

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 14th October, 2010

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Local Authorities and Funds Accounts Committee, First Report on the Accounts of Local Authorities, countrywide projects done by the Urban Development Department (UDD) of the Ministry of Local Government, the Accounts of CDF for the 2006/2007 and 2007/2008 Financial Years.

(By Mr. Mwadeghu)

QUESTIONS BY PRIVATE NOTICE

DISPLACEMENT OF FAMILIES BY FLOODING OF SABWANI RIVER

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

(a) Is the Minister aware that the recent flooding of Sabwani River in Kwanza Constituency has led to the displacement of hundreds of families from their homes, who are currently residing at market centres and with relatives?

(b) What urgent action will the Minister take to help the displaced families and what short and long-term plans does the Government have to permanently control the annual flooding of Sabwani River?

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the recent flooding of Sabwani River has led to the displacement of hundreds of families who are currently residing in market centres and with relatives. However, I am aware that the said river burst its banks on 2nd September, 2010 and temporarily displaced 543 households all of whom have since returned to their homes. In addition, my Ministry sent a team to the area on 15th September, 2010 following complaints by the local Member of Parliament, and it was verified that all the displaced persons had gone back to their homes.

(b) On receipt of the report on the flooding, my Ministry dispatched a response team from the Crisis Response Centre to the affected area and conducted an assessment which established the affected households. All the affected households, as has been said earlier, were immediately issued with mosquito nets, blankets, tarpaulins, jerry cans, household and water treatment chemicals, soap for use at the time of displacement and food.

On long-term basis, my Ministry in consultation with other stakeholders and other line Ministries has come up with a strategy so that that river will not affect the same communities again. The efforts made include desilting of the dams along the river, diversion of the river, building of dykes along the river, the local community to unblock the canals of the drainage system on their farms and, finally, to move the people away from the river bank so that they are not affected again.

Dr. Otichilo: Mr. Deputy Speaker, Sir, you can notice from the answer of the Assistant Minister that the flooding took place on 2nd September, 2010 and it was not until 15th September, 2010 that the Ministry dispatched the team to go to the site. That was almost two weeks after the disaster. Why did it take too long for the Ministry to respond? Even when they responded, they did not take food. Instead they took mosquito nets, jerry cans and household water. Why did the officials not take food because that was the most important item?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, we respond as we get information. Immediately we got the information, we mobilized our people to go to the site. If the hon. Member was keen when I was answering the Question, I mentioned that we also gave out food.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I raised the same Question last year because we had floods around this area. We had suggested then that the best solution was to relocate those people to alternative sites. The Assistant Minister has said that the Government is considering that. When will the Ministry find alternative land to settle these people?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, definitely, land to resettle these people has not yet been identified, but following this incident a team has been set up. A meeting is scheduled for Thursday, next week so that a lasting solution for the area is found.

Mr. Gabbow: Mr. Deputy Speaker, Sir, it is usual that when the Ministers answer questions about when something ought to be done, they give a general answer. It is important that we know exactly when. Flooding is something that affects the lives of individuals. Exactly when will the Assistant Minister give alternative land to these people? When will this programme be implemented?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, it is important for hon. Members to also listen when we are on the Floor answering Questions. I have just said that next scheduled meeting is going to be on Thursday and solutions will be found from then.

Mr. Lekuton: Mr. Deputy Speaker, Sir, the issue of floods is not new to our country. It happens every year and we keep losing livestock and lives and waterborne diseases have become too much. This is the Ministry of State for Special Programmes. Since we have lost millions of lives, do you have any structured, comprehensive policy and legislation that will ensure this country will not keep on repeating the same? We are becoming a nation of afterthoughts and we react to issues. Do you have such a plan and if not, are you prepared to start one very soon so that we approach things systematically?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, indeed, that is a very good question. I will agree with the hon. Member that we do have plans. We already have submitted to the Cabinet Sub-Committee on humanitarian affairs the policy to be able to handle these matters efficiently. But I agree with you that we need it.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, when we have such disasters like floods or buildings collapsing the response normally takes long. Does the Ministry have a policy regarding the time it is supposed to respond when there are such disasters because sometimes it takes long, resulting to loss of lives and property?

Mr. M.M. Ali: When you ask how much time it takes to respond from the response unit, my answer will be “immediately.” But you will appreciate that this has been relatively a new Ministry, but we have made a request to the Office of the Deputy Prime Minister and Ministry of Finance to facilitate and enable us to be able to mobilize resources to the sites when such disasters occur immediately. The requests that we made include acquisition of equipment to be used on particular sites and also, helicopters for our teams to move very fast. Otherwise, at the moment, we do not have them. We have to rely on the Ministry of State for Provincial Administration and Internal Security. We hope that in due course we will be able to purchase these items for ourselves.

Mr. Njuguna: Mr. Deputy Speaker, Sir, as the Assistant Minister has responded to this emergency and aware that the crops of these farmers were destroyed by floods, what steps has he taken to make sure that these farmers do not go hungry and their children continuously go to school?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, indeed, like all other citizens in the country, wherever there is need for food, as a Ministry we have made plans to ensure that the affected citizenry is fed and nobody goes hungry. This includes the people who are living alongside Kwanza River.

Dr. Otichilo: Mr. Deputy Speaker, Sir, Sabwani River floods almost on annual basis. The Assistant Minister has given very nice proposals on how to control this flooding on permanent basis. For example, he has proposed desilting of the dam, diversion of the river, building of dykes along the river, unblocking canals that were there before and, finally, moving people. When is he going to implement these very nice proposals because if they are not implemented, next year, we will be facing the same problem?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, as I mentioned at the beginning, line Ministries are coming together and the next meeting will be on Thursday next week. The outcome of that meeting will be able to indicate when action actually will be taken on a permanent basis.

MURDER OF REV. MICHAEL NYAKUNDI

Dr. Monda: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) What circumstances led to the recent brutal murder of Rev. Michael Nyakundi aged 85, in his house in Kisii?

(b) Why is there an increased rate of insecurity in Kisii and Nyamira counties and what steps is the Ministry putting in place to assure residents of their security?

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

(a) On 20th September, 2010, at about 12.30 a.m. in Nkuruma Sub-location, Ngenyi Location in Kisii Central, unknown number of thugs attacked the home of the late Rev. Micheal Nyakundi Onchong'a and his wife Sarah Ntuka Nyakundi aged 70 years in Ngoso Village. The thugs gained entry by breaking the window grills of the house and demanded Kshs1 million. The couple gave the thugs an unknown amount of money. Nevertheless, they proceeded to rob them two Nokia mobile phones before shooting to death Rev. Micheal Nyakundi. On receiving the distress call, officers from Kisii Police Station rushed to the scene and found Rev. Nyakundi dead having been shot three times. They collected three spent cartridges of 7.62 millimetres calibre. The wife of the deceased was rushed to Nyamira District Hospital where she was treated for shock and discharged.

(b) The crime trend in both Kisii and Nyamira counties is on the decrease as shown for the past three months in accordance with the data received. For Nyamira County, from July, we had 45 cases reported. In August, it was reduced to 36 cases and September, 30 cases. In Kisii County, in July, we had 60 cases reported; August, 57 cases and September, 53 cases. To address the security challenges in the two counties, the following measures have been put in place:-

(i) foot and vehicle patrols by both Regular and Administration Police have been intensified;

(ii) community policing initiatives involving all stakeholders have been reactivated; and,

(iii) crime intelligence unit officers have been deployed to cover all areas and boost collection of intelligence information.

Dr. Monda: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for his answer, he has given the number of murders in the month of July as five in the two counties. In the month of August, they are six and in September, four, meaning that there must be four people from the two counties of Gusii region who must die every month, and the Government is still considering that to be a reducing number. There are still many more. In August alone, we had six murders. We are not talking about any other crime. These are people losing lives including a reverend and pastor of over 80 years.

As much as the Government accepts a minimum of four Kisiiis to die in one month, what is it doing to ensure that these measures mentioned above, including vehicles and police patrols are in place, so that in November and December when Kisii is expected to get tea bonus, the people of Gusii region are assured of their security? What is the Assistant Minister doing to provide sufficient security personnel and vehicles?

Mr. Ojode: Mr. Deputy Speaker, Sir, yes, some crime related to murder was committed. This is a serious offence and last week we deployed the Flying Squad Unit to Kisii to deal with the thugs within that area.

I want to assure the hon. Member that from next week, he will not hear anything to do with murder in that town. This is because the Flying Squad Officers are patrolling the area and they are going to arrest any suspicious person. Any suspicious looking person will be arrested on the spot.

Mr. Deputy Speaker, Sir, we have also added the number of police personnel in Kisii to patrol the town 24 hours. The police have so far arrested the suspects. They are

Susan Kerubi Ondieki, George Muhusu Simbe and John Oyugi Momanyi. They have been charged with the offence of robbery with violence which is contrary to Section 262 of the Penal Code. They have also been charged with handling stolen property which is contrary to Section 322(2) of the Penal Code.

The hearing of the case will be on the 21st October. I must thank the police officers who rushed to the scene and arrested these fellows. This is because we were informed by the intelligence that these people were directly involved in the murder of the old reverend.

Dr. Monda: On a point of order, Mr. Deputy Speaker, Sir. I asked the Assistant Minister to give us the names of those who have been arrested for the murder and the number of vehicles for police patrols. Currently, as things stand now, the police stations and police posts do not have vehicles. I want him to engage in giving the House the allocation of vehicles in Kisii region to address the crime levels there.

Mr. Ojode: Mr. Deputy Speaker, Sir, right now the Flying Squad officers are using their own vehicle to patrol the area. In the event that I get another vehicle, if need be; if the crime rate does not go down as envisaged, I will add another vehicle in that area. As at now, I think we have enough vehicles to do the patrolling and the Flying Squad officers are doing an excellent job in that area.

Ms. Karua: Mr. Deputy Speaker, Sir, it is okay for the Assistant Minister to tell us that suspects have been arrested but Kenyans do not have to lose lives if the police are working properly. Could the Assistant Minister tell us why he had not deployed the Flying Squad before the murder in this crime prone area of Kisii and other parts of the country like Kerugoya where many murders have been committed? Could he also tell us what he is doing about reforming the police in order to give Kenyans adequate security?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is a genuine question. I have deployed the Flying Squad in Murang'a and Kirinyaga. When I get enough funds, I will try and get new vehicles for my personnel to patrol those crime prone areas.

I believe that with the support of my friends, we will be able to reduce the crime rates within those areas. The police reforms are getting on very well and sooner or later you will start seeing the fruits of police reforms.

Mr. Gunda: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House how a suspicious looking suspect looks like?

Mr. Ojode: Mr. Deputy Speaker, Sir, intelligence gathering will definitely know who comes from outside the district. The intelligence gathering will know a person who wants to commit crime. That is the work of the intelligence. We get information from intelligence officers and that leads to the arrest of some of these fellows.

Mr. Lekuton: Mr. Deputy Speaker, Sir, the Assistant Minister, while answering Dr. Monda's question on community policing, said that they are trying to fight crime using community policing. Could the Assistant Minister state in this House today that community policing works in our country?

Mr. Ojode: Mr. Deputy Speaker, Sir, yes, community policing works. As a matter of fact, we have identified some of the criminals through community policing.

I want to say this with regard to Kisii: If these fellows continue committing crime, if they are men enough let them continue, the Flying Squad is there ready for them. Sooner or later, you will see quite a number of them being arrested. I want to thank the hon. Member for having a lot of concern about what is happening in Kisii. The

Government has moved swiftly to reduce the crime rate by arresting those fellows who were involved. I want to assure this House that we will continue to arrest those who want to cause havoc in our country.

Mr. Njuguna: Mr. Deputy Speaker, Sir, as the Assistant Minister has very aggressively addressed this matter to bring security to normalcy in Nyamira, could he consider stationing the Flying Squad in the two counties until the security situation normalizes?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is because of the high poverty levels that crime rate has gone up in some of these areas. However, I want to assure this House that where we need the deployment of the Flying Squad unit, we will do that. I am also happy to note that the crime rate is reducing on a daily basis in some of the areas which have been giving us problems.

However, I want to assure this House that we are going to deal with these criminals and sanity will be brought back.

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

Dr. Monda: Mr. Deputy Speaker, Sir, the Assistant Minister has told the House that community policing is working. I want him to guide the House on the guidelines of community policing so that Kenyans are aware of what they do. Who funds community policing?

Mr. Ojode: Mr. Deputy Speaker, Sir, community policing is done by the Provincial Administration and security officers. In each and every district, we have a committee which sensitizes people on community policing. It has really assisted the Provincial Administration to access information. In fact, even in Nyamira itself and Kisii Town, it is because of community policing that we received information.

I believe that community policing is working in a majority of counties in this district and other areas.

Mr. Deputy Speaker: Next Question!

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

Mr. Deputy Speaker: I have called for the next Order! On which Order is your point of order? Is it on the same Question?

POINT OF ORDER

CIRCULATION OF TWO DIFFERENT ORDER PAPERS IN THE HOUSE

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I need to draw your attention to the fact that there are two Order Papers which have been circulated in the House. One is dated Thursday, 14th October, 2010, at 2.30 p.m., which has Order No.8 as the Motion by the Chairperson of the Departmental Committee on Defence and Foreign Affairs. I wish to lay it on the Table. The second Order Papers shows Order No.8 as the Second Reading of the Finance Bill, Bill No.9 of 2010, by the Deputy Prime Minister and Minister for Finance at Second Reading. As you can see, the next Question is mine. So, I am at a loss as to which Order Paper I should follow.

(Mr. K. Kilonzo laid the documents on the Table)

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir, previously we had a case where business was put on the Order Paper without the knowledge of the House Business Committee and the Chair, which meant that, that business came through the back door. This time round, it is the opposite. The business was put on the Order Paper through the House Business Committee. However, it appears that the back door was used to remove that business from the Order Paper. What Members knew in the morning, and what was available even in the Parliament Website, was that the Report of the Departmental Committee on Defence and Foreign Relations was to be discussed this afternoon. The ruling made by the Chair was that business was put on the Order Paper without following the proper procedure.

The business which appears in one of the Order Papers, namely, the Finance Bill, was put there through the back door. I am requesting you to make a ruling that what should be debated after Question Time is what was posted in the website earlier in the morning and what was the decision of the House Business Committee.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Just to add to what my colleagues have talked about, normally, if the House Business Committee has decided to change the Order of the day, we get a Supplementary Order Paper. Unfortunately, both Order Papers have nothing to indicate that one is a Supplementary Order Paper. Therefore, this is a total confusion to all of us and we even do not know which Order Paper to use.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. This is just to ask you to note that Members were anxious to discuss what was first on the Order Paper because the Finance Bill appears to be an afterthought. It appears to the Members that there is a conspiracy to deny them a chance to dispose of this very weighty matter. I would urge you to put that into consideration as you give us direction.

Mr. Deputy Speaker: Hon. Karua, you are a Member of the House Business Committee, which is the business that the House Business Committee balloted for yesterday?

Ms. Karua: Mr. Deputy Speaker, Sir, I was not able to attend that session. However, I know that before an Order Paper is printed, the House Business Committee must rule. So, it means that it had already ruled when this was printed.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, just a practical suggestion, in so far as the first seven Orders are concerned on the Order Paper, there is difference between the two Orders Papers that have been laid on the Table. Indeed, the House commences business normally at 3.30 p.m. Just to make sure that we use our time well and effectively, can we not dispose of the seven Orders, which are similar in both Order Papers and then tackle this matter substantively? I am not trying to run away from the problem raised by hon. Members, but just a practical and effective way of doing things. As you may notice, the Leader of Government Business and the Deputy are not here. Probably, this is a matter that needs to be raised in their presence. This is just a practical suggestion.

Mr. Deputy Speaker: Order, Members! We will have to dispose of the Questions. As soon as we dispose of the Questions, the Chair will rule which Order Paper

will be used. You will notice yourselves the Questions are the same on the Order Paper. There is no variation.

Next Question, Mr. K. Kilonzo.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, thank you for your ruling.

ORAL ANSWERS TO QUESTIONS

Question No.301

DELAYED CONSTRUCTION OF NZEU BRIDGE

Mr. K. Kilonzo asked the Minister for Roads:-

(a) whether he is aware that the construction works of Nzeu bridge along Kitui-Kibwezi Road, whose contract was advertised and awarded over 5 years ago have not commenced; and,

(b) what measures he is taking to ensure that the construction begins.

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, on my return from looking for support, I found this Question deferred. I was not able to get an explanation from my Assistant Minister, who is also on duty out of the country. I have got some bits of what was required, but I seek the indulgence of the House to defer the Question to next week.

Mr. Deputy Speaker: Is the Questioner comfortable with that?

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the hon. Minister is a very effective Minister and, therefore, I accept his request to defer the Question until he comes with a proper answer.

Mr. Deputy Speaker: When do you want to answer it?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, a date the Chair may wish to order next week. I am okay from Tuesday, but I would prefer to answer it on Wednesday.

Mr. Deputy Speaker: The Chair directs that Question No.301 be put on the Order Paper on Thursday next week.

(Question deferred)

Question No.357

CRITERIA FOR IDENTIFYING BENEFICIARIES OF INFRASTRUCTURE FUND

Mr. Deputy Speaker: Hon. Chanzu is not able to be with us. He is out on official parliamentary business. I direct that this Question appears on the Order Paper on Wednesday morning, next week.

(Question deferred)

(Loud consultations)

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. I think the sound system is failing us. We are not following the business of the House.

Mr. Deputy Speaker: Order, hon. Members! There are, probably, very loud consultations. That is why the Members are not hearing what the Chair is saying.

Mr. Deputy Speaker: Let us move on to the next Question.

Question No.363

DOUBLE ALLOCATION OF LR. No. 1005C
IN TSAVO EAST NATIONAL PARK

Mr. Mwachugu asked the Minister for Lands:-

(a) whether he is aware that Government survey records No. 85/46/1955 set aside LR. No. 1005C in Tsavo East National Park as a trading centre in 1958 and whether he could table a copy of the record;

(b) whether he could state the circumstances that led the Kenya Wildlife Services (KWS) to carry out another survey on the same land as per KWS registration 343/54/2007 which resulted in issuing Title Deed No. 27743 in total disregard of previous surveys done in 1959; and,

(c) what steps the Government is taking to ensure that the title deed(s) erroneously issued to KWS are revoked and the original parcel of land returned to the Taita Taveta County Council.

The Minister for Lands (Mr. Orenge): Mr. Deputy Speaker, Sir, I would have wanted to answer this Question but unfortunately this matter is in court and I have a bundle of documents here which include the plaintiff of a case filed by the KWS against the County Council of Taita Taveta. There are several other pleadings including an affidavit sworn in relation to the land which is subject to this Question. As you can see from the Question itself, what is in contention is ownership of that land and what is in contention in this case is also the ownership of the same land. So, I urge you to look at these documents and if you agree with me then I will not answer the Question but if you disagree with me then I will answer it.

Mr. Deputy Speaker: Under the circumstances, the Chair directs that you table the court papers. The Chair will determine whether within the confines of our mandate in this House, the Question falls within the *sub judice* clause or not. The Chair will give a direction on the same on Tuesday, next week.

Let us move on to the next Question by Ms. Karua!

Question No.422

RESETTLEMENT OF SQUATTERS COUNTRYWIDE

Ms. Karua asked the Minister for Lands:-

(a) what plans the Government has to resettle squatters throughout the country; and,

(b) what method it will use in identifying land for squatter resettlement and in negotiating the price.

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

(a) The Government has plans to acquire suitable agricultural land to settle landless squatters throughout the country. However, the key limitation to the settlement of squatters is availability of funds to purchase farms. As a matter of record, in the last three financial years, we have not had any money allocated for that purpose.

(b) The following are the methods that are used to identify land for squatter settlement:-

(i) In respect of purchase of privately owned land, the Government places advertisements in daily newspapers with national circulation inviting interested registered land owners to declare interest in selling land to the Government. The price is then determined if that expression of interest is successful. The price is determined by the valuation report from the Government Chief Valuer after a visit by a technical committee to ascertain suitability and arability of the land.

(ii) In respect of reservation of Government land, the Commissioner of Lands reserves available Government land which is subsequently planned, surveyed and demarcated for allocation to landless families. This may be in rural areas for agricultural purposes or in urban areas for housing.

(iii) Setting a part of trust land on agreement between the county council and the local communities. The available land is allocated to the landless families mainly for housing or agricultural purposes.

(iv) The other method that is used is compulsory acquisition. In this respect the Minister for Lands can cause land to be acquired if he is adequately satisfied that land is required for purposes of public good and if he considers that settlement of landless families will enhance such good. Compensation of land acquired through compulsory acquisition is for vesting such land in the Government for the settlement of landless families.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to thank the Minister for the answer although personally I have never seen any advertisement by the Government asking those who have land to sell it. The Minister has said that compulsory acquisition is one of the methods to acquire land for the squatters. Noting that there are a few Kenyans who have been given huge tracks of land by the Government without buying but just paying nominal fees and noting that those huge tracks of land are largely unutilized, what has the Minister done to compulsorily acquire the idle tracks of land which are all over Kenya like in Subukia, many parts of Rift Valley, Mombasa and Nairobi where people are crowded in slums like Kibera? What has he done to acquire those lands at minimal value because they are neither developed nor purchased by the current owners, in order to give to the squatters?

Mr. Orengo: Mr. Deputy Speaker, Sir, this is a process which we have started and it is particularly within the context of the new Constitution. The hon. Members who have engaged in this matter would bear me witness, where my attention has been drawn to land which was public land that was not available for alienation. There is a lot of land in this country which was given to individuals without considering whether it was available for alienation. I want to say here now that if you hold a title deed on land which was not available for alienation, because the powers of the President and the

Commissioner of Lands are only limited to land which is available for alienation--- Unfortunately, there are many people who have acquired public land which was not, in the first place, available for alienation. I am very determined and in some instances I have proceeded to nullify or revoke those title deeds because nobody can pursue an interest on land which he does not have. So, if you have a title deed which has no legal basis, then it is not worth the piece of paper you are carrying. If you take that direction then it means that every piece of public land which has been reserved for public purpose will be available to be given out.

Mr. Deputy Speaker, Sir, there is another category of public land particularly in the Rift Valley where people were given large chunks of land purely on patronage. I have seen people come to my office saying that they have 6,000 acres which they want to sell to the Government. This is the case and yet they have done nothing on it. If we determine that you were given public land for a particular purpose and you have not used that land for that purpose then under the conditions and terms of sale we can recover that piece of land. In fact, we have recovered some of those pieces of land. However, we want to have a legal framework that everybody understands within the context of the new Constitution. I would like to tell Members of Parliament that there is a lot of activity in which the Government should engage in even under the Economic Stimulus Project (ESP). There are markets to be built and *Jua Kali* sheds but there is no land because some people have grabbed the land and used it for other purposes. In a nutshell, I will tell the gracious lady that if she comes to my office with any piece of land, even if the title deed is valid but is not used for the purpose for which it was granted, it will be taken away.

Mr. Kabogo: Thank you, Mr. Deputy Speaker, Sir. The issue of squatters is a serious problem in this country. It is a national disaster. A good example is a place like Kilimambogo, Gachage and Kiganjo in Thika. I have heard the Minister tell this House that they wait for invitation from people who want to sell land, and yet we know that there are people who own large chunks of land from 1963 to date, and it has not been used for any purpose. Why can he not use the compulsory acquisition method to make land available to these squatters in the whole Republic?

Mr. Deputy Speaker, Sir, it is 47 years after Independence and we still have squatters in the Republic. He says that there are people who have land and who were given that land on certain conditions and that land has not been used for those conditions. Why is it that we do not make a Government policy today to recover the entire land in the Republic that is being held by these fat cats and they are not using it for the purposes that they were given this land? Why is it that we cannot take this issue of squatters and sort it out once and for all in the Republic?

Mr. Orengo: Mr. Deputy Speaker, Sir, first, in order to settle somebody that you describe as a squatter, he must fall under the category of being poor and landless. You may not have land but you are not poor. So, you must meet those two categories. The other problem that we have with squatters, especially in the areas where it is known that we have many squatters is that, land is given to squatters and titles issued but the first thing that they do is to sell that land. This is a big, big problem in the coastal region. In fact, in some of the *barazas* that I was holding in Kwale, I was asking the local community why this is so. I had several cases where people were given land on the basis that they are squatters and the first thing that they did was to sell the land. But that is not to say that, that problem exists.

So, there are two things here; one, we need to put more resources into acquiring land to settle squatters. Secondly, we must intensify recovery of public land which is in the hands of those who are using it purely for speculation. I need the goodwill of this Parliament to help me drive this process because there are lots of people who have already questioned whether we have a basis for recovering this Government land.

Finally, we need to amend that Act on compulsory acquisition because in the provisions of that Act, it says that I can only acquire---

Mr. Deputy Speaker: Hon. Orengo, if you can summarize your statement---

Mr. Orengo: Thank you, Mr. Deputy Speaker, Sir. I can only acquire land if it is for public purpose and it has been held elsewhere. That if it you settle a particular squatter, that is not a public purpose; it is using it for private purposes.

Mr. Deputy Speaker: Hon. Martha Karua, please, ask your final supplementary question. We have a lot of Business to transact for the day. Hon. Members, we have transacted only three or four Questions and we have another ten Questions to transact.

Ms. Karua: Mr. Deputy Speaker, Sir, when the Minister answered, he said that he will consider compulsorily acquiring land that was not available for alienation. But I am talking of land that was available for alienation; that given in excess of what can reasonably be used by one person or one family. Therefore, thousands and thousands of acres are lying idle for speculative purposes at a time when many Kenyans need access to land. Could the Minister consider acquiring such land at minimal value because in the first place, it was not bought and redistribute it to needy Kenyans?

Mr. Orengo: Mr. Deputy Speaker, Sir, I absolutely agree with the hon. Member. Where I come to the conclusion that, that piece of land can revert back to the Government, I will do exactly what she is suggesting. But it must be done on a case by case basis. We cannot do it in a way that would affect the rights of other persons without considering each individual case.

Mr. Deputy Speaker: Question No. 369 by hon. Francis Chachu!

Question No.369

MEASURES TO REDUCE MOTOR VEHICLE POLLUTION

Mr. Chachu asked the Minister for Environment and Mineral Resources:-

(a) what measures the Government has put in place to ensure that the country enjoys the full health and environmental benefits of unleaded petrol;

(b) what the Ministry is doing to eliminate dirty fuels, particularly from diesel sold in the country that is causing significant health problems and high vehicle pollution in cities like Nairobi; and.

(c) what action the Minister is taking to reduce the high level of pollution from vehicles, including trucks and buses, that are severely impacting on the health of Kenyans, particularly children and motorists?

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Deputy Speaker, Sir, I beg to answer.

(a) My Ministry has co-ordinated various lead agencies in the environmental management sector who have then taken action---

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon .Members! Order!

Proceed, Prof. Kamar!

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Deputy Speaker, Sir, my Ministry has co-ordinated various lead agencies in environmental management who have then taken action in ensuring the enjoyment of environmental benefits of unleaded petrol. This includes, one, on 31st December, 2005, the Ministry of Energy phased out sale of leaded gasoline in the whole country. Two, at the Kenya Petroleum Refineries, the company has incorporated alternative technological options in the refining process to replace the use of lead in their processes. Three, the Kenya Bureau of Standards has developed a standard for specification of unleaded motor gasoline. The standard is serial number KS2060.

Further, my Ministry, through the National Environment Management Authority (NEMA) has categorized lead acid batteries recycling facilities as high risk and, hence, bound to carry out environmental impact assessment or audit which will include emission levels as they are of late in the exhausts.

(b) I am aware that the Petroleum Monitoring Unit under the Ministry of Energy carries out frequent analytical sampling of fuel products in order to assess the level of adulteration of diesel as well as other fuels at the dispensing stage. First, reports have indicated low levels of adulteration of fuels. This has caused economic unsafe impacts in the long run.

Mr. Deputy Speaker, Sir, I further wish to inform this House that various environmental lead agencies and other relevant stakeholders are carrying out awareness programs on the reduction of sulphur content in diesel from the current 5,000 parts per million to 500 parts per million in the short term and to 50 parts per million and even below as a long term measure. In addition, the KEBS has revealed detailed fuel specifications KS1309/1 from the current levels of 5,000 parts per million to 500 parts per million in the short term.

(c) My Ministry through NEMA, has co-ordinated the formulation drug air quality regulations and standards which will regulate the standards stipulated under the Kenya Standard KS1515 for air condition. These standards are very clear on the emission limits for both petrol and diesel propelled vehicles such as trucks and buses. Among the relevant stakeholders who are ensuring a reduction in the high level pollution from motor vehicles include the Motor Vehicle Inspection Unit (MVIU). The MVIU has procured vehicle exhaust emission checking equipment for 17 vehicle inspection centres and the centres are based dominantly in Nairobi, Mombasa and Kisumu.

It has also procured Mobile Vehicles Inspection Units for 13 vehicles inspection centres, for effective management of the process. I wish, therefore, to assure this House that the Government is in the process of carrying out intensive emission assessing on all commercial and public service vehicles that they oblige to undergo annual inspection before they are given approval to operate.

Mr. Chachu: Thank you, Mr. Deputy Speaker, Sir. I appreciate the response given by the Assistant Minister and the efforts that the Government has taken so far to have a clear environment. The biggest concentration in that fuel is sulphur. Kenya is ranked No. 98 out of 100 countries with dirty fuel by the United Nations Environmental

Programme. Kenya has 1,000 parts per million sulphur levels in one litre of diesel fuel compared to Morocco with 50 parts per million and even EU, 10 parts per million of sulphur levels. There is one effective measure to reduce sulphur levels, especially in diesel fuel. It is basically to gazette at minimum 500 parts per million sulphur levels for all the imported diesel. When will the Government through the Kenya Bureau of Standards, finally gazette 500 parts per million sulphur levels for imported fuel in this country?

(Loud consultations)

Prof. Kamar: Mr. Deputy Speaker, Sir, I beg your indulgence, Members are consulting loudly!

Mr. Deputy Speaker: Order, hon. Members! If you have to consult, Members have to consult in very low tones. Otherwise, we shall not be in a position to transact the business that brings us here.

Order hon. Members! Accord the House the dignity it deserves, all of you.

Proceed, Madam Assistant Minister!

Prof. Kamar: Thank you, Mr. Deputy Speaker, Sir. As I said earlier, the Kenya Bureau of Standards has reviewed the diesel fuel specification standards from the current 5,000 to 500 parts per million and actually, the regulations are awaiting gazettment. So, it will be done any time very soon.

Mr. Mututho: The heavy prevalence of cancer is attributed to lead and the chief source of lead is the fuel. When will the Assistant Minister impose total ban on non-compliant fuels coming to Kenya?

Prof. Kamar: Mr. Deputy Speaker, Sir, as far as lead is concerned, that was banned on 31st December, 2005. Currently, the vehicle inspection unit is going round testing the standards of the fuel that is coming into the country. It is banned. So it is not re-banning but we need to be more vigorous in the way we do the testing. That is going on right now. As I mentioned, there are 17 stations that are involved in that and we even have mobile ones. But more than that, we have the Motor Vehicle Inspection Unit (MVIU) which is inspecting even those which are entering the country currently.

Mr. Chachu: Mr. Deputy Speaker, Sir, the long-term solution for Kenya to have cleaner fuel is to upgrade our refinery in Mombasa. What action or measures is the Government taking to upgrade the refinery in Mombasa?

Prof. Kamar: Mr. Deputy Speaker, Sir, I would like to agree with the hon. Member that the refinery has a special role in the standards of the fuel that goes through it but I want to also assure the Member that, that is going on. In fact, the sensitization that is going on is both with the industry sector and the public on the use of these raw sulphur products. As we are talking currently, the refinery in Mombasa is actually overhauling and we expect very low sulphur to be produced.

Question No.393

IMPOSITION OF LEVIES ON DAIRY FARMERS
IN ELDMA RAVINE

Mr. Lessonet asked the Minister for Livestock Development-

(a) to explain why the Kenya Dairy Board has imposed levies on dairy farmers delivering milk to the processors in Eldama Ravine, Koibatek District; and,

(b) what steps he is taking to mitigate the effects of the punitive measure on farmers.

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

(a) The Kenya Dairy Board (KDB) has not imposed any levy on the dairy farmers delivering milk to the processors in Eldama Ravine and Koibatek District or any other part of the country. On 16th July, 2010, a processors levy was introduced by the KDB. The levy is payable by all processors and other persons who add value to milk. This category of the dairy industry stakeholders are defined as producers by the dairy industry Act which says; “persons who process, manufacture, prepare, or treat any dairy produce for sale.” This excludes dairy farmers who are defined as dairy producers by the Dairy Industry Act, Cap 336 of the Laws of Kenya.

(b) The processors levy will not be paid by the dairy farmers but only by the processors and the milk traders only. The processors have all agreed not to pass on the levy to either the farmers or the consumers. The measure will, therefore, not be punitive to dairy farmers; instead, the dairy farmers will benefit from introduction of the levy through its usage in the improvement of the milk collection centres and the cooling facilities, milk conveyance and distribution in milk producing areas including Eldama Ravine Constituency and Koibatek District as a whole, in order to improve marketing and minimize spoilage and wastage in the industry.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for coming with the answer which I really like. The only thing is that I hope he can implement what he has told us. I want to table a sample of receipts for the Assistant Minister to verify and confirm whether he can, therefore, go and stop the KDB from charging the farmers. The receipts include one which Mr. Dickson paid Kshs1,000 being for permit fees. Mr. Dickson is not a processor. He is a producer. The second one again includes Mr. Dickson being arrested by the KDB and charged again, Kshs1,000 as permit fee. One Mrs. Hannah Targok was charged Kshs1,000 being milk conveyance permit. This means that when you are taking milk to the KCC, you are arrested by the KDB officers and charged Kshs1,000.

The last of my sample receipts is one where one Barnabas Koech was charged Kshs1,000 for milking his cows. Here it is written: “On account of producer licence”. So, I think we can give the Assistant Minister a few minutes to verify whether these receipts are original in nature; he can help us stop this punitive measure from being visited on farmers in Eldama Ravine Constituency.

I hereby table these documents.

(Mr. Lessonet laid the documents on the Table)

Mr. Duale: Mr. Deputy Speaker, Sir, first, I want to be given those receipts for me to verify their authenticity and find out if they are from the Kenya Dairy Board. I want to clarify that under the levy, you can be a producer and at the same time become a processor, a manufacturer or at the same time treat the dairy produce. If you perform all

those roles, then the levy must be paid. This levy leaves out dairy farmers. If there is any given time when the Kenya Dairy Board has charged farmers in this country, I want to say it on the Floor of this House that it was illegal. As a Ministry, we will take action because we do not want the law to be violated.

Dr. Monda: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that any kind of treatment of milk will attract a levy. If a farmer has cooling equipment in his farm to preserve his milk and prolong its lifespan so that it can reach the market the following day, that is treatment of milk.

The Assistant Minister is confirming that farmers have paid levies on milk for cooling it in their homes. The Assistant Minister is telling farmers to continue paying for cooling milk in their houses. Could he come out clear on this matter, so that we interrogate it further?

Mr. Duale: Mr. Deputy Speaker, Sir, the treatment that I have referred to in this particular case is treatment where you add value. I think the hon. Member should be very clear on that. We said that where you process, manufacture, prepare or treat dairy produce in order to add value, then that is outside what the hon. Member is talking about.

Dr. Monda: Mr. Deputy Speaker, Sir, the Assistant Minister is right in that we add value to milk when we cool it so that we extend its lifespan. That is additional value. The cooling plants add value to products from the farm. The processing of milk in order to produce other products from it also adds value. We are looking at the primary value addition in the farm. This is where we want the Assistant Minister to come clear and answer the question. Is it right for the Assistant Minister to continue misleading the House that cooling milk in homes to extend its life, which is value addition, should be taxed?

Mr. Duale: Mr. Deputy Speaker, Sir, “value addition” is an English term. Depending on who taught you English in your high school, value addition is totally different from preservation. When you use a cooling system, that is different from when you add value; that has an effect on the price, quality and the safety of the product.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. There seems to be a grammar problem here. Value addition is not putting additives inside the product. The packaging, storage and cooling also add value. Is the Assistant Minister in order to continue misleading the House that “value addition” means adding ingredients to a product?

Mr. Duale: Mr. Deputy Speaker, Sir, it is about the grammar, who taught you English and which school you went to. “Value addition” is derived from the words “value” and “add”. What extra value do you add to the product in terms of safety, giving it more life and quality? This levy is designed to apply to the processors. It is not levied on the ordinary dairy farmers of this country.

Mr. Langat: On a point of order, Mr. Deputy Speaker, Sir. Since the hon. Member for Eldama Ravine has tabled some documents, and the Assistant Minister said that he wanted to verify them, I wish to request that this Question be deferred, so that the Assistant Minister can come up with a conclusion on this matter.

Mr. Duale: Mr. Deputy Speaker, Sir, yes, I have the receipts here. It is logical that we need to verify whether these receipts are actually from the Kenya Dairy Board. If they are from the Kenya Dairy Board, I have assured the House that we will see whether they were issued to a processor, a manufacturer or a dairy farmer.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence but I would like to persuade this House not to expunge from the record of this House, the definition of “value adding” as given by the Assistant Minister, because doing so will erode decorum from our proceedings. Would I be in order to request that the Assistant Minister withdraws that definition, and then we have the Question as it is, so that we can refer to the definition of “value addition” as it is in agriculture?

Mr. Deputy Speaker: Mr. Assistant Minister, is it true that the information that is in brochure which has just been tabled is not in your domain? It comes from the Kenya Dairy Board and you would wish to study it!

Mr. Duale: The Kenya Dairy Board is one of the statutory bodies under the Ministry of Livestock Development. The hon. Member is asking about the definition of the words “value addition”.

Mr. Deputy Speaker: Order! It is not for you to decide what you need to answer and what you do not need to answer. The Chair asks you: Did the Chair hear that you did not have that information in the brochure and that you would want to educate yourself on it?

Mr. Duale: Mr. Deputy Speaker, Sir, we need to verify these receipts that were tabled by the hon. Member to find out whether they are authentic receipts from the Dairy Board of Kenya.

Mr. Deputy Speaker: Could you table those documents?

(Mr. Duale laid the documents on the Table)

Hon. Assistant Minister, these are authentic Kenya Dairy Board receipts, in the sense that they have the Kenya Dairy Board letterhead and stamp, and they are signed. So, the presumption is that you would wish to verify information that is not within your domain for you to be able to give an adequate answer. Under the circumstances, the Chair directs that this Question be deferred to next week, Wednesday morning, for you to come with an elaborate answer that takes into consideration---

Mr. Duale: Mr. Deputy Speaker, Sir, Wednesday is a public holiday.

Mr. Deputy Speaker: Indeed, Wednesday next week is a holiday. Under the circumstances, will you be in a position to have an answer on Tuesday next week?

Mr. Duale: Mr. Deputy Speaker, Sir, Thursday will be fair.

Mr. Deputy Speaker: Fair enough. The Chair directs that the Question appears on the Order Paper on Thursday next week.

(Question deferred)

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. You would have noted on those receipts that the Kenya Dairy Board---

Mr. Deputy Speaker: Order, order!

Mr. Lessonet: Mr. Deputy Speaker, Sir, I just want to make a request that if he can order the Kenya Dairy Board to stop charging farmers now, pending his answer on Thursday---

Mr. Deputy Speaker: Order! Hon. Lessonet, the basic thing you have to understand in this House, much as you are a first timer, is when the Chair tells you order;

you freeze and allow the Chair to communicate. The Chair has already given a direction on the same.

Next Question, hon. Shakeel!

Question No.384

APPLICATION OF IMMIGRATION PROCEDURES
TO BRITISH/AMERICAN SOLDIERS

Mr. Shakeel asked the Minister for Immigration and Registration of Persons:-

(a) if he could inform the House whether the standard immigration requirements for all persons traveling into Kenya applies to soldiers of the British and American armies;

(b) whether those officers are required to produce visa and passports for clearance purposes, and whether the Kenya Army undergoes similar immigration process in the USA and UK; and,

(c) whether he could confirm that failure to subject the foreign officers to the standard immigration procedures has threatened national security.

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

Mr. Deputy Speaker: Order, did you ask for the first time? Okay, you asked some other time. Fair enough!

The hon. Minister for Immigration and Registration of Persons!

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The bilateral agreement entered between the Government of Kenya on one hand and the United States of America and United Kingdom on the other, exempts members of the Armed Forces of USA and British armies from immigration and emigration controls on entering or departing from Kenya. However, the military personnel must always identify themselves before an immigration officer by producing military identification cards and must not also be prohibited immigrants as per the Immigration Act, Cap 172, Laws of Kenya.

(b) The Kenya military personnel do not enjoy similar privileges in Britain and United States of America because the agreements are only in favour of the British and United States. The agreements are entered between the respective countries and the Ministry of Foreign Affairs.

(c) Proper identification is always provided by the military personnel liaison officers from the two missions and the Kenyan military always at hand receive them.

Prior to their arrival, required information on the coming officers is normally presented to the Kenyan Government. The issue of security lapse, therefore, does not arise.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that diplomatic answer.

However, I am not happy about it. In his reply, he said that they follow certain procedures. Why do those military personnel not even take biometric test as they come in? All they do is walk past flashing their cards when nobody can see how it is. They could be illegal persons entering into our country. Surely, I do not think there is any

understanding that officers of the United States and the British army will not stand on line or take biometric test and will not show their cards to the immigration officer. I have witnessed that myself. So, could you, please, answer why they cannot take biometric test? Surely, that is something that they must do.

Mr. Baya: Mr. Deputy Speaker, Sir, I informed the hon. Member that prior to their arrival, the necessary information, including biodata is forwarded to the Government of Kenya. Therefore, there is a methodology through which all the required information is forwarded and kept with the Government.

Mr. Affey: Mr. Deputy Speaker, Sir, it is very clear from the way the Assistant Minister is answering this Question that there are double standards. There are sets of rules and regulations for Kenyan forces going into the United States, yet the same does not apply to the forces coming from United States to Kenya.

What are the incentives that have forced you to compromise so much our State security to bend the rules in favour of foreigners?

Mr. Baya: Mr. Deputy Speaker, Sir, this is a matter or issues that were discussed through bilateral agreements. Now a bilateral agreement is, of course, two ways; like if you talk of Bilateral Air Services Agreement (BASA). If KQ wants to fly to Singapore, it is Singapore also to reciprocate, if they want. But if they feel like they do not have enough aircrafts to fly to Nairobi, they may agree to allow Kenyan aircrafts to fly to Singapore, while they may not do it to Nairobi.

Similarly, these agreements were signed after requests by the officials of USA and UK some years back. For instance, the USA agreement was signed in June, 1980.

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is not answering the question. I do not want him to filibuster. I want him to tell us the incentives the Kenyan Government is getting. What are the incentives? Are there incentives or not?

Mr. Deputy Speaker: Hon. Assistant Minister, can you answer the question without taking a very long route?

Mr. Baya: Mr. Deputy Speaker, Sir, that is totally different. The Question was why the American military personnel are not subjected to certain information. But as to the details of incentives they give to the Kenyan Government, that is not part of the Question.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, the Assistant Minister has told the House that the agreement to allow the US military personnel into the country was reached in 1990. That was before the war against terror. That means that we need to change with time. What is he doing, given that those countries have changed their relationship on how they deal with our citizens after the war on terror began? What is he doing to ensure that we also change the way we treat them to conform with how they treat our citizens?

Mr. Baya: Mr. Deputy Speaker, Sir, there is a provision that there are reviews after every five years. The last review was done in 2002.

Mr. Deputy Speaker: Hon. Assistant Minister, what the Members are asking you is that: What is the basis for the double standards and what are you going to do? There are some inequalities. So, do not go into the stories. Just tell the Members, what you have in terms of responding to the questions they have asked you.

Mr. Baya: Mr. Deputy Speaker, Sir, the double standards do not come out very clearly because we have like the British army in Nanyuki, they do a lot of operations. I do

not know whether Members would like us or our army to go and do the same in UK. But when it comes to collection of data before they come in, I do not think our soldiers are discriminated against in these countries.

Mr. Shakeel: Mr. Deputy Speaker, Sir, the Assistant Minister has not answered the Question. I would repeat the last part of the Question: Is he aware that the immigration officers stationed at the Jomo Kenyatta International Airport are very dissatisfied in the manner in which these army officers bulge them way through the immigration procedures. They do not have biometric test nor do they allow the immigration officer to even look at their cards. So, the immigration officers are wondering; when the card is flashed and they go past, whether it is for that gentleman or it is another person's. So, the situation is very clear that the immigration officers are dissatisfied to an extent that they may be unwittingly letting in aliens that do not have a right. So, could he tell us whether he will instruct the immigration officers to particularly insist on looking at the card and making sure that, that officer puts his finger on the biometric test to see that it matches the card? Would he make that confirmation to the House?

Mr. Baya: Mr. Deputy Speaker, Sir, first, I am not aware that the immigration officers at JKIA are mistreated. If they are---

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. I did not say that the officers are mistreated but I said that they are disgruntled. They are very concerned about the lack of co-operation by the officers of the British and the USA army.

Mr. Baya: Mr. Speaker, Sir, that disgruntlement has not come to the office. However, it is a condition that their liaison officer and a military officer from Kenya are always there apart from the immigration officers.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this Assistant Minister to continuously refuse to answer the question that he is being asked? He is being asked to confirm that there are foreigners who go through immigration entry points without being checked properly. He has been avoiding answering that question. Is it in the interest of Kenyans or the people who come to Kenya without going through proper checks?

Mr. Baya: Mr. Deputy Speaker, Sir, like I said before, I am not aware of any apart from those in the military from the two countries. There is a procedure and the information is forwarded beforehand. Maybe, this is the reason why at the counter, you may see them perhaps, walk through without undergoing some checks.

Mr. Baya: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has continued to mislead the House. All we have asked the Assistant Minister to confirm is: In future, will all officers exempted from visa requirements merely identify themselves by putting their fingers on the biometric test and allow the immigration officer to look at their picture in order to identify them? The Government of the USA has even strip-searched our Ministers and yet we go out of our way to allow these people to walk into the country as if this is their own country. They are, in fact, very arrogant. The Assistant Minister's staff has been telling him that they are very disgruntled because those people have treated them like colonialists.

Mr. Lagat: Mr. Deputy Speaker, Sir, I think this is a very serious security matter. Considering the fact that the Assistant Minister does not want to confirm this, I would

like the Chair to direct that this matter be referred to the relevant Departmental Committee so that adequate answers can be given.

Mr. Deputy Speaker: Mr. Assistant Minister, is it true that there are foreigners who come through our immigration points without being subjected to the biometric checks that all other people who come into our country are subjected to? Can you confirm that or deny it?

Mr. Baya: Mr. Deputy Speaker, Sir, I am not aware of that. However, I am ready to conduct investigations on this matter.

Mr. Lagat: Mr. Deputy Speaker, Sir, since this is a very serious security matter; considering the issues of terrorism and other security matters; and since the Assistant Minister does not want to confirm or is not aware, I request that you rule that this matter be handled by the relevant Departmental Committee, so it is dealt with adequately by this House.

Mr. Ruto: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you want to inform the Chair or the Assistant Minister? Do you want to be informed Mr. Assistant Minister?

Mr. Baya: No, Mr. Deputy Speaker, Sir.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. This is a very simple question. If the Assistant Minister is not aware, could his Ministry instruct the immigration officials to demand that those people identify themselves? It is a very simple thing. Why can he not say that he will do so?

Mr. Ruto: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Shakeel, do you want to be informed by Mr. Ruto?

Mr. Shakeel: Yes, Mr. Deputy Speaker, Sir.

Mr. Ruto: Mr. Deputy Speaker, Sir, indeed, this is a very serious matter. I want to inform hon. Shakeel that last time I was at the New York International Airport and I met this Assistant Minister having been told to remove his shoes. He had also been told to remove his jacket and belt. He was actually seated. I pleaded with those people that he was a former PC and an Assistant Minister. Unfortunately, they could not listen to me. Here, he is allowing foreigners to get into our country without even showing their fingerprints.

(Laughter)

Mr. Baya: Mr. Deputy Speaker, Sir, I did not get the question, but let me inform the hon. Member that since I came back from India, I have never got out of this country.

Mr. James Maina Kamau: On a point of order, Mr. Deputy Speaker, Sir. I find it very strange for this Assistant Minister to continue talking the way he is doing. He is taking this issue very casually. As my colleague has said, this matter should be referred to the relevant Departmental Committee so that we can get more information. The military officers from both the USA and the UK come to this country as if we are living in a banana republic. They just walk in and out. One time, I witnessed them abuse an immigration officer at the JKIA and yet the Assistant Minister continues to say that he is not aware of anything that we are discussing in this House. So, I urge the Assistant Minister to come with more information. Let this matter be investigated by the relevant Departmental Committee.

Dr. Monda: On a point of order, Mr. Deputy Speaker, Sir. You heard Mr. Ruto inform the House that he saw the Assistant Minister remove his shoes and belt at the New York Airport. In response, the Assistant Minister said that he has never been out of the country. Would I be in order to request the Chair to direct that the Assistant Minister brings his passport to this House to confirm his contention?

Mr. Deputy Speaker: That is a point of information, anyway!

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. A Member of this House has requested that you refer this matter to the relevant Departmental Committee so that it may be investigated, since it is serious and of national importance. I propose that you pose the question.

Mr. Deputy Speaker: I do not have to pose the question on this. Mr. Kabogo, this is not your first time in Parliament.

Indeed, given the seriousness of the sentiments that have been expressed by the hon. Members and given the fact that we all have a cardinal and sanctified duty to see to the protection of the security of our country and the people who live in it; given the fact that there is a very serious claim that there are people who come into our country without them being subjected to the requisite security checks; the Chair directs the Departmental Committee on Administration and National Security to move with speed and report back to the House in as short period as two weeks.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Arising from your directive, I would like the Committee to consider a matter related to this in terms of discriminatory practices at our own Jomo Kenyatta International Airport (JKIA), where if you are on KLM, the queue you follow has to do with nationals of United Kingdom (UK), Canada and the United States of America (USA) and then, the rest of us who are Africans, in our own country, are going through another queue. I think that is very relevant to this. We should not be discriminated against in our own country.

Mr. Deputy Speaker: The hon. Members of the relevant Committee must have heard what you have said.

Next Question!

Question No.397

LIST OF LARGE-SCALE SEED PRODUCTION COMPANIES IN KENYA

Dr. Nuh asked the Minister for Agriculture:-

(a) whether he could provide a list of large-scale seed production companies in the country;

(b) how many tonnes of maize these companies are currently holding in reserve; and,

(c) what plans the Ministry has to ensure that the country does not face shortage of maize seed and other seeds for planting.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the House, so that I can answer this Question next week on Tuesday. This is because I have received an unsatisfactory answer.

Mr. Deputy Speaker: Dr. Nuh, have you had sufficient consultation with the Minister on the same?

Dr. Nuh: Mr. Deputy Speaker, Sir, indeed, the Question is insufficiently answered. So, I will have no problem.

Mr. Deputy Speaker: Fair enough! The Chair directs that this Question appears on the Order Paper the week after next week on Tuesday, because Wednesday is a public holiday and I have already directed so many Questions to come on Thursday.

(Question deferred)

Question No.438

TRANSFER OF VEHICLE OWNERSHIP

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

(a) how long it takes to transfer ownership of a motor vehicle from one person to another after all necessary fees have been paid; and,

(b) what measures he is taking to speed up the exercise.

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

(a) On average, it takes three days to transfer ownership of a motor vehicle from one person to another after all necessary fees have been paid.

(b) Measures that have been put in place to speed up the transfer of ownership process include automation of the Road Transport Department, which has enabled easy retrieval of motor vehicle files and records and development of Road Transport Service Delivery Charter, which spells out the expected service standards in the provision of services to the general public.

Mr. Warugongo: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House. Maybe he has been misled. Before I prove that, I want him to tell us whether the owner of a vehicle is the one who collects the logbook or it is sent to him.

Dr. Oburu: Mr. Deputy Speaker, Sir, it is sent to him.

Mr. Warugongo: Mr. Deputy Speaker, Sir, I would like to prove that it takes more than one year to register and receive a logbook of a motor vehicle. I know that there are many people who are suffering out there. I have a document where the owner paid all the charges on 22nd September, 2009 and up to now, the document has never been sent to her. The person's name is Teresa Nyandia Warugongo. If a wife of a Member of Parliament can wait for a logbook for more than one year, what about a common mwananchi out there?

Dr. Oburu: Mr. Deputy Speaker, Sir, there are two categories of transfers. There are transfers of new vehicles which have come into the country, but there are also transfers of those vehicles which are mortgaged to some financial institutions and the transfers are made after the owner has cleared with the financial house. In the case of new registration, it takes three days to clear, but on the other ones which involve financial institutions releasing the log book to the owner, we require to check on a few things. That is why it has been taking a bit long. There is also the manual handling of this, which has also been delaying the processing of logbooks. But we have just automated the transfer system and, therefore, we are clearing all the backlog which we had. As it is now, we

have 4,598 cases still pending. On average, in a year, we process about 6,814 logbooks. With the automation, we are sure that we are going to clear the backlog which has been there.

Mr. Mututho: Mr. Deputy Speaker, sir, I have not received a written reply to my Question.

Question No.442

NON-EMPLOYMENT OF NAIVASHA RESIDENTS
BY MINISTRY OF ENERGY

Mr. Mututho asked the Minister for Labour:-

(a) why the Ministry of Energy in Naivasha has persistently locked local residents out of recruitment of basic manual jobs in all its operations and affiliates;

(b) whether he could provide a breakdown of all persons employed in the last one year by Geothermal Development Company (GDC) and their contractors, KenGen and Kenya Pipeline Company (KPC) within Naivasha and state where they come from within Naivasha Constituency; and,

(c) when the apparent discrimination against local residents will stop.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, we have not yet gotten enough information from the Ministry of Energy to enable us compile a suitable answer to the Question the hon. Member has asked. So, I seek the indulgence of the House that we bring the answer next Thursday.

Mr. Mututho: Mr. Deputy Speaker, Sir, that is quite in order. Could he bring the answer in two weeks?

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, I had indicated that I will bring the answer on Thursday.

Mr. Deputy Speaker: Fair enough! Thursday next week! It is ordered!

(Question deferred)

Question No.462

DELAYED REHABILITATION OF MAILI TATU-LARE ROAD

M'Mithiaru asked the Minister for Roads:-

(a) why he has not commenced the works to rehabilitate the Maili Tatu-Lare Road (E817 and D486) to motorable standard despite a commitment made by the Minister in October 2008; and

(b) when the works will commence.

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

The Ministry considered carrying out rehabilitation on Maili Tatu-Lare Road, combining two roads, E817 and D486 in October 2008 through a variation order under

the ongoing project of Farm-Kawiru-Mutuati-Kajulu contract No.0492. However, when the works were evaluated, it was realized that the cost of rehabilitation was well above the allowed 15 per cent on the ongoing contract variation value and, therefore, required fresh tendering in accordance with the Public Procurement Act.

My Ministry, meanwhile, has set aside funds to carry out this work this financial year. Tender documents are ready and tenders will be invited before the end of the year for complete construction of that road, which is 11 kilometres.

Mr. M’Mithiaru: Mr. Deputy Speaker, Sir, I thank the Minister for the answer that he has given. I think the import of this Question was because of the delay in carrying out the promise that the Minister made in 2008. What I want from the Minister now is a real reassurance, because the constituents have waited for a long time, that come the end of this year, the contractor will come to site.

Mr. Bett: Mr. Deputy Speaker, Sir, yes, subject to procurement rules which we will have to comply with.

Mr. Deputy Speaker: Last question, Mr. M’Mithiaru!

Mr. M’Mithiaru: Mr. Deputy Speaker, Sir, he has already assured the House that the Maili Tatu – Lare – Mutuati Road will be tendered for this year. Now that the Minister has given that assurance, I want him to confirm that he can come to commission the road when the contractor comes on site.

Mr. Bett: Mr. Deputy Speaker, Sir, we will cross that bridge when we come to it.

Mr. Deputy Speaker: Next Order!

COMMUNICATION FROM THE CHAIR

CIRCULATION OF TWO DIFFERENT ORDER PAPERS IN THE HOUSE

Mr. Deputy Speaker: Hon. Members, as you will remember, the House was subjected to two Order Papers today. The two had the same information except the Motions which were different. My consultations both with the Clerk’s Department and Members of the House Business Committee (HBC) gave the information that both items; the Second Reading of the Finance Bill (2010) and the Motion by the Departmental Committee on Defence and Foreign Affairs were both balloted for. The precedence was supposed to be on which of the two would be moved today.

The information we have is that subsequently, through communication between Members of the HBC and the Clerk’s Department, it was decided that after the publishing of the first Order Paper which had indicated the Departmental Committee on Defence and Foreign Affairs Motion as having precedence, another Order Paper be printed, indicating that the Finance Bill was going to take precedence.

This morning, in my office, the Assistant Minister for Finance came to me and told me that they will not be in a position to move that item. This is for the very simple reason that the Minister is not around and he would be comfortable with the Minister moving it. Under the circumstances, I have given direction for a Supplementary Order Paper to be circulated and that Order Paper is going to be circulated now.

We will base our transaction of business on the second Order Paper being circulated now. Proceed!

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

Mr. Deputy Speaker: Mr. K. Kilonzo, if you want to raise the point of order on the same, you will raise it when we get to it. We are now on Statements!

Next order!

POINTS OF ORDER

EXTRADITION OF KENYAN CITIZENS TO UGANDA

Mr. Yakub: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs.

The names of persons who are mentioned here were extradited to Uganda and all of them are Kenyans. This was during the months of July, August and September, 2010.

1. Doris Magundu
2. Hussein Hassan Agade.
3. Mohammed Abdo.
4. Mohammed Hami Suleiman.
5. Habib Njoroge Suleiman.
6. Yahya Mbudhia Suleiman.
7. Omar Hawadh Oman.
8. Abubakar Ismail.

Mr. Deputy Speaker, Sir, I would like the Minister to address the following issues:-

(a) What are the rules for extradition provided for in Chapter 75 and Chapter 77 of the Laws of Kenya?

(b) Was the law followed in extraditing the above named Kenyans? If not, why?

(c) Under whose authority and power did the police act in extraditing the eight Kenyans and who authorized them?

(d) Can the Minister table the following documents from the Ugandan Government:-

(i) A court order from the Ugandan Government requesting the Kenyan Government to hand over the above mentioned eight Kenyans to Uganda.

(ii) A Ugandan Government document acknowledging receiving the eight mentioned Kenyans.

Thank you.

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir, I undertake to communicate the same to the Minister and he can issue the Statement on Thursday next week.

Mr. Deputy Speaker: Mr. Yakub, are you comfortable with Thursday next week?

Mr. Yakub: Yes, much obliged, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! The Chair directs that the Minister for Justice, National Cohesion and Constitutional Affairs issues that Ministerial Statement on Thursday next week.

Mr. Okemo, please, proceed!

EXTENSION OF TIME FOR PROBE INTO
CHARTERHOUSE BANK

Mr. Okemo: Mr. Deputy Speaker, Sir, I rise on a point of order regarding a petition dated 5th July 2010 relating to the Charterhouse Bank which was tabled in this House by Mr. C. Kilonzo on the 7th July.

Mr. Deputy Speaker, Sir, following deliberations on the same, the House committed the petition to the Departmental Committee on Finance, Planning and Trade, pursuant to Standing Order No.210. The Committee is also required under the same Standing Order to prepare a Report in response and have it laid on the table of the House after 21 days. This would have brought the date of presenting such a Report on the 28th of July.

Mr. Deputy Speaker, Sir, the petition was tabled in July and at that time, we were all busy with the referendum campaign. So, the Committee never had an opportunity to meet. Our first meeting was held at the end of August on 23rd. We invited several witnesses. We have held meetings three times every week since that time to today. However, we have not been able to exhaust all the witnesses. Some witnesses will be required to come back in order to give new evidence. Due to the complexity of the matter and also because of the many witnesses who are still yet to appear before our Committee, I would like to seek the indulgence of the House for an extension in order to enable the Committee to invite those witnesses who have not appeared before us and also to recall those who have new evidence to give.

Mr. Deputy Speaker, Sir, I would therefore, like to seek the indulgence of the House for extension of time. If I had the opportunity, I would try to convince the House that we go up to the end of November but I leave that to you.

Mr. Deputy Speaker: You are seeking the indulgence of the Chair to give an extension and not the House.

Mr. Okemo: Mr. Deputy Speaker, Sir, much obliged. Actually, I am asking for the indulgence of the Chair.

Mr. Deputy Speaker: I can confirm that the Chairperson of the Departmental Committee, Mr. Okemo has consulted me on the matter. Given the factors enumerated by the Chairperson I hereby evoke the provisions of Standing Order No.1 and give the Committee an extension of time. However, the Chair is convinced that they will need up to 15th November. You have already exhausted the time you had and I consequently direct that the Committee should expedite this issue and report to this House on or before the 15th of November, 2010.

Mr. Okemo: Mr. Deputy Speaker, Sir, should the need arise for further extension we shall still come back to you.

Thank you.

INSECURITY IN KERICHO TOWN

Mr. Langat: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the recent wave of runaway insecurity in Kericho Town, including its surrounding areas, like Matobo, Kapsoit, Kipsitet, Kiongo and Kiprop and Chepsir. Organized criminals have

been terrorizing residents at night and stealing money, vehicles and other items. The Minister should address the following issues:-

How many people have so far been terrorized by these criminals in the last five months, including families? He should explain who these organized criminals are and why the police has not been able to arrest them. He should state what urgent and specific actions he will take to arrest these criminals and bring back security to normalcy in Kericho Town and the said surrounding areas.

Mr. Deputy Speaker: Mr. Minister, this is a serious matter, and so you need to give an undertaking that, essentially, will not allow more Kenyans to lose their lives in the meantime.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, let me respond to this Statement on Thursday, next week.

Mr. Deputy Speaker: Fair enough. It is so directed!

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir, before we adjourned the House a month ago, I had sought a Ministerial Statement from the Minister for Information and Communications that was deferred to yesterday, Wednesday, 13th October, 2010. By yesterday, I had not received any communication. I would like to know and get an indication when the Ministerial Statement will be issued.

Mr. Deputy Speaker: Order, hon. Members! There is a provision in the Standing Orders that we must respect. Standing Order No.36(4) says that:-

“The Leader of Government Business shall, every Thursday or the last sitting day of the week, before commencement of business, for not more than fifteen minutes, present and lay on the Table, a statement informing the House of the Business coming before the House in the following week”.

I would then ask the Leader of Government Business or the Deputy Leader to proceed and do the same.

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

Mr. Deputy Speaker: You were seeking a Ministerial Statement that essentially has not been delivered up to now?

Dr. Nuh: Mr. Deputy Speaker, Sir, if I am informed when it will be delivered, then I will be comfortable.

Mr. Deputy Speaker: Which Ministry was that?

Dr. Nuh: The Ministry of Information and Communications.

Mr. Deputy Speaker: Is the Minister for Information and Communications here by any chance, or the Assistant Minister?

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. Standing Order No.158(7) states that the Chairperson and at least one third of the other Members of the House Business Committee shall form a quorum. A few minutes ago, we were informed that the House Business Committee actually transacted business through the telephone. I wonder whether that is valid within the provisions of the Standing Orders, unless Standing Order No.1 can be used to override all the others. Maybe, you will need to tell us.

Mr. Mbadi: On a point of information, Mr. Deputy Speaker, Sir. I want to inform hon. Ruto that Standing Order No.1 is only applicable where matters are not expressly stated or provided for.

Mr. Deputy Speaker: That is not expressly stated, hon. Mbadi!

Mr. Mbadi: It is expressly stated.

Mr. Deputy Speaker: Order, hon. Mbadi! Dr. Nuh, much as I sympathize with your issue, the Minister for Information and Communications is not here. The Chair would be more than happy if you can raise this matter next week and will give a direction.

Proceed, hon. Kimunya!

MINISTERIAL STATEMENT

PARLIAMENTARY BUSINESS FOR THE WEEK
COMMENCING TUESDAY, 19TH OCTOBER, 2010

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, pursuant to the provisions of Standing Order No.36(4), I take this opportunity to make the following Statement in regard to the business for the week commencing 19th October, 2010.

The following two Bills are awaiting first reading, namely, the Vetting of Judges and Magistrates Bill, Bill No.16 and the Judicial Service Bill, Bill No.17.

Having successfully constituted the Constitutional Implementation Oversight Committee and the Chairperson and the Vice-Chairperson elected, the Committee is expected to co-ordinate the consideration of the two Bills in consultation with the other stakeholders. I note with gratitude that the Bill on the Commission for the Implementation of the Constitution passed its crucial Second Reading stage yesterday. The Bill should undergo the Committee Stage and eventual passage by the House in the course of next week.

The Tea (Amendment) Bill, Bill No.12 will be listed for Committee Stage after consultations between the Ministry of Agriculture and the Departmental Committee on Agriculture, Livestock and Co-operatives have been finalized. The House will also debate the report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Committee's hearings on the challenges facing the sugar sector in Kenya, laid on the Table of the House on Wednesday, 13th October, 2010.

Set to be debated is the Report of the Departmental on Defence and Foreign Relations on the procurement, disposal and construction of properties of Kenya's diplomatic missions in Egypt, Japan, Nigeria, Belgium and Pakistan, which was laid on the Table of the House on 12th October, 2010.

The House will also consider any report by the Departmental Committees, which may be tabled in the course of the week.

The House Business Committee will meet on Tuesday, 19th October, 2010, to consider any other business that the House may be required to consider.

Lastly, the House Business Committee is calling upon Ministries and Departmental Committees to expedite the consideration of Bills referred to the Committees, in order to ensure timely passage of legislation in this House. Indeed, the provisions of Standing Order No.111(2) require Committees to present their reports on Bills within ten calendar days of such committal.

Mr. Deputy Speaker: Hon. Members, you might observe that lately, there has not been sufficient business to be transacted by the House to the extent that on at least one occasion, the House had to adjourn early. Both businesses appearing on the two Order Papers for today were passed by the House Business Committee. However, there was uncertainty over whether the Mover for the Finance Bill would be ready, given that the Deputy Prime Minister and Minister for Finance is out of the country. It was not clear whether the Assistant Minister would be ready to move this Bill. That is the basis on which the Clerk's Department was advised to proceed on and print the second Order Paper. It is not that the House business was transacted by one or two people. This was the basis.

Next Order!

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

Mr. Deputy Speaker: Hon. Shakeel, you are out of order!

Proceed, hon. Assistant Minister!

BILL

Second Reading

THE FINANCE BILL

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): On a point of order, Mr. Deputy Speaker, Sir. I wish to seek the indulgence of the House that we defer this Bill to next week, when the Deputy Prime Minister and Minister for Finance would have returned from the World Bank meeting.

Mr. Deputy Speaker: Fair enough! It is so directed!

(Bill deferred)

Next Order!

MOTION

ADOPTION OF REPORT ON PROPERTIES BELONGING TO KENYA'S DIPLOMATIC MISSIONS

POINT OF ORDER

STAY OF PROCEEDINGS ON REPORT ON PROPERTIES BELONGING TO KENYA'S DIPLOMATIC MISSIONS

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. As you may notice, my Ministry is the respondent in this Motion. The documents that form part of the report and the report were laid on the Floor of this House on Tuesday, namely, the day before yesterday. Yesterday, I tried to get the report,

so that I could look at it, but I was not able to. I got the report this morning at 9.30 a.m. as I was leaving my office to go to a Cabinet meeting, which I am also constitutionally obligated to attend.

Mr. Deputy Speaker, Sir, when I left my office, I had an Order Paper that did not reflect the business of today to include this Motion, to the extent that I was not able to even address my mind to the matter. When I walked into the House, I found the hon. Member for Yatta raising issues about two Order Papers. That is when I learnt that the matter is available for debate this afternoon. I seek an adjournment of this debate because it is a very weighty matter. If you have seen extracts that have been carried in the media, although the media cannot be used as authority to pursue an argument, the report makes very far-reaching recommendations that touch on me personally. Under the rules of natural justice, fair play, parliamentary etiquette; based on precedents in comparable jurisdictions; a matter as weighty as this requires the respondent to have ample time to prepare to make a reasoned response. I am quite sure that there could be many hon. Members who have not seen this report or if they have, they have not read the same.

I have, as the Minister responsible, appeared before the Committee several times. I have also taken steps to invite the Kenya Anti-Corruption Commission (KACC) to look into the matter.

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

Mr. Deputy Speaker: Order, Mr. Keynan! The Minister is on a point of order!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, I am on a point of order. I urge the House that even as we have the report debated, it would be a good thing not to be driven by any emotions but to look at the facts as they are. It should have the benefit of this---

Mr. Deputy Speaker: Order, Mr. Minister! You are rising on a point of order seeking an adjournment. The Standing Orders are very explicit and clear about that. Standing Order No.25(1) states that:-

“A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair---“

The key words here are “which has been proposed”. Mr. Minister, you can only seek an adjournment of the debate after the Motion has been moved, seconded and proposed.

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I am not moving for the adjournment of a debate that has not started, but I am moving that the Chair and the House to stay the proceedings of the Order as read out by the Chair and the Clerk. This is different because if the debate had started, I would move that debate be now adjourned to another date. However, I am moving that the Order that you have read even before it is moved that it is premature, I am not ready and I need to be ready. As the Chair, you need to address your mind to the rules of natural justice.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. The hon. Minister is actually raising issues that touch on one of the issues that I posed to you a few minutes ago, about the functioning of the House Business Committee (HBC). He is questioning whether the HBC properly ordered this Motion or whether this Motion is before the House in a proper manner. There seems to be confusion on the leadership because even the Leader of Government Business who is before us today and has just read some

Statement is not even a Member of the House Business Committee. I do not know when he became the Leader of Government Business. I thought he was still on probation because we just reinstated him the other day. I am surprised that he has been appointed the Leader of Government Business. Nevertheless, it is a clear indication---

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. Following what Mr. Ruto has said and what Mr. Wetangula has talked about, in the morning, the Order Paper that was there when I came in is the one which we have in this House. We have a Supplementary Order Paper which has been circulated a few minutes ago. The issue of concern in the Supplementary Order Paper is the Motion from the Departmental Committee on Defence and Foreign Relations. I have just received this report and as you can see, it deals with five embassies. A lot of money has been used not in a proper manner. Am I in order to seek your concurrence in deferring this Motion up to Tuesday so that we can debate on it?

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

Mr. Deputy Speaker: Order, hon. Members! Order, Mr. K. Kilonzo! Let us have some decorum.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. I had just posed a question specifically under Standing Order No.158(7) which says:-

“The Chairperson and at least one third of the other Members of the House Business Committee shall form a quorum.”

Is there a confirmation that the House Business Committee sat in this manner, and that this Order Paper is properly before the House because we were informed of telephone calls?

The Minister for Agriculture (Dr. Kosgey): Mr. Deputy Speaker, Sir, I chaired the House Business Committee which handled this matter. The truth of the matter, and some Members are here and can bear me out, is that in view of the only business we had, the Committee decided that we would have this matter this afternoon. However, Mr. Keynan said that he needed confirmation that his Members would be available today this afternoon. Therefore, he was tasked by the House Business Committee to meet with the Clerk to confirm that position and put it on the Order Paper. However, it was decided that if that position will be that those Members will not be there, then we would have the Finance Bill, even though we were aware that we could have a problem in view of the absence of the Deputy Prime Minister and Minister for Finance. Therefore, we decided that if it turns out that those Members would not be there, then the Assistant Minister for Finance who, for purposes of this House, is the Minister, would move the Finance Bill. That is the true position. There was a quorum.

Mr. Gabbow: On a point of order, Mr. Deputy Speaker, Sir. I think the Order Paper has to come out in time. We cannot live on probability as to whether a Motion will come at the whims of a Committee or not. We need to be told that the Order Paper should be ready at a given time. We cannot sneak in a Motion a few minutes before hon. Members debate it.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. It is clear that the matter is properly before the House. The air has been cleared by the Deputy Leader of Government Business who chaired the House Business Committee of the House, yet the argument of the Minister for Foreign Affairs that he needs time, is also valid.

The matter being before the House and the Committee Chair and the hon. Members being ready to move and some of the hon. Members – like I must confess that I have gone through the entire Report – I think it is in order that a balance be struck. Let the Committee Chair move the Motion. Let the Minister be given time to respond. After all, time is moving. I believe that this House, in the eyes of the public, will look like it is playing games. Let this matter be moved and let those who are not ready to contribute, contribute the next day before the Motion is closed. But why deny those of us who are ready now?

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Deputy Speaker, Sir. Touching on what Ms. Karua has said, we may wish to run away from a very fundamental position. The House must clean itself. I mean, there is a crisis; we have two Order Papers. The circumstances under which those two Order Papers reached hon. Members should be fully explained. As for me, while not talking about the contents or the directions the Motion is going to take, for me to take the Business of this House seriously, I need to know well in advance what the House is going to discuss. If we run away from that responsibility, we must clean our own House so that any morning, I can know what the Business before the House is. But right now, I think, you know, to try to find out which Motion or Bill should be moved, I think it is running away from the problem.

Mr. Deputy Speaker, Sir, if---

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

Mr. Deputy Speaker: The honorable Minister is on a point of order!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, if the Chair cannot give directions on this, then it means that any time, any matter can come; I can be slaughtered any time. Mark you, the new Constitution that we have passed says that every state authority and every public body or institution is obliged to abide by the Constitution, which includes the Bill of Rights.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. I think we are losing track here. A while ago, you did rule that this matter is properly before the House. If that is the position---

Hon. Members: No! No!

Mr. Kabogo: Mr. Deputy Speaker, Sir, may you protect me from these people?

Mr. Deputy Speaker: Order, hon. Members! Order! Order!

Mr. Kabogo: Mr. Deputy Speaker, Sir, it is my understanding that a while ago, you did rule that this matter is properly before the House and you did ask hon. Wetangula that he was trying to adjourn a Motion against Standing Order No. 25. I thought that, at that point in time, we had already identified the fact that the Motion was properly before the House. So, may we proceed as Ms. Karua has suggested?

The Assistant Minister for Livestock Development (Mr. .Duale): On a point of order, Mr. Deputy Speaker, Sir. We need your guidance. At the beginning of the Session today, hon. K. Kilonzo rose on a point of order on the issue of the validity of two Order Papers which were on the Table. I heard you very well saying that you will make a ruling on the basis of that.

Now, we have a third one or a Supplementary Order Paper which was sneaked in. So, before even we reach the debate on this Motion, we need your guidance on the validity of the three Order Papers.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! Order, hon. Members!

(Hon. Gabbow raised his hands up in protest)

Hon. Gabbow, if you raise your hands one more time with those papers, like you are demonstrating in public, you will see yourself out of this House!

(Laughter)

Hon. Members, indeed, the Chair does not deny the fact that there is some confusion. The confusion, in my opinion, has been caused by the House Business Committee because when you give direction on one and then you change the direction - and these days our Parliament is an e-Parliament - we end up with two Order Papers here. And then, regarding the business on the Order Paper that essentially was the latter one that was supposed to form the substantive Business of the day, the Assistant Minister for Finance said he is not in a position to move and this House wants to transact Business. Whereas I do understand, in all fairness, it is always good when a Ministry or the Government itself is being indicted, that it has ample time to prepare itself. That is why the provisions of Standing Order No. 25 were put in our rules book here.

The Chair had, on occasion in the past, to rule on the same – a case in which the Leader of Government Business who is none other than the Vice President and Minister for Home Affairs, who sits on the House Business Committee, ended up with a Motion that essentially was indicting hon. Kimunya. When the Motion came up for deliberation, the same Vice-President and the Government side said: “Now, we want it to be postponed.” It is under those circumstances that I had put a precedent then; that if you want it to be postponed, use the provisions of Standing Order No. 25.

Standing Order No. 25 essentially says that, let the Mover move, let the Question be proposed and then the Minister or the Government side for that matter can stand up and seek for the adjournment of the Motion. And the Question will be put. That is why the Chair has to take certain hard decisions. It is under those circumstances that the Chair has directed that we proceed on with this Business!

(Applause)

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I did not move the House and the Chair under Standing Order No. 25. Indeed, if I wanted to move the House under Standing Order No. 25, I would have said so. I am fully aware that I am not trying to adjourn an ongoing debate, because there is no debate going on.

Mr. Deputy Speaker, Sir, in its wisdom, this House crafted Standing Order No. 1 that gives the Chair the latitude to make rulings on matters that are not anticipated in the Standing Orders. I did say and I beseech you to rule on this or to put the matter to the House to decide. I did say that I was contesting the Order as read out before even

moving. I said that the rules of natural justice must apply. I want to repeat that it is not just a question of the Motion being moved by the Chair of the Committee, it is a question of everybody intelligently following the proceedings of the House and the debate after reading through the Report and I, as a respondent, also being in a position to intelligently follow the debate and later be in a position to respond. As a Minister, I need to sit down with my team and go through and be able to follow the debate. By doing so, we will adhere to the rules of natural justice.

Mr. Deputy Speaker, Sir, if the Chair fails to rule that in a matter as serious as this-----. There are also Members who may want to hear my side of the story even before I debate. I need an opportunity to also speak to such Members. I do not see the difficulty in the House seeing what I am saying, that we adjourn the order as read. If it ends up with the House not having business, so be it. We have had this many times before. I am not running away from debate. I am absolutely innocent in this matter and I want to debate it here, fairly and soberly.

Mr. Deputy Speaker, Sir, I beg to move that you exercise your discretion under Standing Order No.1 which states as follows: "In all cases where matters are not expressly provided for by these Standing Orders or by other orders of the House, procedural question shall be decided by the Speaker". You will be guided by usages, forms, precedent, customs, procedures and tradition.

Mr. Deputy Speaker, Sir, let me also draw your attention to the provisions of Standing Order No.35 which may help you in reaching a decision on this matter. I do not believe that I am being unreasonable in making this request. I would urge you to listen to other voices on this matter because I believe that I must be accorded an opportunity, as is protected by the Constitution of this country, to prepare my case.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. The argument by the Minister sounds really convincing but I want just to remind the Chair that the Chair cannot review its own decision. That should be left for this House. I want also to point out that hon. Wetangula said that he needs time to talk to the Members. If he is going to talk to the Members before the Motion is moved, that, to me, amounts---

(Mr. Wetangula stood up in his place)

Mr. Deputy Speaker: What is your point of order, Mr. Wetangula?

Mr. Mbadi: I am on a point of order Mr. Deputy Speaker, Sir. Talking to Members before the Motion is moved would amount to anticipating debate and I wish the Minister could withdraw that---

CONSIDERED RULLING

ORDER OF TRANSACTION OF BUSINESS TO BE
DETERMINED BY HOUSE BUSINESS COMMITTEE

Mr. Deputy Speaker: Order! Order, hon. Members! This is an unusual situation. I am sure you all understand the kind of predicament the Chair is in. It is a predicament no Chair would wish to be in, in that it also reflects on the fact that these Order Papers are prepared by the House and having two Order Papers---. Even this Supplementary Order

Paper is an issue. I am now inclined to make certain variations in my orders because I have just read--- Standing Order No.35(3) says “the Clerk shall prepare and publish on the Parliamentary website weekly programmes showing the business of the House and the schedule of the sittings of the various Committees and shall circulate such programmes to the Government Ministries, Members and the Media not later than the Friday of the week preceding such business.”

Standing Order No. 35 (2) says: “The Order Paper shall be placed in each Members pigeon hole at least 12 hours before the House meets. A supplementary Order Paper shall be available at least one hour before the House meets.” We are now transacting business through a Supplementary Order Paper.

Hon. Members: Which one!

Mr. Deputy Speaker: Order! Order! Ideally, this Supplementary Order Paper should have been circulated at least one hour before 2.30 p.m., which is 1.30 p.m. Under the circumstances the Chair---

Hon. Members: Apologize!

Mr. Deputy Speaker: The Chair never apologizes but the Chair can vary its own rules.

The Chair now directs that this whole business of what is going to have precedence over the other, and the business that is going to be transacted will be determined by the House Business Committee, and as of now, the Chair has no other business to transact.

Hon. Members: Yes, that is good!

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members! There being no further business to transact, the House is adjourned until Tuesday, 19th October, 2010, at 2.30 p.m.

The House rose at 5.06 p.m.