBI: Hon. Chair, this clause is, if we refine the previous clause on the Registrar of Voters, it may need to be amended – that is the first point.

The second point is, my proposal would be to park it and refine it but what I want to say is, if we keep the Voters Roll for the Polling Station, you can just add the Polling Station in the constituency and Constituency Voters Roll because our voting is no longer constituency based; it is Polling Station based. So, it is not necessary to keep a Voters Roll for a Ward – [AN HON. MEMBER: *Inaudible interjection.*] – No, it is not, to duplicate and say this. You can simply aggregate the Polling Stations that are known to constitute that particular Ward and you have it.

So, it is not really critical to have it but the critical issue is we have to agree on who registers and maintains the core then we have the rest. Then what I wanted to say is, the state of disability is not permanent. We cannot say, let us legislate that so and so is registered

to vote to be assisted. We will run the same risk *yatakaita patakambobvisa izvo zvava Mudede izvi*. I may be feeling extremely dizzy *musiiwowo* voting and request my son to accompany me to vote – that should be allowed but to say we put a register three days before the voting; you may have a stroke. *Saka pachi Karanga zvichinzi seka urema wafa*, meaning that the state of disability can happen at any time. So, it is very difficult to have that.

The only thing that is required are checks and balances on assisted voters if you can do it, not that we have to legislate that so and so must be registered. I submit. – [AN HON. MEMBER: *Yes, we park it!*] –

HON. BITI: It says if the Nomination Form contains no space for a solemn declaration. Why should the nomination form not have a space? Surely, the Nomination Form must be a standard form prepared by ZEC. I do not see an Affidavit. Let us have a standard Nomination Form with the Declaration, signed by the candidate because here you are placing an onus on a candidate to say, do I sign a Nomination Form or do I sign an Affidavit. My submission is that we should have a standard Nomination Form with the solemn declaration. – [HON. MARKHAM: *It makes sense.*] – Yes, because ZEC *kana isingagone kuita basa iroro yatokoniwa, mai ava ngavayende ava*.

HON. ZIYAMBI: Thank you Hon. Chair, I agree, this clause needs to be refined and redrafted correctly. Let us park it again.

Clause 7 deferred.

On Clause 8:

HON. HWENDE: Hon. Chair, I move for the adoption of the amendment under my name that After new clause 7, insert the following-

8 Amendment of section 21 of Cap. 2:13

The principal Act is amended in section 21 (“Inspection of voters rolls and provision of copies”) by the repeal of sub-section (2) and the substitution of the following—

“(2) A person inspecting any voters roll in terms of subsection (1) may, without removing the roll from the office where it is kept—

- photograph or make a copy of the roll or any part of it; and
- make written notes of anything contained in it.”

And subsequent clauses re-numbered accordingly.

We are introducing this because of the new technology *munhu akapinda achi inspecta*, instead *yekuti abvumirwe kutora* a picture of the Voters Roll, that section that they are interested in. It is just a minor amendment *yaunzwa nenyaya yetechnology kuti ukapinda imomo*, you just take a picture then *woyenda hako uchinowona wava kumberi*. I am sure this is a small amendment.

***HON. ZIYAMBI:** I just want to seek clarification from you since you are the one who is proposing. Hon. Chair, I want to be educated. I thought the Voters Roll can actually be posted outside the Polling Station when you are inspecting it. Is there a law that prohibits from taking a picture? – [HON. BITI: *Yes, Mr. Chairman*] – Which section because that is the section that I want to repeal if it is there?

HON. BITI: Yes, normally voter registration inspection takes place at designated institutions like schools or cantonment. *Saka unenge uchitorambidzwa nemumwe mutemo usineyi nema elections*. So, *tikasa* specify *kuti* because the current law *yavari kudhila nayo inotaura kuti unobvumirwa kutora ma notes*. *Saka tiri kuti, kana uchibvumirwa kutora ma notes, nekuti mazuva ano kwava*

nezvimuchina zvimuti zvine technology yakawoma, unongotorawoka picture so that hawuzosungwe nemupurisa. Ndizvo zvatiri kungoda kuti zvingoitwa chete ipapo.

HON. ZIYAMBI:** Hon. Chair, why I am asking? Unless if you are voting in a cantonment – [HON. BITI:** *Eeeh ini ndine Chikurubi!*] – Eeh specify kuti Chikurubi. At the primary school where I vote from, tell me the law that states that I cannot take pictures of posts that are there – [**HON. BITI:** *Ku Pangula, hatitombo bvumidzwa kutora!*] – No, it is on the voting day. When you are inspecting the Voters Roll. Saka *ndiri kushaya kuti* what is the mischief? My thinking is, this is allowed.

***HON. BITI:** We are requesting for it to be amended out of an abundance of ...

THE TEMPORARY CHAIRPERSON: Hon. Biti, we want the Hon. Minister to finish. May you switch off your mic please?

HON. ZIYAMBI: The auditing of the Voters Roll is through inspection. *Irikuti chii?* What is it saying?

***HON. MUTSEYAMI:** Thank you Mr. Chairman. Hon. Minister, what happened is due to COVID, for the purposes of by-elections, that issue of the pasting the voters' roll outside the polling station. All along, when inspecting the voters' roll, the officers of ZEC will physically check your name in the voters' roll. They do not put it on the wall. So, this prayer is for everyone to have access and can take pictures and all that. The issue of pasting on the wall came about as a result of COVID. As we go now, it can be removed. We also have problems with pasting on the wall because at times it will be raining and those papers will not last.

HON. MOLOKELA-TSIYE: Having listened to the Hon. Minister, earlier on, the Hon. Minister was very clear that he assumes

that is the norm that it should be put outside. Why do we not insert a specific clause because I heard Hon. Mutseyami saying maybe it was in the context of COVID. Let us address it by saying, let it be put outside the polling station.

HON. GONESE: Thank you Mr. Chairman. I think the Hon. Minister, in his response, was making some assumptions and I want to refer him to the text in the current Act. The existing provision says that “every voters roll, a person inspecting the voters roll, that is sub-section 2 for constituents may be required to move the voters’ roll, make any written notes of anything contained therein during office hours”. So already the existing law allows someone to make written notes. I was expanding it – Hon. Hwende’s proposal is simply expanding it to allow the person who is doing the inspection to make a copy of the roll so that you do not have to make notes, copious voluminous notes. You just use technology to photograph the copy of the voters roll or any part of it and at the same time, make written notes if you so wish. All it does is to shorten the time one is going to inspect because if you want to make copious voluminous notes, it takes time but if you are allowed – I hope the Hon. Minister sees the logic of the proposal. It simply curtails the process and makes it much simpler and faster. That is all we are asking Hon. Minister.

HON. MARKHAM: Thank you Hon. Chair. I have an issue with some of the clauses here. Just bear with me, the issue is to inspect the voters roll. Clause 4 here says within a reasonable period of time. There is no reasonable period of time for the voters roll if you are standing as President. You need it all the time. The reasonable period of time must be defined, that is my question.

HON. BITI: There is a point which Hon. Chinotimba raised, which I think should be codified in the law. This provision is talking

about inspection of the voters' roll. Inspection, but do you know what ZEC is doing already. It has this application and people are using the application and some people get disks but that is not codified in the law. Why do we not put Hon. Minister, in addition to what Hon. Hwende is saying, we say ZEC shall provide an electronic platform where you can inspect the voters' roll and see whether your name is there in addition to posting *panze zvataurwa na* Hon. Mutseyami of Chikanga-Dangamvura. Electronic, *zviri kutoitika, hatifaniri kutya* technology, *tiri kugara munyika ine* technology *yakawanda*. Two years from now *tinenge tava kutongwa ne* artificial intelligence. So, I urge the esteemed Minister to embrace technology.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): What I just want to find out is, if you take a photograph under the current law, there is voters' roll inspection. If you are in a cantonment and they agreed that it is a polling station and they agree that a voters' roll is going to be availed at that particular polling station, they have already accepted that people take notes and will do what is acceptable in terms of the Act. I want to find out whether we have a scenario under the current provision that prohibits you to do that?

***HON. HWENDE:** Minister, the thing is simple here, when you go to inspect the voters' roll in the cantonment area, if it is not specified, they will obviously tell you that you cannot take photos. We have a problem which was raised by Hon. Mutseyami, which you are not answering that we are assuming that voters' roll will be pasted outside but that is not what the law says. When you go to inspect the voters' roll, the ZEC officers will not allow you to take photographs. As long as you have not included in the law that copies of the voters' roll are

pasted outside the polling station, then we need to add this. [*The Hon. Minister having objected*] It is happening. Let us include that we are pasting outside, then the photographic aspect will no longer be necessary.

There are two things Hon. Minister. Otherwise, let us specify in here that voters' rolls should be pasted outside the polling station or if you are not specifying, let us just allow that people can take pictures of the voters' roll using their own gadgets.

***HON. CHINOTIMBA:** Thank you Hon. Chair. I do not see any problem on the issue of voters' roll inspection because inspection of voters' roll affects everyone; all political parties. If there are incoming Hon. Members, when you go to inspect the voters' roll, you are given a disk of the voters' roll. That disk has a voters' roll and boundaries of your constituency. An inspection of the voters' roll, as Hon. Biti said, you can do it over the phone using that facility and it lets you know whether you are in the voters' roll or not. You can apply for the voters' roll and be given your disc. No-one is not given that privilege, no-one is refused the opportunity to check for their name on the voters' roll. What I need clarity on is, do you want it to be made law, have it written down that if someone wants the voters' roll – [HON. BITI: *Inaudible interjection.*] – Hon. Biti, please address the Chairman.

If you want the voters' roll, it can be given to you. The picture or the disk, you can go and ask to take a photo of the voters' roll. Mr. Chairman, during the inspection of the voters' roll, one can come and ask to take a picture of the voters' roll – [HON. MEMBERS: *Inaudible interjections.*] –

I am saying during the inspection, anyone is allowed to inspect the voters' roll on the disc – [HON. MEMBERS: *Inaudible*

interjections.] – The problem that you have is that when I stand up to debate you want to distract me by making noise. If you want to talk wait until I have finished debating and have sat down, then you can go ahead and say whatever you want. Thank you Hon. Chairman.

HON. P. D. SIBANDA: Thank you Hon. Chair. Hon. Chair, my proposal is that the current Section 21 of the Act does not provide for pasting of the voters' roll at the voting inspection centres. Therefore, I propose that, that amendment can be refined to reflect that it becomes a legal requirement and not at the benevolence of ZEC to paste the voters' roll at an inspection centre and also that taking of pictures of the voters roll be allowed. Why, because possibly at the inspection centre, that particular inspection centre, they might not be able to put the voters roll on the wall but someone can still access that voters roll by taking pictures and also taking notes. Thank you Hon. Chair.

HON. ZIYAMBI: Hon. Chair, this is one of those that I think we park again – [HON. MEMBERS: *Inaudible interjections.*] – I am not arguing with you. I just want to check – [HON. MEMBERS: *Inaudible interjections.*] –

Clause 7 deferred.

On New Clause 8:

HON. GONESE: I move the amendment standing in my name – [HON. MEMBERS: *Inaudible interjections.*] – This clause talks of a reasonable time. We have had problems with these open-ended clauses where under the current Act – [HON. MEMBERS: *Inaudible interjections.*] – It is amendment of Section 21 of Chapter 2;13. In fact Sections 3, 4 and 6 – [HON. MEMBERS: *Inaudible interjections.*] –

Sections 3, 4 and 6 talks of a reasonable time when someone has requested for a copy of the voters' roll. So, my proposal is very

simple. We remove the words ‘within a reasonable time’ and we insert ‘within 72 hours’. The reason being that the current provision is open ended. When we say ‘reasonable time’, it depends who is interpreting it. So, someone can say even three months is a reasonable time. There is no definition. I am saying let us have something specific. That is the first part of the amendment.

The other one is that where we have got the electronic voters’ roll, let us just put non editable so that it becomes very clear. This is one of the issues raised by ZEC in their opposition to applications that people can tamper with an electronic voters’ roll. So, let us just put non-editable then that cures the problem. So those are the two proposals. I think the next one (c) may just fall away. Hon. Minister, I think it is now clear.

Business was suspended at 1923 hours and was resumed at 2019 hours.

On New Clause 8:

HON. GONESE: Thank you Mr. Chairman. I move the amendment standing in my name that,

After new clause 7, insert the following—

8 Amendment of section 21 of Cap. 2:13

The principal Act is amended in section 21 (“Inspection of voters rolls and provision of copies”) as follows—

- in subsections (3), (4) and (6) by the deletion of the phrase “within a reasonable period of time” and the substitution of “within seventy-two (72) hours” wherever it appears;

- in paragraph (a) of subsection (6) by the insertion of “non-editable” before “electronic”;
- by the deletion of paragraph (b) of subsection (6).

And subsequent clauses re-numbered accordingly.

At the present moment, it says ‘reasonable time and there is no definition’. at the moment, it simply says, ‘electronic’, as you will recall Hon. Minister, the Zimbabwe Electoral Commission (ZEC) has previously indicated that they are reluctant to release the electronic Voters Roll for fear that it can be tampered with. So we are simply addressing that. – [HON. MEMBERS: *Inaudible interjections.*] –

THE TEMPORARY CHAIRPERSON (HON. KHUMALO): Hon. Members, order please!

HON. GONESE: Yes, we want to add ‘non-editable’ such that the electronic form cannot be edited – that is what we are proposing. It does not do any harm - it actually ensures that the fears are allayed and to make sure that you define it properly. The more important substantive is the one relating to 72 hours; if you want five days, we can compromise on that.

HON. ZIYAMBI: Is it where it says either in printed or electronic form? – [HON. GONESE: *Yes.*] – So none editable?

HON. GONESE: Yes, we can defer it, the important amendment is the one on 72 hours. It is fine. – [HON. MARKHAM: *There must be a time limit!*] –

HON. ZIYAMBI: Hon. Chair!

THE TEMPORARY CHAIRPERSON: Are you connected Hon. Minister?

HON. ZIYAMBI: Why connect now, they are sleeping, anyone who wanted to do business is supposed to be here. Otherwise, if we connect - we already have *quorum* Hon. Chair. Anyone who wanted to

do business is supposed to be here; otherwise we will see people in pyjamas if we start connecting. No, I am not connecting now, it is late. Hon. Chair, the Hon. Speaker was very clear when we started that Hon. Members must come to the House. Moreso, when they knew that we were going to sit until midnight.

- Chair, my submission is that the amendment proposed by Hon. Gonese be changed to read, ‘in subsections (3), (4) and (6) by the deletion of the phrase “within a reasonable period of time” and the substitution of “within five working days”

HON. GONESE: I think I am agreeable to that, within five working days.

HON. ZIYAMBI: We delete (b) on his amendment we delete it.

HON. GONESE: I think (c), can also be deleted Hon. Chairman.

HON. ZIYAMBI: The challenge that we now have Mr. Chairman, because we have deferred a lot of clauses, We need to agree that when we come back, we adopt everything because now we will confuse each other.

Amendment to New Clause 8 put and agreed to.

New Clause 8, as amended, put and agreed to.

On original Clause 8:

Hon. Mushoriwa having wanted to remove other national newspapers but to only include the Gazette and other media in the constituency.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Hon. Chair, I want this one to end where it says *Gazette* and delete everything else.

Amendments to original Clause 8 put and agreed to

Original Clause 8, as amended, put and agreed to.

New Clause 9 put and agreed to.

On Clause 10:

HON. GONESE: Mr. Chairman, the import of this proposal relates to various matters. One is to deal with delimitation so that there is clarity on what the Zimbabwe Electoral Commission (ZEC) is required to do in terms of the consultations with the Multi-Liaison Committee and also the requirement that it has to follow the provisions. The reasons why we had the court challenge for instance, is because of lack of clarity regarding what ZEC must do. The import of this proposed amendment is to ensure that everything is very clear so that apart from the framework that is laid down in the Constitution, the Constitution is like the foundation. What we now want is the framework which governs that.

In particular, there is the issue of youth representation. At the moment, if it is left as it is, we can have a situation where a province is represented by a youth of the same gender in perpetuity. My proposal was to have at least a maximum of two-five year terms but I am amenable to have it even for one term so that there is a rotation to ensure that any particular province, if it is a male representing it in this particular constituency, the next election cycle, it should be a woman and *vice versa*. Those are the main amendments.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Thank you Hon. Chair, I was thinking on my feet. Issues to do with delimitation,

to be honest, we need to come up with a Delimitation Act and my submission also is, we have concentrated on the Electoral Board, even things that are not theirs. So, we need not to cloud ourselves and unnecessarily put things in the Electoral Act but really to think what we need to do in terms of coming up with proper legislation that will govern how.

I agree with some of the issues that you raised there. They are very noble but I think for our purposes now, it might not quite satisfy what is needed to deal with delimitation issues. That is my submission.

The youth one, I think if we get it, we need now to panel-beat because we are not allocating the same gender currently. We are nominating, putting forward a youth. So, the next election, we need to couch that the election that will come after this one, a different gender should be put – [HON. P. D. SIBANDA: *Inaudible interjection.*]-
Simuka utaure.

HON. P. D. SIBANDA: *Inzwai vakomana.*

THE TEMPORARY CHAIRPERSON: Hon. Sibanda, who is *vakomana*?

HON. P. D. SIBANDA: Sorry Hon. Chair. My apologies. We have done sufficient progress as a country in ensuring that there is fair gender representation. If you look currently that we are going to have a 30% quota system for councilors that are female, we have got PR, that is female. So, for the youth, let us allow provinces to choose their best person. At least that is my feeling. From the province where I come from, I would not want a situation where it is imposed upon us to say no, this electoral year we are going to have a female or this coming year we are going to have a male. I do not prescribe to that. Thank you.

HON. GONESE: I believe that let us not conflate different issues into the same clause. When we are talking of local authorities, we have dealt with it at that level. We could have used the same argument to say that look, in the National Assembly we have got the Proportional Representation seats but we went on to extend it because it was felt that there was a lacuna whereby the issue of gender parity was only being addressed in the National Assembly and nowhere else.

By the same token we have got the youth. The principle was that we must have people who are aged between 18 and 35 to be represented, to be given a specific seat. If you look at the provision in the Senate it talks of two, a male and a female person with different disabilities and we addressed the issue of gender that way.

In terms of the youth representation, for whatever reason, there might have been a feeling that we cannot increase the numbers, but we only increase it by one per province which is a total of 10 and I think it makes a lot of sense. In any event it is unlikely to affect the same individual because there is a limit as to how many years a person can remain within the age group falling under the youth. I believe that the principle which I am advocating for ensures that the youth representation is gender balanced in the sense that you do not have a situation where for a continuous period you can have all the 10 provinces all being represented by males for example. If we know that we have got a male this year or this five year period, the next five year period we will be having a female. Initially I had actually proposed a 10 year period to ensure that there is that rotation, but others have expressed the sentiment that it is actually better to have rotation after every election and to me that makes a lot of sense.

HON. ZIYAMBI: Thank you Hon. Chair. Hon. Chair, the first problem that we have is, we have to move this amendment from this

section to the appropriate one. Secondly, I do not have any problem because I think political parties agreed to that in terms of ensuring that we have representation from both genders. So that should not be a problem but can we find where to put it, the correct place because here if you look at the original section, it is section 37A delimitation of constituencies and electoral divisions, we cannot place it there. We need to check and see where we can put it. It is not appropriately placed here. I suggest that it is very good but we need to identify the correct place. If we pass that clause we can recommit, but we need to find a way of dealing with it. My only problem is, we have processes that have already started. So, we need to rephrase it so that it does not affect the current section because those that are already there have legitimate expectations.

My suggestion Hon. Chair is that this amendment, we do not take it, the whole of it because we need to deal with issues of delimitation separately, but this particular one on youths, we will then find where we put it. So, I move that Hon. Gonese withdraws this whole amendment.

HON. GONESE: Subject to what the Hon. Minister has said, I will then withdraw it so that the issue of delimitation will be dealt with and then we will have the recommittal of the Bill to ensure that we place it appropriately and we then do the necessary consultations to find where we can place it.

Clause 9 put and agreed to.

On original Clause 10:

HON. BITI: The English is terrible because it says ‘subject to this Act, a person who has been duly nominated as a candidate at an election may at any time before 21 days from the day or first day as the case may be on which the poll and local council elections should be

taken withdraw. We simply want to say within 21 days from the date of nomination, a person can withdraw nomination, that is all we are trying to say.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Hon. Chair, the principle is when it is too close it is very late but there are certain days before the election when you can be allowed to withdraw. If you look at the Act, it makes provision for a presidential candidate to withdraw 21 days before polls, but there is no such provision for all the others. From the day that proclamation is made, you start counting days for things to happen up until the election. So, you will realise that when the nomination court sits, three days after that, voter registration stops and then we need to have certain specific timeline between nomination and election day. We are saying the same thing in a different way.

HON. BITI: There is instability in political parties that a candidate leaves you without someone to replace him or her, so if you say 7 days after nomination you will see what you can do.

HON. HAMAUSWA: I want to contribute to this debate. There is something in our electoral history that has happened like in 2008. There was a widespread talk towards the run up to the presidential run off election. I wanted to check from the Hon. Minister how can a presidential candidate or a candidate be protected in a case where maybe there is extra ordinary violence that can break out and the election result when they are not allowed to withdraw, that result will then be used as if they participated. In such a case, is there any way that a presidential or a candidate can be protected in a case where an extra ordinary violence breaks out that forces a candidate to withdraw? How

can that be covered also in the Electoral Act because it happened before?

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): The Hon. Member is out of order. We are not discussing that. When we are in Committee Stage, we look at the clauses as they are in the Bill or the amendments as proposed. So, when the Chair puts a clause, you do not debate like we are in the Second Reading of the Bill. You focus on what is there only. The rules do not allow me to answer you. Thank you.

Clause 10 put and agreed to.

On Clause 11:

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): I just want to expunge something. Where it says national assembly youth members example, and they say the same principles that is not correct. Let us delete it. Where you are using a mathematical calculation for six people, the same formula cannot be used for one person. This is irrelevant. Thank you.

HON. HWENDE: Thank you very much Hon. Chair. This amendment seeks to deal with the issue of the voting returns, the residue. It is on Clause 11 on the Order Paper. It is on the Order Paper and it is a new thing.

HON. ZIYAMBI: You want a new sub-clause?

HON. HWENDE: Yes.

HON. ZIYAMBI: So, we do not have to deal with this.

HON. HWENDE: But we have been dealing with all the other ones in the same manner.

HON. ZIYAMBI: So, we start with this.

HON. HWENDE: Yes, so we are proposing to amend Section 37 (c) of the principal Act in that after sub-section (4) by the insertion of the following sub-section “(5) The Commission shall ensure that for at least two months after the announcement of the result of the election concerned, all voting returns are kept open for inspection by members of the public at all reasonable times, and copies shall be provided upon payment of a prescribed fees at: the head office of the Commission, where the returns are for an election to the office of President; the provincial command centre of the province concerned, where the returns are for an election of party-list Members of Parliament for a province or members of a provincial council; the constituency centre of the constituency concerned, where the returns are for an election of a member of the National Assembly for a constituency; the ward centre of the ward concerned, where the returns are for an election of a councillor for a ward.”.

HON. ZIYAMBI: Hon. Chair, let us check the Act first. Elections, by their very nature, must result in certainty within a very short space of time so that you do not have disturbances to governance. The proposal may appear innocent but can lead to disaster. That is the reason why in other sectors they have been calling for results to be the least expeditious. They actually lobby for a day or two but here they want these materials to be kept for two months to do what. Elections must simply be done. If there are any disputes, resolved within the shortest possible time. This is not acceptable.

HON. MUDARIKWA: The situation here is that when we have elections, we do not have a permanent office at the ward centre. We are using a classroom at the ward centre. At the Constituency, we are using maybe a secondary school as a Constituency Centre. So where

do you keep those ballots? Do you keep them at the ward centre at the school? Let us be realistic.

HON. BITI: Let me read the law – Section 70 – custody of ballot and other papers; it says – the Chief Election Officer shall”, unless an election petition is lodged in relation to the ward or constituency concerned, cause to be destroyed all the documents referred to relating to that constituency not earlier than 14 days after the end of the election period. So, within 14 days, after the end of an election, the Chief Election Officer causes to be destroyed election residue. If there is an election petition, then the papers are not destroyed.

HON. ZIYAMBI: We keep them for six months. There is also another portion where it says you can actually request for opening of residue in 24 hours. That is the one I used, I was praying that you do not ask for that and you did not. It is very comprehensive. We do not need it trust me.

HON. HWENDE: I am withdrawing that proposal Hon. Chair.
On Clause 11:

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): May we park my original Clause because I want somebody to check the calculations. But it was plucked, let us pass it. We just remove National Assembly Youth member. We do not need any calculation. It is only one person.

Amendment to clause 11, put and agreed to.

Clause 11. as amended, put and agreed to.

On Clause 12:

HON. HWENDE: I am proposing that we amend section 40I of the principal Act by introducing section 40I (“Accreditation of

observers”) in sub-section (1)(a) by the insertion of the following subparagraph—

“(b)(1) open observer accreditation at least six months before any General Election and one month before for any by-election.” Currently, we have a problem that it is not specified. To enhance the credibility of our elections, I am sure we agree that we have a problem. The President has already said that he is open to international observers for our elections. We are just tiding it up so that they are aware that if for instance an election starts within the six months period, those who can afford to come can monitor all the processes before and after so that we can enhance the credibility. This is important for all us, because if we are not hiding anything, there is no reason why we must restrict the coming of observers. Thank you very much Mr. Chairman.

THE MINISTER OF JUSTICE, LEGAL AND LEGAL PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Mr. Chairman, there is nowhere it is written that the elections start six months before the actual date. It is not there but what triggers the process is the proclamation, the actual process but an election is a cycle. What triggers the immediate events leading to an election is the proclamation and from the day the proclamation is done, observers can come because the processes will now be coming. Otherwise, we will end up saying we must have observers even for five years because the terminology, the thinking is an election is a cycle. It is not an event. I submit that for people to say they want to be in a country for seven months – six plus one post. I submit that the current scenario is very good where the moment that a proclamation is made, then observers can come because the process will be starting. If it is not there, let us look at that and we say that because that triggers the immediate process of an election cycle so this is not necessary. I submit. We will check that. Let us park that.

That is what happens with our observer missions from SADC and AU. We do not send our MPs for six months there, otherwise they will not work.

HON. BITI: Mr. Chairman, we have to amend Section 40 (i) (9) (b), which talks of accreditation not later than the fourth day before the first polling fixed in proclamation.

THE TEMPORARY CHAIRPERSON: Hon. Minister, where are we? Where is that amendment?

HON. BITI: It is amendment 12 by Hon. Hwende on the *Order Paper*.

HON. ZIYAMBI: Local observers can only be accredited within three to four days before the election but international observers cannot be accredited within four days because we need to check on the protocols with Foreign Affairs. Even on the day of election, a local observer can be accredited but the law says at least four days before. Mr. Chairman, we defer this.

HON. GONESE: Let me explain Mr. Chairman, the *Order Paper* has been made on the premise that some of the clauses which we have withdrawn were going to be adopted. You will find that if all the proposals we had made had been adopted, we would be at Clause 18 but because some of them fell away that is why the sequence has changed. Hon. Mushoriwa's amendment was supposed to be number 17 if all the other amendments have been adopted.

HON. ZIYAMBI: Which clause, deletion of Clause 7?

HON. MUSHORIWA: The amendment that:

DELETION OF CLAUSE 7 (Now Clause 17) (“Amendment of section 46 of Cap. 2. 13”)

The Bill is amended on page 7 in lines 17 to 39 by the deletion of Clause 7 (“Amendment of section 46 of Cap. 2. 13”).

And the subsequent clauses shall accordingly be renumbered, now falls away.

HON. GONESE: I move the amendment standing in my name that:

INSERTION OF NEW CLAUSE 18 (Amendment of section 47 of Cap. 2:13)

The Bill is amended by the insertion of a new clause on page 7 in line 40 as follows—

“18 Amendment of section 47 of Cap. 2:13

The principal Act is amended in section 47 (“Nomination fee”) by the insertion of a new sub-section (2) as follows—

“(2) The nomination fee shall neither be exorbitant nor inhibitive but reasonable enough to allow an eligible citizen to stand for election for public office.”.

And the subsequent clauses shall accordingly be renumbered.

The most important thing is the proposed amendment of Section 47. Minister, if you look at Section 47, it is open ended. It gives ZEC a blank cheque. This is why we have got a problem with the USD1000 proposal for nomination fees. They could even say USD1 million. Let me read it, ‘at the same time as the nomination paper is lodged in terms of Section 46, they shall be deposited with the nomination officers, by or on behalf of. Such nomination fee as may be prescribed which shall form part of, as it is currently formulated, ZEC could come with a million USD or USD10 million because the USD1000 which has been prescribed is a real challenge.

My proposal Hon. Minister and Mr. Chairman is that we amend that particular section by making some limitations and simply stating that the nomination fee shall neither be exorbitant nor inhibitive but

reasonable enough to allow an eligible citizen to stand for election for a public office.

THE MINISTER OF JUSTICE, LEGAL AND LEGAL PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): That one is accepted.

Amendment to Clause 18 put and agreed to.

Clause 18, as amended, put and agreed to.

On new Clause 20:

HON. GONESE: I move the amendment stand in my name that; The Bill is amended on page 8 between lines 1 and 5 by the deletion of Clause 9 (now Clause 31) and the substitution of the following—

“20 Insertion of sections to Cap. 2:13

The principal Act is amended by insertion of the following section 52B and C—

“52B Printing of Ballot Paper

The Commission shall call for a competitive tender to print ballot papers and all related electoral material including the procurement of indelible ink, the supply of ballot boxes and all relevant material.

52C Zimbabwe Election Commission National Logistics

Committee

- Every political party in Parliament should have one representative

each in the Commission’s National Logistics Committee established in terms of paragraph 7 of the First Schedule to the Zimbabwe Electoral Commission Act [*Chapter 2:13*].

- All other political parties that are not in Parliament shall have one representative in the Commission's National Logistics Committee.

And subsequent clauses renumbered accordingly.

So, the proposal there is to have the printing of ballot papers to be done openly and transparently by having a competitive tender to be floated and also have ZEC National Logistics Committee which will have at least a representative from any party which is represented in Parliament and all the other parties which are not so represented will have the opportunity to second one person to that National Logistics Committee. This is basically to make our electoral processes transparent so that they are not the preserve of a logistics committee where opposition parties are not included but in particular, any party which has got representation in Parliament will have at least one representative in that Committee and even those which are not so represented collectively can second one person.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): This clause is not acceptable, what it is in the Act is good.

HON. GONESE: Can we separate so that we deal with the one for political parties – [HON. ZIYAMBI: *Aiwa, iyi haiiti.*] – Ko yeprinting of ballot papers – [HON. ZIYAMBI: *Hazvimo.*] – Let us not conflict the issues. That one for political parties is Part (b), – [HON. HWENDE: *Inaudible interjection.*] – so, let us deal with one at a time. This is a new section and is not there. The current Act does not make provision of what you are proposing. Let us do one thing at a time and I think Hon. Hwende has made a very pertinent point *kuti kana pasina pazvakanyorwa*, we can then have a situation where people if you are shown through the window – what were you saying?

***HON. HWENDE:** Our appeal is that let us take this aspect seriously because any election where you participate without knowing where the ballot paper is being printed, by whom and how, leads to disputed elections which is our biggest problem here. If you look at the trends in other countries, presidential election ballot paper is not printed locally even if they have good printing facilities just to enhance the system.

ZEC actually has to meet the costs for representatives from political parties to go and witness the printing and they come back with the ballot paper. There is no election which can be free and fair without knowing where the ballot paper is being processed and we might have spent a lot of time amending this law but if you do not show us where the ballot paper is being printed, we might be laughed at but this is a very serious issue.

Last time we were invited to see the process but in five minutes people were being asked to leave because it was said to be a security area and people were whisked away. This is a serious matter and if there is transparency, why not tell people where the ballot papers are being processed – [HON. CHINOTIMBA: *Inaudible interjection.*] – *Iwewe* Chinotimba you are actually a victim of something like this because you did not know where the ballot paper was being printed by FAS and now you are seated here and you are not coming back – [*Laughter.*] – You are disturbing here but your election was stolen. If we do this, it will actually help you too.

HON. P. D. SIBANDA: I did not get an opportunity to hear what exactly the Hon. Minister's attitude towards this clause is. This clause, if you check with the electoral laws of our neighbours in SADC and in sub-Saharan Africa, you will find that this actually has become a best international practice. There is nothing that is in the current Act. What

we need is a transparent procurement process and transportation of ballot papers.

I hope you saw a video that is trending, of a nurse who says has worked for 17 years as a nurse but still cannot afford to rent more than one room. That is a situation that is created by discredited and disputed electoral outcomes. When these things are being suggested, they are being suggested for the common good. It is actually a patriotic clause, so I do not see any reason why any reasonable Hon. Minister would refuse such a progressive clause. This is a clause that we need.

***HON. BITI:** The security of the ballot is important. So, who is aware or who knows where the ballot paper is being printed, how many they are, who transported them, what features they have, which polling stations have they been distributed to and which ones? So, that transparency is important. In August 1996, SADC brought about the SADC protocol on credible elections and African Union followed suit. We ratified those protocols as Zimbabwe and I know that the SADC protocol on elections, His Excellency, the President once spoke about it. Therefore, what is being proposed here by Gonese is to incorporate into our municipal laws, those principles around the transparency of the ballot paper; where has it been printed, who has carried it, what is inscribed on it, where has it been delivered to whether Dotito or Chiendambuya – all this information is not in the Act. So, this is all we are asking for. Hon. Gonese is going to talk about that Section.

In Nigeria, their papers are printed in Germany, they have three political parties in their federal system, and all those opposition leaders sent their representatives to accompany their electoral conducting body to Germany to see their papers being printed. As Zimbabwe, we can also do that, nothing can stop us. Hon. Chair, if you are going to win

an election, you will simply win and if you are going to lose, you will simply lose but it will be done in a transparent manner.

Our country has gone backward when others are developing because of our electoral systems, since 1980, we have held 14 National Elections in this country. All these elections have been disputed, flighted, violated, and a cause for division in this country. We should run our elections in a manner that the victor is congratulated by the one that loses. We should not have structures that will raise suspicion that the other party will suspect that grand theft is being conducted against them. I thank you.

HON. MUNETSI: Thank you Hon. Chair for giving me this chance to ask a question to everyone. If we want to be transparent, what then is the point of hiding anything? Why are we spending time discussing something that should be transparent?

HON. GONESE: I want to thank Hon. Munetsi for posing that question. The proposal that I have here is to add one additional section 52(b) and my point is that the current Act does not have provision for competitive tender that I am talking about.

When I look at the current formulation of 52 (a), it simply refers to the Commission ensuring that the number of ballot papers does not exceed by more than 10% the number of registered voters but it does not say where the ballot papers are going to be printed.

What we want is for the citizens of Zimbabwe, not just the political parties to know that there is an open process and it instills confidence in all the Members of the electorate so that these things are done transparently because all entities which have the capacity to print ballot papers are able, that is why it is referred as a competitive tender. They are able to compete so that the process, if it is done openly, if we come up with the best process, we can print the ballot

papers; otherwise the information which the Commission is required to provide does not answer to the question which we are trying to resolve.

So, Hon. Minister, I think you are going to understand and appreciate where we are coming from and agree to this proposal. I thank you.

***HON. MADZIMURE:** Whenever ZEC is asked about the printing of ballot papers, it has always responded that this is what the law allows us to do. ZEC always argues on the fact that we parliamentarians have failed to clarify the process of the printing of the ballot papers. So here we are giving them guidance as to how ballot papers must be procured and this is precisely what we are trying to do.

HON. ZIYAMBI: I think this clause is properly covered, however for the sake of progress, let us leave it and do others. On this one, I will have to do further consultations.

HON. GONESE: I, therefore, defer the Clause for further consultations.

Clause 20 deferred

On Clause 21:

HON. GONESE: Clause 21 talks about people who are visually impaired, if they are provided with a ballot paper which they can read themselves, they can vote on their own, those who are literate in terms of Braille – so this is the proposal. At the present moment, our ballot papers do not adequately provide for Braille which is called Tactile ballot paper. So, the proposal is simply to ensure that we also have that so that those people can also vote because they can read and write. The difference is that they do not read what we read or write because of their visual impairment.

In the alternative, I propose that this Clause be part of the Bill but it applies with effect from 2028. In the same way when you introduced

Postal Station-based voting, we can then have it inserted in 2028 like we did it on postal. I remember in 2004. – [HON. ZIYAMBI: *Yes, defer it.*] – Yes, I will defer it so that we can insert that, yes.

HON. ZIYAMBI: Hon. Hwende can you withdraw your amendment since it is similar to the one by Hon. Gonese?

HON. HWENDE: Hon. Chair, I withdraw my amendment and will support the amendment that is being proposed by Hon. Gonese.
Clause 23 deferred.

On New Clause 24:

***HON. HWENDE:** Mr. Chairman, I move the amendment standing in my name by insertion of New Clause 24 (Amendment of section 70 of Cap 2:13). The Bill is amended on page 8 by the insertion of the following new clause after new clause 23 –

24 Amendment of section 70 of Cap 2:13

Section 70 (“Custody and disposal of ballot and other papers”) of the principal Act is amended by the insertion of the following sub-section after sub-section (7a) —

“(7a) The Electoral Court may—

- order the opening of ballot boxes and the examination of electoral material if it is necessary to do so for the purpose of re-counting votes or investigating or prosecuting a criminal offence;
- prohibit the destruction of electoral papers if they are needed to investigate or prosecute an offence.”.

And subsequent clauses renumbered accordingly.

Let us revert to best practices. I think we have all witnessed elections that were conducted in Kenya to say they will be having a separate

tallying center where results will be posted electronically – that is what we are proposing. We are proposing to amend Section 64.

These results should be in real time and people will be able to follow. We trying to avoid the problems encountered in the previous elections were people waited for results but instead there were serious disturbances. Just like the Kenya model, 75% of the results are sent through to the tallying center in a manner that they do not announce all the results. They will just stop at 75% and ZEC will complete the announcement of all the results – that way, we would have enhanced the system in terms of announcing results.

The problem we have Hon. Minister is that people do not have confidence with our results and the manner we conduct elections. We are doing a useless ritual, it is not helping anyone. Even if we conduct elections today and the results favour you, we will go through the same cycle. We are suggesting in good faith to say, let us look at that. Thank you.

HON. ZIYAMBI: We do not need this - I will explain why. Hon. Chair, our system of collating results is very good. If political parties want to be very honest – even without this, they can do it. So we do not want to introduce problems currently by introducing new technologies unexpectedly.

Our system as it is, if political parties want to do it – they can. At the polling station, results are counted, displayed, you can have your own Command Center and collate the results easily but you cannot announce. – [AN HON. MEMBER: *And announce them!*] - You will put my colleague in trouble again. I am saying, the confidence that you need, you already have the tools to do it. We will waste our time arguing on this.

Let them do what they did in Kenya. Look at what they did? They ended up going to court with some disowning but they had the system that we are saying is very good. I am submitting that you can even collate the data that you want and submit it to court if you do it correctly. The way our system is, is very good. Let us leave it as it is.

HON. MOLOKELA-TSIYE: Hon. Minister, the purpose of the proposed amendment is very clear. The purpose of the amendment is for us as Zimbabwe, and as a country to move away from the historical challenge where our elections hit the international headlines of disputed election results. We want election results that bring pride to Africa. We want... - [HON. ZIYAMBI: *No!*] – I am still speaking Hon. Chair... - [HON. ZIYAMBI: *Mr. Chair, let me interject.*] –

HON. ZIYAMBI: Hon. Chair, what he is saying is that the disputing of results was not because we did not have electronic platform – [HON. MOLOKELA-TSIYE: *Can I finish my points? I have not finished my points!*] – I think we will waste our time on other business... – [HON. MOLOKELA-TSIYE: *Can I finish my points Hon. Chair because I am debating. He is also debating on my point now*] – No, no, no... - [*MOLOKELA-TSIYE: *: Handisati ndatauraka point yangu!*] – Do not try to inflame and put falsehoods where there are no false... - [HON. MOLOKELA-TSIYE: *Okay, I withdraw that point...*] – Your party was given an opportunity to go to court ... - [MOLOKELA-TSIYE: *Do not bully me Hon. Minister because I have not said my point! Handisati ndataura point yangu!*] – You cannot continue doing that! – [MOLOKELA-TSIYE: *I was introducing my point and I am not being protected by the Hon. Chair according to rules! You are harassing me Hon. Minister! Handisati ndataura point yangu!*] – You do not want to be harassed when you harass us ... - [MOLOKELA-TSIYE: *No, no, no, you are out of order Hon.*

Minister. You are supposed to also listen to others, we are together ka! You are not the Chair of this session! Can I finish my point?] – You cannot refer to issues that are ... – [MOLOKELA-TSIYE: *I wanted to finish my point and you disturbed me, handisati ndataura point yangu. What is wrong with that? I need to be protected!*] –

THE TEMPORARY CHAIRPERSON (HON. KHUMALO): Hon. Molokele, finish, you are protected.

MOLOKELA-TSIYE: Hon. Chair, we want an election result that is not going to be disputed. We want an election that is going to bring peace and stability to our country. So, accountability and transparency should be a guiding principle. Tallying results is not just being done in Kenya, it is actually being done in all the neighbouring countries. If you go to South Africa, there is a centre that is there from the Independent Electoral Commission where all political parties assemble and all media houses, ETV, SABC – they are there.

What it does, compared to Zimbabwe is that as the election results are coming in, it allows the people of the country, across the country to know that these are the actual results, just like in sports. When soccer is being played, they put the results that Arsenal is one and Manchester has zero and the time is this.

Noone is challenging the results because they see that is being done. I think what the Hon. Minister is missing is that where we are today, we do not have a way, if each political party is allowed to come up with its own. Then what will happen is ZANU PF will come up with its own set of results, CCC with its own set of results and that will not cause unity or stability but will cause more confusion. What the Hon. Minister is recommending is actually the opposite of stability. Hon. Minister, I think you should reconsider your position because we want a credible process that is centralised. I thank you.

HON. ZIYAMBI: Hon. Chair, the South African example is totally out because our electoral systems are different. We cannot use the South African system. The South African system is different. Secondly, I am putting it to you that if all our political parties put their houses in order, this system does not result in any dispute at all. The problem that happens is, we do not put our houses in order and we want to introduce a technology that will even make things worse for ourselves. I am putting it to you that the reason why even the election petitions are failing is because you do not have sufficient data. You do not have people out there and you want to introduce a system that is not – it is alien and it will not even help. It is actually extremely easy to hack this system and change results.

Somebody who is transmitting results from the polling station can change where it is written 100 to 1000 and we will have worse problems and issues of credibility than the current system. The current system is extremely traceable. Results are signed for at the polling station. They are transmitted. This amendment, it is a complete no.

HON. P. D. SIBANDA: Thank you Hon. Chair. I am actually surprised why my brother, the Hon. Minister is fuming. I wonder if this had been the attitude of everyone towards development, would we develop to reach certain levels? I am actually surprised that a Member of Parliament is busy saying, do we have the necessary technology as if it is the duty of a Member of Parliament to implement that. The duty of a Member of Parliament is to legislate. The business of implementing the legislation lies with ZEC. I know that the Hon. Minister is saying that political parties should be organised. He forgets that in terms of the Constitution, the duty to run elections transparently and efficiently lies with ZEC and not with political parties.

Let us not be afraid of new changes. Let us not be afraid of new developments. Everyone else has implemented this. Hon. Minister, besides becoming emotional has not given us any reason why that system cannot be implemented. As my colleague indicated, this transmission of electronic results will ensure transparency. It will make sure there is confidence in the system because everyone will be seeing results flowing at the same time. Unless the Hon. Minister is telling us that rigging takes place through the transmission of results, then we have got no other reason why this august House cannot pass that amendment to that clause. I am of the opinion that this clause is noble. This clause is good for this nation and this clause will ensure that we reduce the disputes that we have about electoral outcomes. Therefore, I am of the view that this clause should be considered and this clause be part and parcel of the Electoral Amendment Bill. I thank you.

HON. R. R. NYATHI: Hon. Chair, I just want to read a statement here. It says “the presiding officer shall personally transmit the polling station returns electronically directly to the national tallying centre, which shall post the returns on a public portal. Where I am worried about, is the word ‘shall personally transmit’ -[HON. MEMBERS: *Inaudible interjections.*] –

THE TEMPORARY CHAIRPERSON: Hon. Sibanda, order, order! Hon. Hwende, you are making noise.

HON. R. R. NYATHI: My argument on this one was the fact that when we mention that the presiding officer shall personally transmit, ‘personally’ what it means is - this word by itself means that one is capable to transmit that which is not right because you are doing it personally.

We must also consider where we are now in terms of technology. You cannot expect somebody who is in Binga, soon after the elections to transmit straight to Harare when you do not have the network. At the end of the elections everyone will be complaining about this saying at such and such a ward we got 200 and why is it that there, there is

2 000. This will create a lot of disputes. I pray that if this is a problem, let us park it or leave it completely.

HON. ZIYAMBI: Hon. Chair, I want to read this. We can cause danger. We can cause more problems with this than anything. It says “the presiding shall personally transmit the polling station returns electronically, directly to the national tallying centre, which shall post the returns on a public portal” If anything happens and there is a mispost, there would be an outcry when you try to correct it. Why do you want to publish those results when they have not been confirmed? So you are sending on a public portal – it is extremely dangerous.

Hon. Members having tried to stop Hon. Mudarikwa from debating

HON. MUDARIKWA: I am not going to sit down, I was given the authority to speak – [*HON. MEMBERS: Inaudible interjections.*] –

THE TEMPORARY CHAIRPERSON: Order, Hon. Members.

HON. MUDARIKWA: A good example is what happened in Chegutu, where the presiding officer sent a message and declared that this one is duly elected, alone. You cannot hand over this election to one officer. It is saying presiding officer personally, it happened in Chegutu. You are complaining about Chegutu because of one person.

Clause 23 put and agreed to.

On Clause 24:

HON. HWENDE: Hon. Chair, I would like to withdraw the amendments that I had moved in my name on Clause 24.

Clause 24 put and agreed to.

On Clause 25:

HON. MUSHORIWA: Hon. Chair, I wish to withdraw amendments to Clauses 25, 26 and 27.

Clauses 25 to 27 put and agreed to.

On Clause 28:

HON. HWENDE: Hon. Chair, I want to withdraw amendments to Clause 28 in anticipation of favourable results on the next one, on voting rights. I am sure the Hon. Minister will be more generous.

HON. GONESE: On Clause 28, I am going to withdraw but not the whole of it. Clause 28 is a very long clause. I propose to withdraw 28 except for 81 (h). So, the rest is withdrawn relating to special voting. So, 81 (h) is procedure of voting for citizens outside Zimbabwe. That one is a very critical one. That is the one that is not being withdrawn.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Which one is it?

HON. GONESE: ‘The Commission shall establish voting facilities in such countries hosting a significant number of Zimbabweans who shall cast their votes for Presidential candidates only.’

As you know in the American war of independence, they said no taxation without representation. We know that most of our citizens in this country are being supported by people in the diaspora and these people do not have any voting rights whatsoever. When we look at it, Section 67 gives the right; I know that the Hon. Minister is aware of

the provisions of Section 67 but for the benefit of all Hon. Members, I just want to read it so that we all know about the rights which are enshrined in the Constitution in terms of political rights.

It actually stipulates that every citizen, and I want to underline the word every citizen has the right to free and fair and regular elections and to make political choices freely and also to vote and be voted for. So, this is a right which is bestowed on all Zimbabwean citizens without exception and it does not talk of only those citizens who are in the country.

When we look at the schedule, some people have mistakenly used the argument that the schedule to the Constitution precludes people in the diaspora from voting and I want to go to it and say that it does not actually say so. In any event, the provisions in section 67 would actually take precedence and I think it is imperative to afford the Zimbabwean citizens who are living abroad with the right to vote as enshrined in that section.

In terms of the current Act, those who are at Zimbabwean embassies who are working, if you look at the current Act, it actually allows those who are outside on Government business to vote and I believe there should be no discrimination. If people who are at Zimbabwean embassies who reside outside the country are afforded the opportunity to vote, it should then be extended. It is not open ended; it is talking of those countries where there is a significant number of Zimbabweans. So, I am not necessarily talking of the Philippines or of Indonesia or some other country. This is where if it is interpreted then it would be up to the Commission to determine which countries and I have in mind countries like the United Kingdom, South Africa and Botswana. Those are the countries which have got a significant number

of Zimbabweans. So that is my proposal that these people should not be deprived of the opportunity to vote for their President.

It also has to deal with the issue of our voting being polling station based so that it does not affect the election of councillors or Members of Parliament but in relation to Presidential vote, they should be allowed so that wherever they are it is taken as one constituency. Those would be my submissions Mr. Chair.

HON. BITI: Just to clarify that Hon. Gonese has withdrawn the other sections except 81(h)

***HON. CHINOTIMBA:** Mr. Chairman, the voting system in Zimbabwe has its regulations. Firstly, voting is polling station based. Secondly, information such as their village head should be known. Their residential address must be known in Zimbabwe; in Zimbabwe I reiterate. If the person leaves and workers in embassies or employees that are on Government duty looking after the country or representing Zimbabwe as a country are different from a person who leaves this country, goes to America and they are free to say whatever they want to say about the country, we were placed under sanctions. A few years ago we had people that were calling on sanctions to be imposed on the country. I thank you Mr. President.

HON. HAMAUSWA: On a point of order, I want to withdraw my point of order.

***HON. CHINOTIMBA:** I am saying ZEC is clear that no one is prohibited to vote. They should come here to vote in their wards. There are difficulties in the country but that should not stop them from coming to vote here in Zimbabwe. They should come here. Thank you.

***HON. CHIDAKWA:** Thank you Chairman. Hon. Gonese made it clear that every Zimbabwean citizen has the right to vote when he or she reaches the age of 18. Secondly, many people in the diaspora

do not have proper documents like passports and a few are not known where they live in the diaspora. Whoever goes to the diaspora and has a passport is recorded at the airport whether coming into the country or going out of the country. The diasporas pay taxes in this country and if they are doing so, they have a right to be in the country to vote.

Most Zimbabweans in the diaspora deserve equal treatment as if they are in Zimbabwe. So, for these people not to vote, then we defeat the purpose of our Constitution which says every Zimbabwean has the right to vote. Our Constitution is very clear that when a person wants to vote for a councillor or an MP, he or she should be a resident in that area where the MP or councillor lives. If they want to vote for the President, they should also be in the country, which means the President of this country should be voted for by every Zimbabwean in the country.

A person in the diaspora should have that right to vote for the President because they are Zimbabweans and because he or she is not voting for an MP or councillor. I see no reason why a person in the diaspora should not vote. They should all vote and by so doing, we will have followed our Constitution which says every Zimbabwean who is 18 years and above is eligible to vote. Thank you.

HON. CHIBAYA: Thank you very much Hon. Chairman. I think we have heard Hon. Gonese and he was very clear that the Constitution of Zimbabwe allows every Zimbabwean citizen the right to vote. A right is not a privilege, whether that citizen is in Botswana or South Africa, the fact that he is a Zimbabwean citizen, he or she must be given the opportunity to exercise his or her right. It is the responsibility of us here as legislators to make sure that we put mechanisms or we make laws that allow our Zimbabwean citizens in

the diaspora the opportunity to vote and that opportunity cannot be taken away from them because it is their right.

I am sure that all of us here as legislators, we are here to make laws and we want every Zimbabwean, even your brother in America Hon. Ziyambi, he must vote because he is a Zimbabwean citizen. The issue is that every citizen of Zimbabwe has a right to vote. I am sure we must take this matter seriously. Right now as we speak, all our parents including all of us as MPs and the country, we are receiving money from citizens in the diaspora every month, if not every day. We want their money but we do not want them to vote. My issue is very clear that citizens of Zimbabwe locally and internationally must be given the opportunity to vote because it is their democratic right. Thank you.

***HON. R. R. NYATHI:** Thank you Hon. Chair. Section 67 says every Zimbabwean has got the right to vote. I have a problem on the administration who should decide how these people should vote. I mean the management part of it. There is a thinking that people go and vote at their embassies. I think if we do it that way, it brings an outcry because if a ruling party has embassies, it sends its people there. So, those in the diaspora, if they vote positively with the ruling party, there will be an outcry. If we are talking about votes, there must be transparency and after voting, there should not be any disputes.

Even a person who is already in Zimbabwe has the right to vote but if you are living in Chiendambuya and your relative in Binga dies on a voting day, if you do not go at your polling station within your own ward, you will not be able to vote even if you have the right to vote. We are simply saying you will not vote when you are not on your polling centre. That being the case, I submit that at the present moment

and our situation, we cannot be in a position to not administer votes, which are coming from external at this point in time.

Let us just say a person who is in Zimbabwe should vote in Zimbabwe and those who registered to vote in Zimbabwe, on a voting day should be in Zimbabwe and exercise their right. I thank you.

***HON. TEKESHE:** Diaspora vote was talked about by both the President and the Speaker. Why are these Hon. Members afraid of speaking about it? Mozambique, Malawi and other small countries are doing it but we think we are not capable of doing that. As SADC countries, we agreed that we should do the same in terms of elections. What are we afraid of? Let the people exercise their right to vote. If it is expensive, we can go to ‘Go Fund, Diaspora Vote’ and then the diaspora funds us so that the process is carried out

***HON. CHIDZIVA:** Diaspora vote is important because all of us here have relatives in the diaspora and they have the right to vote. They would like to participate in building their country. If we agree on a polling station there, our people will vote for the President. Other countries engage in diaspora voting here in Zimbabwe. How and where do they do it? We should allow eligible voters to vote in the diaspora.

HON. C. MOYO: I think what is very important is the number of millions who are outside the country. We cannot exclude millions of people that are outside the country – we cannot suppress that right to vote. I want us to concentrate on the millions who are outside the country and surely, the administrative issues will then come after, like the issue of polling stations – what is important is the number of people outside who must participate democratically in our country’s process. Let us consider the number of people who must partake

especially on the Presidential candidate rather than on the Councillor and MP.

THE TEMPORARY CHAIRPERSON: It looks like you are all repeating.

HON. HWENDE: I think we must understand and appreciate the role of Parliament. We have a constitutional duty to ensure that the Constitution of Zimbabwe is protected. The Constitution of Zimbabwe is clear on who is entitled to vote. The people that are in the diaspora are Zimbabweans and they are entitled to vote. For us to sit here in this Parliament at 2222 hours arguing to limit the rights of Zimbabweans is pathetic.

We should not play to the gallery and always say that we are affected by sanctions is not good. We cannot regulate ourselves and make laws that ensure that we have uncontested elections. Even if the Hon. Ziyambi comes back to Parliament through a contested election – it is not good. People are not getting enough salaries because of disputed elections. You are denying people to do a simple thing – just going to watch the printing of ballot papers. Parliament must do their duty and protect the Constitution and ensure that the people in the diaspora are permitted to vote.

ZEC is on record that they are prepared to allow people in the diaspora to vote. We attend ZEC meetings as interested parties. Their position is very clear - we should make laws so that diasporians can vote. If this amendment is not passed, it is because of people like Hon. Chinotimba who are making noise. That is why you lost in the primary elections.

HON. MATARANYIKA: I think my brothers and sisters from my other mother have this wrong notion to think that the diaspora belongs to them.

The other wrong notion is that they misinterpret the Constitution which allows every Zimbabwean to vote without stating from where. For example, how do I reach out to diasporans to vote for me or my party? They want me to go to England to go and talk to them in England. They need to explain that. I shall not – [HON. MEMBERS: *Inaudible interjections.*] – I shall not go to England. I do not like the cold weather in England...

THE TEMPORARY CHAIRPERSON: Hon. Members, I gave you an opportunity to talk, now you do not want to listen to others. I will chase you out. Please, allow him to proceed.

HON. MATARANYIKA: Thank you Mr. Chairman. Until and unless they tell us the mechanism on how we can have a level playing field in terms of our reach to the diasporans, some of us are on sanctions – [HON. MEMBERS: *Inaudible interjections.*] – I do not even know how he knows that I am not on sanctions list but I am on sanctions. The bottom line is that I do not want to go to England or America to talk to my people. They are allowed to vote as long as they are prepared to come and register and come and vote here in Zimbabwe.

As far as I am concerned, my interpretation of the Constitution is yes, they are allowed. They are free to come and vote but the question is where? The Constitution is silent on that issue. So please, let us make it clear and let us rest this case once and for all that no-one is being disallowed to vote. Anyone who wants to vote, as long as you qualify and meet the criteria as stated in the Constitution, you have to be a Zimbabwean and you have to be registered.

In terms of where they can vote, there is a gap. Those people who are in the diaspora, I know a lot of them who come every time we have an election and they cast their vote in Zimbabwe. Why can they not come and cast their votes in Zimbabwe? Mr. Chairman, let us put this

point to rest once and for all unless they can come up with a plausible mechanism of making this a reality to everyone. It does not matter whether it is admissible but the bottom part is that we are faced with a challenge and they have to explain how I can reach out to the diasporans considering that I am on sanctions. I am not allowed to go to the cold Britain or the America. They should explain to us how we can reach those diasporans. I thank you Mr. Chairman.

THE TEMPORARY CHAIRPERSON: I am not going to call upon those who were making noise. If you make noise, I am not going to call you.

HON. BITI: Thank you Mr. Chairman. The war of liberation was fought primarily on two principal grounds. The issue of land and the land question to black people in this country and the second issue of one man, one woman, one vote. That cardinal right of decolonization of one man, one vote was not restricted to where the comrade was, to where the gorilla was. After all, the struggle for liberation itself was globalised. There were comrades in Botswana, Mozambique, Tanzania, Kenya. Our struggle for liberation was funded by the entire international community, the West, in countries like the NORDIC Sweden funded the liberation struggle in this country. If the struggle was democratized, if the struggle was fought from outside, it is a negation on the liberation struggle that those who purport to come from a party that carries the liberation flag are fighting against the right of black Zimbabweans to vote.

Mr. Chairman, this country receives over USD 1.5 billion in the form of diapora remittances. In fact, as a matter of fact, diaspora remittances are more than the foreign direct investment that this country receives of around \$200 million. Diaspora remittances are more than the USD500 million we receive in the form of overseas

development assistance. Therefore, again, it is a challenge that we are accepting remittances from the diaspora community but we are not allowing them to vote.

The Magna Carter was founded on the principle that there is no taxation without representation. We are taxing these people but we are denying them representation. Section 67 of the Constitution is very clear Mr. Chairman, it says every citizen has a right to vote, a right to participate in politics. There is no restriction on the *domicilium citandi*. The point we are making Mr. Chairman is, diaspora remittance is a grey tax. Our relatives are paying our school fees because we cannot pay. The economy has collapsed, so it is a gray tax.

Mr. Chairman, we have said let us restrict the voting to the Presidential election. Is it not embarrassing that Mozambicans vote for their President here in Herbert Chitepo? South Africans vote here in Second Street. Botswana residents vote here in Highlands. Namibians vote, Tanzanians vote, Zambians vote, Malawians vote, Kenyans vote, people from the Democratic Republic of Congo vote in this country. I am appealing to my esteemed brother, Minister of Justice, I know you have relatives in Australia, America and South Africa. Minister of Justice, I know you support the provisions in the Constitution that gives rights to dual citizenship. Let your grandfather, your grandchild who is in Australia have the right to vote. I thank you very much Mr. Chairman.

***HON. MADZIMURE:** Mr. Chairman, the issue here is very simple. As Hon. Biti has said, in SADC, only Zimbabwe does not allow its citizens who are outside Zimbabwe to vote. It means that Zimbabwe hates its citizens who are outside. Recently, Zimbabwe has posted teachers in Rwanda who also want to vote but they do not have a place to vote. The cost of voting is not on the person who wants to vote. The

cost of voting is on the Government. That is the responsibility of the Government. As Parliament, we must create an enabling environment that allows people to vote. Therefore, our budget must have a component of those voting from the diaspora. Zimbabwe has teachers that are teaching in Rwanda who also want to vote. There is nowhere where they can vote and the cost of voting should not be borne by the person who wants to vote but by the Government.

As Parliament, we should create a conducive environment that enables them to vote. Our budget should have that component for the diaspora vote. This country is being carried by people in the diaspora. Our old people are living as a result of diaspora remittances. There is no-one who is employed by the Government who can be surviving on what they are being paid by the Government.

As Hon. Members of Parliament, we are able to live because of our children in the diaspora, so we will be acting in bad faith if the Government should disenfranchise the diaspora vote. It shows that the Government is afraid of the people, so what type of a Government is this that knows that we have millions in South Africa who should participate in the governance process of their country? I see no reason or difficulty with regards the diaspora vote. Why Zimbabwe alone?

Every time we go to the international forum, such things are discussed and Zimbabwe wants to be part of an international community but on the other hand, it is disenfranchising the diaspora vote. The Government is afraid that the diaspora voters will not vote for them as the ruling party then they should do things that will endear her to the diaspora vote. This vote is very clear and everyone should be given their right to vote and should exercise it.

***HON. HAMAUSWA:** Mr. Chair, I am sorry about the emotions that were raised, I got emotional because I once lived in the diaspora.

My understanding Hon. Chair, from the time when we had the GNU also called the Inclusive Government, there came from the President's office the Diaspora Policy which I believe the current Government is improving. In regard to this policy, we are all accepting the money that they are contributing and economic opportunities that we are affording so that they can help the development of this country.

If we do not allow them to participate in these elections, it would mean that we have limited the other opportunity to development. It does not only mean that development should be in the form of funds. They should be given a chance to participate in this country's democracy and by so doing, they can bring in the experience that they are gaining in that particular country when we want them to participate. These are programmes that are being put in place for those that are in the diaspora so that they can contribute towards the development of Zimbabwe and that they can continue looking after the economy of Zimbabwe.

In conclusion Mr. Chair, there was once mention of the fact that there are some people who fail to go and campaign in those particular countries. The Minister of Justice once said that you are failing to post results because we do not have adequate agents. We are not helping political parties to go and campaign but we are putting in place laws that enable all Zimbabweans to vote as enshrined in the Constitution. We should not be in this august House to come up with a law that a Minister can then fail to use their own means to go and campaign in the diaspora.

Lastly, give them the chance to vote in the Presidential election because they require to come down here to vote in terms of the ward-based polling. Presidential elections are for the entire country and are not confined to a particular ward, so they can vote for their preferred

presidential candidate. It is my clarion call to allow this House to consider seriously the issue of presidential vote.

***HON. MURAI:** I did not think that we would spend a long time on the diaspora vote because the SADC Protocol which we are a signatory to allows the diaspora vote. All the neighbouring countries in SADC allow the diaspora vote. The Minister may not dispute this because he knows that we are a signatory to the SADC Diaspora Protocol. Article 8 talks about the diaspora vote, so as a country we should consider the number of people that we have outside the country who should participate in Zimbabwe's election because they have a good number out there.

We have incorporated them in the Diaspora Policy when we receive their remittances and we require everything that they are contributing towards the development of Zimbabwe, so we should open up the voting system to them. Thank you.

+HON. MOLOKELA-TSIYE: What I would want to express is that there are some people from where I come from in Matebeleland –
Hon. Madzimore having been drinking some fluid

THE TEMPORARY CHAIRPERSON: Hon. Madzimore, I saw you drinking something – [HON. MADZIMURE: *Yes Mr. Chairman.*] – Please take it out.

+HON. MOLOKELA-TSIYE: My emphasis was on us who are coming from Matebeleland South, it is known that most of our relatives and friends, especially those who are assisting us with our day-to-day living regardless of where we are coming from, I will give an example of someone who lives in Tsholotsho or Lupane, Gwanda, or any part of Matabeleland North or South. Most of the people who come from that area, we should take note that most of their children are in the diaspora, especially in South Africa.

This is real Mr. Speaker Sir. We cannot continue hiding behind the issue of sanctions. It is high time we allow those who are in the diaspora to vote. Let us have diaspora votes coming in. Let us allow people who are in South Africa, Zambia, and Botswana to come vote. People from Matabeleland South and Matabeleland North depend on people who are living around those neighboring countries I have just mentioned, so it is against this background Mr. Speaker, that we should allow those who are in the diaspora to vote. Most of them travel all the way from South Africa to come and feed their children or their families. Therefore, my question is what is so difficult about us allowing them to vote? We should allow diaspora vote today, let us have the diaspora vote this year as we do our harmonized elections. Thank you, Mr. Speaker Sir.

HON. MARKHAM: Hon. Chair, there is no way that we can have an election leaving out a million people who contribute close to 1,9 billion USD. Hon. Chairman, you would think that those who rigged in an election would know to keep quiet when it is time to keep quiet like Hon. Chinotimba.

You cannot leave an election and say that the election is free and fair when you leave out 1 million of the population who contribute 1,9 billion dollars to this economy. I would like to remind this House particularly those that make a lot of noise; we are currently engaging the West to try and reopen channels to restructure our debt. The first pillar of our debt is good governance and good governance is the elections and we are now trying to stop one million from voting.

HON. ZIYAMBI: Thank you Hon. Chair. I would like to thank you for indulging everyone, this is a subject that we have debated many times and it has always been like this. So, because we are not finishing

these amendments today, we can always debate it, let us defer it, and move on.

Clause 28 deferred.

On New Clause 29:

HON. GONESE: I am going to withdraw the proposed Clause 29.

New Clause 29 withdrawn.

On New Clause 30:

THE MINISTER OF JUSTICE, LEGAL, AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): The proposed Clause 30 is withdrawn.

On New Clause 31:

HON. GONESE: Deferred.

New Clause 31 deferred.

On New Clause 32:

HON. MUSHORIWA: I move the amendment standing in my name by that the Bill is amended on page 8 after new clause 31 by the insertion of the following—

32 Insertion of new sections in Cap. 2:13

“The principal Act is amended by the insertion after section 134 of the following section—

135 Abuse of public resources

“(1) In this section—

“public officer” means a person holding or acting in a paid office in the service of the State;

“public resources” has the meaning given to it in the Public Finance Management Act [*Chapter 22:19*].

(2) Any candidate for election who, being a public officer, directly or indirectly, by himself or herself or by another person, uses or expends

public resources for the purposes of the election in contravention of the Public Finance Management Act [*Chapter 22:19*] shall be guilty of the offense of abuse of public resources and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”.

And the subsequent clauses shall accordingly be renumbered.

I think Hon. Minister you should hear this one. I believe it is a very important Clause and we need to make sure that we do not have public officials abusing public resources during the election period.

It is also important especially as we move towards accountability and transparency. If you check in all other countries, they are moving along that way. It is only fair that we should separate State functions and political functions – [HON. ZIYAMBI: *Haiti.*] – but why are you saying *kuti haiite* Hon. Minister? I think it is very correct because why should we have an unfair advantage over others?

HON. ZIYAMBI: You cannot unclothe a President and say just because it is campaign time that everything that he does in terms of campaigning, he must do it personally.

It is the standard practice that all the incumbents, there are certain things that will be conflated, it happens anywhere in the world. You cannot unclothe anybody because you are approaching an election. You will notice that even when an election is done in other countries, the incumbent President may continue for two to three months. So, this Clause will send a lot of people to prison, it is a dangerous clause.

HON. GONESE: It is not a naked provision, it says ‘when in contravention’.

HON. ZIYAMBI: No, it is a dangerous clause indirectly or directly by himself or another person uses ...

HON. GONESE: *Zvanzi* in contravention of the Public Finance Management Act *saka* if it is in contravention of the Public Finance Management Act, so, there is a caveat Hon. Minister, it is not like a naked provision. It says, ‘if it is only’...

HON. ZIYAMBI: Does the Public Finance Management Act speak about anything to do with campaigning?

HON. GONESE: No, no, no, we are saying use of public resources in contravention with that – that is the only one that attracts censure. – [*HON. ZIYAMBI: *Mmmm yakashata iyi!*] -

HON. MADZIMURE: Actually Hon. Minister, our law does not allow a Public Officer to do the campaigning – it does not allow that; to use Government resources for the purposes of campaigning, it does not allow it. The Act does not allow a public official to campaign using the resources that are allocated to that individual. So, I think that is very noble and reasonable where we are trying to safeguard the property of Government from any abuse.

HON. ZIYAMBI: Hon. Chair, what Hon. Gonese was trying to say is, the only reference to the Public Finance Management Act pertains to the resources. Otherwise, this clause is not good for anyone. Hon. Chair, this is one of the clauses the same as the one that we did, the Mudede clause. It may appear good today but believe you me, history will repeat itself, that we will sit in this august House and say, this thing is not good. – [*HON. R. NYATHI: *We will fire you once you use your wife’s official car.*] – Why I am saying so?

We had a Government of National Unity (GNU) at some point. Those who were in the GNU, continued behaving the way they were behaving before elections until after elections when they left office. So, you cannot do this, it will render Government dysfunctional. I think this is dangerous, it will incapacitate the work of

Government. So, Hon. Chair, I propose that we remove this clause and move to the next one.

Amendment to Clause put and negatived.

On New Clause 33:

HON. GONESE: I move the amendment standing in my name that the Bill is amended on page 8 by the insertion of the following new clause after new clause 32—

33 Amendment of section 160G of Cap 2:13

Section 160 G (“Access to public broadcasting media”) of the principal Act is amended in subsection (2)—

- by the insertion of the following paragraphs—

“(f) a code of conduct to govern media practitioners’ conduct during elections and the penalties for contravening the code.

(g) that appropriate measures, as may be prescribed, are provided for to prevent any form of abuse or curtailment of the right of access to the broadcasting services.”.

- by the insertion of the following subsection after subsection (3)—

“(3) The media shall, as far as practicable, provide information in officially recognised languages or endeavour to translate.”.

And the subsequent clauses shall accordingly be renumbered.

I think this is a very good endeavour Hon. Minister. – [HON. MEMBERS: *Iyi yakanaka iyi! Iyi yakanaka iyi!*] -

HON. ZIYAMBI: Why are you worried? These days Hon. Chair, I do not know why we continuously get fixated that public media must do one, two, three. Do you know why I am saying so? This was an appropriate clause 10 to 15 years ago but currently; I do not think that anyone needs public media ... - [*AN HON. MEMBER: *Aaaa*

inodiwa!] – Let me explain, ZBC nowadays because of social media, even ZBC needs to reform ... - [*HON. HWENDE: *Chitiburitsaiwoka paZBC pacho!*] – I am saying that we are simply flogging something that we were saying 20 years ago.

Currently, if you notice, the way we campaigned even in 2013, we did not have widespread use of social media like WhatsApp in 2013 but if you look at how we are now campaigning, it is totally different. So, the prejudice about State media, I do not know, let us park it. I will consult those people to see what - [HON. MEMBERS: *Inaudible interjections.*] –

THE TEMPORARY SPEAKER: Can we defer it properly.

HON. GONESE: I move the deferment of that particular provision.

Clause 33 deferred.

On Clause 34:

HON. MUSHORIWA: I move the amendments in my name that the principal Act is amended in section 166 (“Interpretation in Part XXIII”) by the repeal of the section and substitution of— 166 Interpretation in Part XXIII “In this Part— “constituency”, in relation to an election of a councillor, means the ward in which the election took place; “respondent”, subject to section 169(3), means the President, Member of Parliament or councillor whose election or qualification for holding office is complained of in an election petition.”. And the subsequent clauses shall accordingly be renumbered.

HON. ZIYAMBI: What do you mean, to say petition in relation to a councillor?

HON. MUSHORIWA: Yes, because it is not stated. We just want to make sure that it is stated because a councillor, you refer to a particular ward. So that is what we were just bringing into the Act.

HON. ZIYAMBI: Why would you want to refer on the definition section, say a constituency in relation to a councillor is it a ward?

HON. MUSHORIWA: You will realise that the definition of a ward is necessary.

HON. ZIYAMBI: What is wrong with the definition that is there? Because, respondent, meaning the President, the Member of Parliament or councillor whose election or qualification for holding office is complained of in an election petition, what is wrong with that?

HON. MUSHORIWA: The issue is pertaining to the – because generally we have actually noted this Act, tends to omit the complaints per ward.

HON. ZIYAMBI: The moment you make reference to a councillor, you have referred to a ward. You cannot then say constituency in relation to an election of a councillor means a ward. What are you trying to say? You are confusing things even worse. The way it is – the way it is, it wants to qualify who is a respondent in an election petition. Respondent is either the President, Member of Parliament or councillor. *Saka kuti uzoisa definition yeconstituency kuward, ko kune President waregerei kuzoti constituency.* It is already covered. It is not ZEC but *munhu akahwina*, who is the President, MP or councillor.

HON. MUSHORIWA: Its alright. We can withdraw those amendments.

Amendments to Clause 34, by Hon. Mushoriwa withdrawn.

On Clause 35:

HON. MUSHORIWA: I move the amendments in my name that “The principal Act is amended in section 169 (“Notice of election petition to be served on respondent”) by the repeal of the section and

substitution of— 169 Service of election petition “(1) Within ten days after presentation of an election petition, the petitioner shall cause a copy of the petition, together with notice of its presentation and of the names and addresses of the proposed sureties, to be served on the respondent. (2) Where an election petition complains of an act or omission on the part of the Commission or any employee or agent of the Commission or any public officer, the petitioner shall cause the petition and other documents referred to in subsection (1) to be served also on— (a) the Commission; and (b) the employee, agent or public officer, if his or her identity is known and it is practicable to effect service on him or her. (3) Where an election petition and other documents have been served on a person referred to in subsection (2), that person shall have the same rights and responsibilities in regard to the petition as the respondent.”. And the subsequent clauses shall accordingly be renumbered.

This one is just cleaning up the question of our petitions on disputes. I think the *proviso* that we have actually put there is meant to tide things up.

HON. ZIYAMBI: So, you are just changing. The first one you recouched it. –[*HON. BITI: You want to run away from the 10 days and so forth*] – *inotauravo 10 days futi iyoyi.*

HON. MUSHORIWA: It does not have.

HON. ZIYAMBI: *Haina?*

HON. MUSHORIWA: The couching Hon. Minister makes it actually easier to follow. - [HON. MEMBERS: *Consulting each other*]

—

HON. ZIYAMBI: *Ndozvandati ingori* recouching. Do you know what it now says, the petition *ava kuti* where a petition – the first one is okay, the second one *arikuti* where the complaint of an Act or

omission on the part of a commission. This one, Hon. Chair, it is okay we can take it.

Amendment to Clause 35 put and agreed to.

Clause 35, as amended, put and agreed to.

On Clause 36:

HON. MUSHORIWA: I put the amendment standing in my name that the Bill is amended on page 8 by the insertion of the following new clause after new clause 35 -

‘The principal Act is amended in section 171(‘Provisions as to trial of election petition’’) by the insertion of the following sub-sections after sub-section (2) -

(3) Any question of fact to be determined on the trial of an election petition shall be decided on a balance of probabilities.

(4) At the trial of an election petition the Electoral Court shall endeavour to determine the real issues raised by the petition and, while observing the rules of natural justice, shall not be unreasonably restricted by procedural technicalities.’ And the subsequent sections shall accordingly be renumbered.

This one Chairman, I think it is actually very important and progressive. We need matters to be decided on merit rather than to then have technicalities.

HON. GONESE: I want to support the amendment proposed by Hon. Mushoriwa and I think, Hon. Minister, I know that his heart is in the right place. He will appreciate the importance of this particular provision. What we appealing to the Hon. Minister is that a case should

be reviewed as it is. Laws should help those who go to court. You see the provision talks of the observance of the rules of natural justice.

What the amendment is doing Minister is that the court which is trying an election petition is going to deal with the merits, the substance and not get bogged down with unnecessary technicalities. Simple and straight forward and I do not see anything bad about that Minister.

HON. BITI: Civil matters, Mr. Chairman, are determined on a balance of probability so an election petition is a civil matter to be determined on a balance of probabilities and the courts are trained to look at the evidence, but case law now, particularly under the present court, has elevated the test to prove beyond reasonable doubt, but proof beyond reasonable doubt cannot happen. Only the prosecution in a criminal case can do that. So let us go back to proof on a balance of probabilities. For me that is key.

HON. GONESE: If we put this into law, the intention of the legislature becomes very clear that it is proof of the balance of probabilities. We do not want the judges to be able to interpret what they want and put what they want like what they did on the case that was talked about. You know the law, proof of the balance of probabilities. We want the intention of the legislature to be in black and white. Thank you.

HON. ZIYAMBI: Can we defer that one, we do not need it. The way it is crafted is okay.

HON. MUSHORIWA: Hon. Chair, this needs consultation.
Amendment to Clause 37 by Hon. Gonese deferred.

HON. MUSHORIWA: I move the amendment in my name and Hon. Chair, this one is a simple matter in the sense that it seeks to just

define irregularity so that at least it is actually specific because if you look at 177 as it is currently put, it is not broad enough.

HON. ZIYAMBI: The way it is put is alright but what you want has got a remedy elsewhere.

THE TEMPORARY CHAIRPERSON: Withdraw Hon. Mushoriwa.

Amendment to Clause 37 by Hon. Mushoriwa put and negatived.

On Clause 38:

HON. MUSHORIWA: Hon. Chair, this one is a simple matter. Petitions are supposed to be dealt with within six months and one of the major challenges we have realised is that quite a number of times, the legal practitioner for some reason or the other sleep on duty and they fail to make sure that the petitions are dealt with. The legal practitioner should, in a way, pay some cost for sleeping on duty.

HON. ZIYAMBI: It is not necessary.

THE TEMPORARY CHAIRPERSON: Hon. Mushoriwa can you move to withdraw that one? We cannot legislate this.

HON. ZIYAMBI: Hon. Mushoriwa, so you will find another lawyer to go to court for the court to determine whether your lawyer was doing his job well or not. That is because you are saying here ‘unless the court being satisfied’ – are you going to make that application personally or you will look for another lawyer to argue your case?

Amendment to Clause 37 put and negatived.

On Clause 38:

HON. GONESE: This covers a lot. Assumption of office by the President elect – it covers a lot of critical issues. I propose that we defer consideration of this particular clause to allow the Hon. Minister to consult.

New Clause 38 deferred.

New Clause 39 withdrawn.

House resumed.

Progress reported.

Progress reported.

Committee to resume: Tuesday, 30th May, 2023. – [HON. MEMBERS: *Inaudible interjections.*] –

THE HON. DEPUTY SPEAKER: Order, Hon. Members.

THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI): Madam Speaker, we had a marathon session, I am kindly requesting for 10 minutes health break.

Business was suspended at 1146 hours and resumed at 1205

On the motion of THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI), the House adjourned at Seven minutes past Twelve o'clock a.m. until Tuesday 30th May, 2023.