

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th February, 2012

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Financial Statement of the County Council of Wareng for the two years period ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Municipal Council of Limuru for the year ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Town Council of Londiani for the two-year period ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Town Council of Sotik for the period of two years ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Town Council of Iten, Tambach for the two-year period ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Town Council of Maralal for the year ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Municipal Council of Kimilili for the two-year period ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Municipal Council of Kisumu for the two-year period ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

Special Audit Report of the Controller and Auditor-General on the Debtors, Creditors, and Local Authorities Transfer Fund (LATF) of the Municipal Council of Kisumu for the four-year period ended 30th June, 2007 and the Certificate thereof by the Controller and Auditor-General.

Financial Statement of the Town Council of Sirisia for the two-year ended 30th June, 2009 and the Certificate thereof by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of State for Defence
(Maj-Gen. Nkaisery) on behalf of the Deputy Prime
Minister and Minister for Local Government)*

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

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

Mr. Olago: Mr. Deputy Speaker, Sir, ordinarily, I would defer to age and experience, but I draw your attention to the dressing of hon. William ole Ntimama whose neck and hands are exposed. Is that proper dressing?

Mr. Deputy Speaker: Clearly, I will not hesitate to call that a national dress. However, on the issue of his hands and neck being exposed, the Chair would ordinarily look at it differently. We are not in an ordinary situation when dealing with hon. ole Ntimama. He is the oldest hon. Member of this House and the Chair will clearly hesitate to apply any of the rules strictly against him.

Hon. ole Ntimama, you can stay the way you are!

The Minister of State for Heritage and Culture (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I have been wearing like this for the last five years!

(Laughter)

QUESTIONS BY PRIVATE NOTICE

IRREGULAR ACQUISITION OF LAND

Mr. Ruto: Mr. Deputy Speaker, Sir, I have not received the answer from the hon. Minister who is seated here although I had an occasion to chat with him. I, however, wish to proceed to ask him Question No.1 by Private Notice.

(a) Is the Minister aware that the proprietor of Bomet Teachers' Training College has fenced off about 33 acres of public land, including 4 acres belonging to St. Michael's Primary School in Bomet County?

(b) What steps will the Minister take to ensure that the irregularly acquired land is restored to the public?

(c) Could the Minister direct that St. Michael's Primary School be formally allocated the land and given unfettered access for development?

(Loud consultations)

Mr. Deputy Speaker, Sir, the Standing Orders allow that I ask the Question that way. That has been ruled!

Mr. Deputy Speaker: Whereas that has been the practice under the new Standing Orders, the Chair, however, always prefers that you just ask the Question. This is because if every hon. Member was to read the whole Question, then we would not have sufficient time to prosecute all the Questions in the Order Paper.

Proceed, hon. Minister!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, just in case the hon. Member has forgotten, he asked the following Question---

Mr. Deputy Speaker: Order, Mr. Minister!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I will stop.

(Laughter)

Mr. Deputy Speaker, Sir, the Question is on the Order Paper, but I thought that now that he read it, I should also read it out before answering. I also seek his indulgence because I thought this answer had already been conveyed to him.

However, I beg to reply.

(a) I am aware that the proprietors of Bomet Teachers Training College have fenced land meant for St. Michael's Primary School in Bomet County. However, I am not aware that 33 acres of public land have been fenced off by the same proprietors. According to our records, land designated for St. Michael's Primary School is 1.6 hectares. Bomet Teachers Training College is 3.148 hectares and Bomet Technical Institute, the one in which the hon. Member has interest, is 4.5 hectares.

(b) Investigations are underway to establish who authorized, if at all, the irregular fencing of the land.

(c) The proposed site for a primary school in the Development Plan No. R336/200/01 of 28th May, 2001 will be regularized for St. Michael's Primary School which is currently operating in the adjacent land meant for Bomet Technical Institute. I appeal to the hon. Member to bring some understanding and cordiality between St. Michael Primary School and the proposed technical institute so that everything can be done peacefully without any unnecessary disputes.

Mr. Ruto: Mr. Deputy Speaker, Sir, I want to thank the Minister for making a fair attempt to answer the Question. He has been fairly honest except that he has been a little bit economical on detail. The land that is in question is currently fenced off by Bomet Teachers Training College and it belongs to a primary school. I would like a categorical response from the Minister that the land be immediately available. He needs to tell us when he will give us the actual title deed to the primary school so that we can proceed. I like the way he has answered the Question by and large. However, I want to give him a record of the various parcels of land that have been fenced off by the same developer - these totals to 37 acres. I have the PDP for Bomet and I want to table it for ease of reference by the Minister. I also want to give him the detailed explanation as to the various parcels of land that have been fenced off by the same developer. They are nine plots. The same developer styles himself in several names such as Bomet Academy Limited, Lomu Investments, Benerd Simulo, Springmat Commercial College, Mulo General Distributors, Benard Mutai, Postal Corporation of Kenya, and St. Michael Primary School. All these land has been fenced off by the same individual. The Minister has been very keen on protecting public land and the Constitution gives him power to do that. I want to table these details which will assist the Minister in helping us.

(Mr. Ruto laid the documents on the Table)

Mr. Orenge: Mr. Deputy Speaker, Sir, I am grateful to the hon. Member. Indeed, he gave me an extract of the PDP and not the signed and authorized version. I have no problem with that because it is a fair and accurate exposition of what obtains on the ground. If the hon. Member cares to listen, when it comes to development and building of structures, those are regularized by the local council and in this case, it is Bomet Municipal Council. If somebody is constructing any structure, including a fence where it is not required to be, then he should take it up with the municipal council. When it comes to the issue of ownership and title, I can assure the hon. Member that with his assistance, I am going to do all I can and as quickly as possible make sure that the institutions he has mentioned get their title deeds. In fact, the technical institute will be built by GoK funds through the Eldoret Polytechnic. So, any delay in this matter affects the

public and has an impact on the way we are spending Government revenue. So, rest assured that in this one, we are together.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I would like the Minister to tell us what long-term solutions he has for such cases of land grabbing.

Mr. Orengo: The long term solution is the Land Bill which we now have a lot of time to give more input into. There is a question of your worldview and my worldview on how to deal with land grabbing. Is it something that you want an elaborate process? The Constitution states clearly that unlawfully acquired land has no protection under the Constitution and, therefore, should revert back to the public or the old order to remain, whereby if you grabbed land, for the public to get it back, then you have to go through a very long and tedious process. I think you are going to help me once the Land Bill comes back again so that we can find a lasting solution. You are the provider of the lasting solution.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, allow me to start by thanking this good Minister who has ably answered this Question and has also done a lot in the Ministry of Lands. However, could he confirm that by his statement, it gives clearance for the polytechnic to start awaiting finalization of the registration of property?

Mr. Orengo: In fact, if need be, to make sure that there is no further delay, I am willing to go to Bomet in the next two weeks with my officers so that the issue of title deeds is no longer in dispute so that the Eldoret Polytechnic can get along with the work of constructing this important institution before you become governor, if at all.

Mr. Deputy Speaker: Last supplementary question, Mr. Ruto!

Mr. Ruto: Mr. Deputy Speaker, Sir, I only want to use this opportunity to thank the Minister for being very forthright, honest and diligent in his work.

Mr. Deputy Speaker: Next Question is by Mr. Jamleck Irungu Kamau.

Mr. Warugongo: Mr. Deputy Speaker, Sir, Mr. Jamleck Irungu Kamau asked me to ask this Question on his behalf, if you permit me.

Mr. Deputy Speaker: This is a Question by Private Notice. The rules are very different. You can only ask on behalf of another hon. Member if it is an Ordinary Question.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I agree with your directive but this is an extra ordinary circumstance like now where colleagues have gone to give a send off to a departed colleague. I wish you could use your discretion to allow this Question to be prosecuted tomorrow because Mr. Jamleck Irungu Kamau is a neighbour of the departed brother.

Mr. Deputy Speaker: Order! That is information that is already within the domain of the Chair. You should not be in a hurry. Hold your horses!

The Question is deferred to tomorrow morning.

PROVISION OF BURSARY FUNDS TO CONSTITUENCIES

(Mr. Jamleck Kamau Irungu) to ask the Minister for Education:-

(a) Can the Minister confirm that there was a provision for bursary allocation of Kshs20,000 to 200 students in every constituency in the Financial Year 2011/2012 Budget?

(b) Why has the Ministry not released funds, considering that students continue to lose out on studies as they await the release of the money?

(c) When will the Ministry release the funds?

(Question deferred)

CAUSES OF HUSBAND BATTERING IN NYERI COUNTY

Mr. C. Kilonzo: 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) How many men have been battered by their wives in Nyeri County over the last three (3) years?

(b) What are the causes of husband battering in the county?

(c) What urgent action is the Government taking to discourage the menace?

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Could Mr. C. Kilonzo declare his interest in this Question?

Mr. Deputy Speaker: Everybody has an interest when it comes to a matter that is a national issue. If it is about husband battering, you are a husband and you have an interest too.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Is the Minister of State for Provincial Administration and Internal Security not here?

Mr. Midiwo: Mr. Deputy Speaker, Sir, the Minister is away in Kangema for the funeral.

Mr. Deputy Speaker: Okay. The Question is deferred to tomorrow morning.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No. 1019

INSECURITY ALONG NAKURU ELDORET HIGHWAY

Mr. Deputy Speaker: This Question by hon. Kiuna is also deferred to Wednesday afternoon next week.

(Question deferred)

Question No.1009

PROJECTS UNDERTAKEN BY ENNDA IN NORTH HERR

Mr. Deputy Speaker: Mr. Chachu was supposed to ask Question No.1009 but he has communicated with the Chair that he is not in a position to prosecute this Question this afternoon. The Chair defers the Question to next week on Wednesday in the morning.

(Question deferred)

Question No.1074

PAYMENT OF DUES TO FORMER EMPLOYEES OF M/S KTEC LTD

Mr. Deputy Speaker: Question No.1074 by Mr. Kabogo is also deferred to next week on Thursday afternoon.

(Question deferred)

Mr. Deputy Speaker: Question No.1177 by Mr. Warugongo!

Question No.1177

ILLEGAL SUB-DIVISION OF LR.1246/1/3/R

Mr. Warugongo asked the Minister for Lands:-

(a) whether he is aware that Plot No. LR.1246/1/3/R of 285 acres in Narumoru/Thegu Location belonging to the Agricultural Mechanization Service in the Ministry of Agriculture has been sub-divided and transferred to two private developers and, if so, who are the beneficiaries;

(b) whether the sub-division was regular and who authorized it; and,

(c) if he could revert the title deed back to the Government.

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

(a) I am aware that Plot No.LR.1246/1/3/R of 285 acres in Narumoru/Thegu Location belonging to the Agricultural mechanization Service in the Ministry of Agriculture has been sub-divided and transferred to two private developers. The beneficiaries are Phyllis Nduta Mugenyu and Simon Muchiri Wanjau. There is a part of that land which has been designated for a public purpose like the construction of a dam and a school.

(b) The sub-division of land into three portions was recommended by the Provincial Commissioner (PC) as the chairman of the provincial plot allocation.

(c) The title deed cannot be reverted unless by way of compulsory acquisition as provided for under Cap.295, Laws of Kenya, since the allocation was done procedurally.

Mr. Warugongo: Mr. Deputy Speaker, Sir, could the Minister tell us whether there are plans or arrangements to allocate the remaining piece of land which I understand is about 90 acres out of the 285 acres?

Mr. Orengo: Mr. Deputy Speaker, Sir, what I can tell the hon. Member through you is that 95 acres of that land is reserved for public purposes being the dam and the school but the balance was allocated to the two individuals that I have just cited. I think the hon. Member is already in possession of documentation showing a letter by the then Provincial Commissioner (PC) in Nyeri on 1st July, 1982 as the chairman of the Provincial Allocation Committee and brought to the Commissioner of Lands Mr. J. R. Njenga giving approval by the Committee and having made the appropriate consultations. This was way back in 1982.

Mr. Kigen: Mr. Deputy Speaker, Sir, what is the Minister doing to withdraw the allocation exercise from the Provincial Administration and confine it to his Ministry?

Mr. Orengo: Mr. Deputy Speaker, Sir, again under the Constitution and the Land Bill, the allocation of public land is now going to be in the hands of the National Land Commission, if you approve the legislation and the County Land Board which are going to be appointed by the

counties and not by the national Government. So, we await for that legislation if at all it will be passed.

Mr. Shakeel: Mr. Deputy Speaker, Sir, the Minister has told us that this was in 1982 but there is no limit of going back to find out whether the purpose for which the land was transferred is the purpose for which it was used on the ground. Could he confirm the reasons why the private developers were given the land and whether they have actually satisfied the conditions of the grant?

Mr. Orengo: Mr. Deputy Speaker, Sir, whether or not the developers have satisfied the conditions of the grant is a different Question. If you want me to look at that, I will, but what was being questioned was the legitimacy or the regularity of the allocation to the developers. Clearly, all that is on record, including records from the Ministry of Agriculture who were allocated that land in the beginning; the land was reserved to that Ministry in the beginning. They gave their consent to the allocation.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. The Minister has clarified about the regularity of the transfer but does the transfer include the use of the land as declared by the grant? You might find that the way the transfer was done may have been regular but thereafter the conditions have been irregular and not met. In that case, the grant may be deemed as retrievable by the Government if the conditions were not met. Could he confirm that he will look at that and if necessary take action to get the land back?

Mr. Orengo: Mr. Deputy Speaker, Sir, I know the Anglo Saxon language is not our mother tongue but I said in the beginning that the question as to whether or not the conditions of the grant have been complied with is a different question from what the hon. Member had asked. If you want me to look at whether the grantee has complied with the conditions of the grant, I am prepared to look at that.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I realized from the calculation here that these two Kenyans actually got a total of 190 acres, which is fairly a huge chunk of land. I was just wondering what are the attributes which makes the Minister feel that, that allocation was regular and that it was within the law? Could he even quote some statutes which really empower that Provincial Commissioner to allocate 190 acres of land? As the Minister responds, he can tell us the difference between this type of allocation and the allocations which were done in Mau and other forests in Kenya.

Mr. Orengo: First of all, Mr. Deputy Speaker, Sir, if I can give the difference or the distinction between the Mau allocations, there is a distinction on land which is available for alienation. The Commissioner of Lands, the President or for that matter, even the Minister for Lands cannot – let me put it that way – allocate land that is not available for alienation. That includes lands that are gazetted for a particular purpose or by dint of any particular law is for use for a particular purpose. For example, like hon. Ottichilo would tell you, if it is riparian land, whatever powers the President, Commissioner of Land or the Minister of Lands has, that kind of land is not available for alienation. Or, if it was a reservation for the public – and, clearly, the Mau Forest belongs to gazetted forest area. This Parliament, in its wisdom, said that even the Minister cannot make a decision to de-gazette a forest area. That has to be brought before this Parliament. So, there is that distinction. There is land of this nature which is available for alienation. In this sense, the Minister for Agriculture surrendered it back to Government and said: “We do not need it; you can allocate that land.” The then Provincial Commissioner for Central Province, sitting together with his Committee used the procedure available at that time to allocate the land to these three beneficiaries. I have problems with that and that is why in the new

law, we want every allocation to be subjected to public scrutiny. I think this is the spirit under which this Parliament has been passing a lot of legislation based on the Constitution.

(Mr. Shakeel stood up in his place)

Mr. Deputy Speaker: What is it, Mr. Shakeel?

Mr. Shakeel: Mr. Deputy Speaker, Sir, thank you for your indulgence. The Minister has earlier confirmed to the House that he will go and look at the conditions on the ground. Is it in order for me to ask when the Minister can report back to the House whether the conditions on the ground are satisfactory or not? So, could the Minister tell us when he will bring that report back to the House?

Thank you, Mr. Deputy Speaker, Sir.

Mr. Orengo: Mr. Deputy Speaker, Sir, let me just respectfully comment that the issue of the point of order was the order in relation to hon. Shakeel. He was asking: "Is it in order for him---" so that it may not appear in the record as if I am the one who is out of order. But having made that distinction, I am prepared within two weeks to bring a report back to the House if need be.

Mr. Deputy Speaker: Are you satisfied that the rest of the Question is answered, or would you like the Question to be deferred to that date so that you bring that information?

Mr. Orengo: Mr. Deputy Speaker, Sir, it depends on whether the hon. Members still want to interrogate it, but I could lay the report on the Table.

Mr. Deputy Speaker: Yes, hon. Warugongo!

Mr. Warugongo: Thank you, Mr. Deputy Speaker, Sir. There is a river which flows on one side of this piece of land and the surrounding communities have not been able to cross through this piece of land to the river, either to take their cattle to drink water or even draw water for their own use. Could the Minister compel the two allottees to give way to the surrounding communities so that they can be able to make use of that water because currently, they are travelling up to about five kilometers instead of three-quarters of a kilometer?

Thank you, Mr. Deputy Speaker, Sir.

Mr. Orengo: Mr. Deputy Speaker, Sir, if it is a permanent river, I can give you assurances because there must always be access to rivers, lakes and oceans. Nobody should really stand on the way of anybody accessing a river, a lake or an ocean. To that extent, I undertake to do so.

Mr. Deputy Speaker: If I follow what the Questioner is saying, the access is available, but it is a very long detour. So, it is a bit tricky in this case. Is that not what you are saying, hon. Warugongo?

Mr. Warugongo: Mr. Deputy Speaker, Sir, what I was saying is that---

Mr. Deputy Speaker: The access has not been denied; it is just that it is a long detour.

Mr. Warugongo: They have been going round the piece of land, which is over 300 kilometers!

Mr. Orengo: I need to look at that, Mr. Deputy Speaker, Sir, but I can assure him---

Mr. Deputy Speaker: I think it is fair, under the circumstances, that we defer the Question as you look for that particular information.

Mr. Orengo: Okay.

Mr. Deputy Speaker: The Question is deferred to two weeks from today when the hon. Minister would have already had that information!

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

(Question deferred)

Mr. Deputy Speaker: Next Question by Dr. Nuh Abdi!

Question No.1231

NUMBER OF BOREHOLES DRILLED
IN TANA RIVER COUNTY

Mr. Deputy Speaker: Dr. Nuh is out of the House on some parliamentary business but in addition to that, the hon. Minister did plead with the Chair that this Question be placed on the Order Paper on the week commencing 5th.

(Loud consultations)

Order! Hon. Mungatana, you should have been paying attention to this because you are the one who brought in the pleadings for Dr. Nuh!

Yes, the hon. Minister is asking for the Question to be placed on the Order Paper on the week commencing the 5th of March. So, when would you like the Question to be placed on the Order Paper? Is it on 6th or 7th?

Mr. Mungatana: On 7th.

Mr. Deputy Speaker: The Chair directs that this Question be placed on the Order Paper on the 7th of March!

(Question deferred)

Mr. Deputy Speaker: Next Question by hon. Kigen!

Question No.1255

RELOCATION OF KIOTO DUMP SITE
IN NAKURU TOWN

Mr. Kigen asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware of the deplorable and unhygienic condition at the Kioto dump site in Nakuru town;

(b) whether he is also aware of the negative effects of flooding at the dump site; and,

(c) what plans the Ministry has to relocate the dump site to an appropriate site.

Mr. Deputy Speaker: Is anyone here from the Office of the Deputy Prime Minister and Minister for Local Government? It is the presumption of the Chair that the Deputy Prime Minister and Minister for Local Government is, indeed, at the funeral.

This Question is deferred to Thursday next week!

(Question deferred)

Next Question by hon. Aden Duale!

Question No.1420

NUMBER OF PROJECTS UNDERTAKEN
BY REA IN DUJIS CONSTITUENCY

Mr. Duale asked the Minister for Energy:-

(a) whether he could provide a list of all projects undertaken by the Rural Electrification Authority (REA) in Dujis Constituency since 2008/2009;

(b) how much money was spent on each of the projects; and,

(c) when REA will connect electricity to the residents of Balambala District.

The Assistant Minister for Energy (Mr. Magerer): Thank you, Mr. Deputy Speaker, Sir.

I beg to reply.

(a) The following 13 projects and their costs have been undertaken by the Rural Electrification Authority (REA) in Dujis Constituency since 2008 and 2009.

Mr. Deputy Speaker, Sir, I will read the answers to parts “a” and “b” of the Question concurrently.

1. Balambala Sub-District Hospital cost Kshs2.1 million
2. Garissa New Slaughter House/Raya Market and borehole - Kshs8 million
3. Shabelerey Dispensary - Kshs0.64 million
4. Saka Board Primary - Kshs5.5 million
5. Balicha Dispensary - Kshs0.76 million
6. Dujis Dispensary - Kshs0.76 million
7. Saka Dispensary - Kshs2.5 million
8. Kora Kora Primary - Kshs4.7 million
9. Kora Kora Dispensary - Kshs0.84 million
10. Danyere Dispensary - Kshs0.7 million
11. Kasha Dispensary - Kshs0.72 million
12. Daley Dispensary - Kshs0.89 million
13. Danyere Boarding Primary School - Kshs3.22 million

The total cost is Kshs31.25 million.

(c) The REA will consider supplying electricity to Balambala District once the Member of Parliament identifies it as one of the priority projects in his constituency.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Duale: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading this House. Either the REA is not giving him the right answer or the Assistant Minister is deliberately misleading the House.

Mr. Deputy Speaker, Sir, in 2008/2009, Dujis Constituency like other constituencies was allocated Kshs17million. The following year, Dujis Constituency was allocated Kshs16.5 million

and the subsequent year, it was allocated Kshs15 million. If you add up that money, it comes to close to Kshs70 million and the REA has that figure. This was a parliamentary budget approved in this House.

Mr. Deputy Speaker, Sir, the Assistant Minister is only accounting for Kshs31.25 million, and I have no problem with that. All these projects are in my constituency but my question is; What happened to the other amount of money that was allocated to my constituency outside the Kshs31.25 million that he has accounted for?

Mr. Magerer: Mr. Deputy Speaker, Sir, I would like to say that as an Assistant Minister, I have no intention to mislead this House. I want to remind the hon. Member what we actually allocated to his constituency in the years that he has mentioned. In the 2008/2009 Financial Year, Dujis Constituency received Kshs17.3 million out of which Kshs10.74 million was spent. In the 2009/2010 Financial Year, Dujis Constituency received Kshs15.6 million out of which Kshs14.98 million was spent. In the 2010/2011 Financial Year, Dujis Constituency received Kshs9.7 million out of which Kshs5.53 million was spent while in the 2011/2012 Financial Year, which is the current year, we have allocated Dujis Constituency Kshs9.3 million out of which zero shillings have been spent so far.

Mr. Deputy Speaker, Sir, while the hon. Member has tried to imply that we have not done our work, it is the prerogative of the hon. Members of Parliament to prioritize projects within their own constituencies. Up to now, Dujis Constituency has a balance of Kshs11.3 million that has been unutilized over the period since 2008 and 2011.

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to state that hon. Members do not prioritize projects? In the 2008/2009 Financial Year, the amount which was allocated was equivalent to the proposal we submitted to REA, and it is out of that amount that REA did spend Kshs10.74 million. It is not the hon. Member of Parliament nor the people of Dujis who do not prioritize projects! We usually do our projects! The Assistant Minister has confirmed that he still has money which was not used in the 2008/2009 and 2009/2010 financial years. Can he tell the House where this money went because the project proposals are still with the REA?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Does the Assistant Minister wish to be informed by his colleague?

Mr. Magerer: I wish to be informed, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed, hon. Onyonka!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Deputy Speaker, Sir, I would just like to inform the House and the hon. Member of Dujis that the money which is left over from what is not spent by it REA, it is the hon. Member who then goes back and requisitions the same on a new allotment for more work to be done.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I remember sometime in 2008, the REA wrote to hon. Members of Parliament and they listed the projects based on their own fact finding namely markets, secondary schools and water points. They asked us to confirm that that priority is what we would like to be followed. They asked us to confirm that, that priority is what we would want to be followed; assuming that the Member of Parliament (MP) did not rearrange--- In the event that that rearrangement was not done and they were supposed to follow their earlier prepared list, what happened to the Dujis Constituency if the MP did not prioritise?

Mr. Magerer: Mr. Deputy Speaker, Sir, at least hon. Mbadi is confirming the fact that it is the prerogative of the Members of Parliament and the people of the constituency they

represent to prioritise their projects. In the case of Dujis, I think I have not got the estimates of the first project that could have been on the list; I have just made a call and was told it was costing Kshs30 million. What we have so far, as a balance of unutilized funds, is Kshs20.6 million. So, we would like to urge the hon. Members to give us a way forward in some of these projects for us to be able to implement them. Just recently, I think the hon. Member wrote a letter to the Rural Electrification Authority (REA) that Raya and Sankuri markets and Saka Girls School be prioritized. If you look at his Question, Mbalambala District is not appearing as a priority in the list of the hon. Member of Parliament.

Mr. M.H. Ali: Mr. Deputy Speaker, Sir, while I appreciate that the Assistant Minister is doing something at least in the rural areas, could he assure this House that the projects as put by the Members of Parliament in their priority will be accepted and done in time. This is because there are projects that he proposed in 2010 and up to now they have not been done. Could he come out clearly and tell us why they have been delayed when the people on the ground there are suffering?

Mr. Magerer: Mr. Deputy Speaker, Sir, I accept the challenge from the hon. Member, but it is my view, and that of the Ministry, that all the prioritised projects falling within the same financial year, and are fully funded in the provisions that we give to each constituency will be undertaken without delay. I want to, therefore, direct the REA to implement these projects with immediate effect. I want to assure the House that I will take personal responsibility to ensure that most of the projects that are prioritised by hon. Members are done.

Mr. Duale: Mr. Deputy Speaker, Sir, in Mbalambala District Headquarters, power cannot be funded through REA; we wrote a letter to the Minister for Energy and that is why we are asking via a different supplementary question whether the Assistant Minister could tell the House what programme the Ministry has for supplying power to the people of Mbalambala District Headquarters.

Mr. Magerer: Mr. Deputy Speaker, Sir, I think for the purposes of helping the constituencies which have long lines to be done, and may not be done within their budget, my Ministry has previously had some funds which have been used in affirmative action; if you remember well, in the last budget, the rural electrification money was slashed and I hope that in the supplementary Budget that is yet to be brought before the House, the House will support us so that we are able to get more funds to be able to carry out the special projects as we used to do before.

Mr. Deputy Speaker: Next Order.

POINTS OF ORDER

IMPENDING STRIKE BY KBC EMPLOYEES

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I had seen you earlier regarding a request for a Ministerial Statement from the Minister for Information and Communications on the strike by employees of Kenya Broadcasting Corporation (KBC), which takes effect tomorrow, 29th February 2012. My understanding is that, in a sense, the KBC will be off air, and there will be no coverage of the House and even of the entire country. In the Ministerial Statement, I want the Minister to clarify the following.

1. Why salary arrears amounting to millions of shillings have not been paid to the employees.

2. Why employees of the KBC are the most poorly paid in comparison to employees of other state corporations.

3. Why after the KBC undertook restructuring and , therefore, promoted employees to new grades as reflected in the code of regulations, the employer continues to pay the employees using old grades; it only implemented the new grades in respect of a few selected managers.

4. I want the Minister to clarify why the Government failed to honour a promise made by the Permanent Secretary on 10th February this year to pay the employees their new allowances based on the restructured grades as specified in the code of regulations.

5. Lastly, why has the corporation continued to have hundreds of employees on temporary terms for years contrary to labour laws?

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Orengo, when will the Minister give the Ministerial Statement sought by hon. C. Kilonzo?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I will communicate to the Minister. Can we have it on Wednesday next week?

Mr. Deputy Speaker: No. This is a crisis situation. The members of staff of a parastatal are going on a strike; my presumption is that tomorrow will be very good.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I will inform the Minister so that he can issue the Ministerial Statement tomorrow afternoon. I will do my best to get him here.

Mr. Deputy Speaker: It is directed that the Ministerial Statement be delivered tomorrow in the afternoon.

Yes, Hon. Duale.

DEPORTATION OF DR. ABU BILAL PHILIPS

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State for Immigration and Registration of Persons over the reported deportation of Dr. Abu Bilal Philips of passport number 542923, a renowned international Islamic scholar, who was invited by the Muslim community to Kenya to give lectures in Mombasa, Nairobi and Garissa, and who arrived aboard Flight No. QR532 at Jomo Kenyatta International Airport (JKIA) on 22nd February 2012, and who was deported three hours later, at 8.00 p.m.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Ms.A. Abdalla) took the Chair]*

Madam Temporary Deputy Speaker, in his Ministerial Statement, I would like the Minister to state the following; the reasons behind the deportation of the Islamic scholar; two, confirm to the country how many other times Sheikh Bilal Philips has given lectures in the country in the last four years; three, state how many international muslim scholars have been deported or denied entry into the country in the last four years; finally, he should explain to the country why the Ministry is discriminating against persons of the Muslim faith with regard to the propagation and development of their faith.

The Temporary Deputy Speaker (Ms. A. Abdallah): Any other statements?

Mr. Yakub: Madam Temporary Deputy Speaker, still regarding the same Ministerial Statement from the Minister of State for Immigration and Registration of Persons, could the Minister consider granting Dr. Abu Bilal Philips an entry visa so that he can come and deliver the long awaited lectures? Lastly, could the Minister, in his Ministerial Statement, inform us of the normal procedure for Canadian passport holders to get entry visas in Kenya?

The Temporary Deputy Speaker (Ms. A. Abdalla): The Front Bench, when are you going to deliver this Statement?

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, is it a consolidated Statement or each one of them wants a separate Statement?

The Temporary Deputy Speaker (Ms. A. Abdalla): It is a consolidated Statement. He added to the previous one.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, Wednesday next week in the afternoon.

The Temporary Deputy Speaker (Ms. A. Abdalla): Thank you very much. Wednesday next week! Any other Statements?

STATUS OF REVENUE ACCOUNT AT TREASURY

Mr. Mbadi: Madam Temporary Deputy Speaker, mine is a follow up of a Statement that I had asked previously. Sometime last year, about ten months ago, I sought for a Ministerial Statement from the Ministry of Finance relating to the revenue accounts. To date, this Statement has not been forthcoming. The Speaker promised to make a ruling and that ruling has not yet been made. I am worried because it is in relation to collection of revenue in this country, yet the Government continues to collect revenue and we are not even aware of how much is collected. Since we are going to have the Supplementary Budget very soon and even the annual Budget, it is important that this matter is addressed and taken seriously, so that the people of Kenya know the money that is collected from the taxpayers is properly accounted for.

The Temporary Deputy Speaker (Ms. A. Abdalla): The Front Bench, we were expecting that Statement. It is long overdue. Hon. Dr. Oburu!

The Assistant Minister for Finance (Dr. Oburu): Madam Temporary Deputy Speaker, he has said that the ball was in the Speaker's court. The Speaker was to make a ruling because there was an argument as to whether a matter which is before a Committee could be debated here. The Speaker promised to deliver a ruling and that is what hon. Mbadi is asking for.

Mr. K. Kilonzo: on a point of order, Madam Temporary Deputy Speaker. Hon Mbadi has been very clear that the Speaker was to make a ruling in the event the Minister for Finance did not deliver the Statement and why he did not deliver it. So, the question of waiting for the Speaker to make the ruling being an excuse as to why the Assistant Minister did not deliver the Statement does not arise.

The Assistant Minister For Finance (Dr. Oburu): Madam Temporary Deputy Speaker, that is a misstatement. I am sure hon. Mbadi knows the truth that the Speaker was to make the ruling. Actually, we had said that we were not going to deliver the Statement because the matter was before a Parliamentary Committee and the Speaker was to rule whether we were right or wrong. That was the position. It is not that we had refused. We cannot refuse to deliver a Statement.

The Temporary Deputy Speaker (Ms. A. Abdalla): Hon. Oburu, the Clerks-at-the-Table have informed me that the Speaker will be making that ruling and I think you need to give it the time that is required.

DEPRECIATION OF THE KENYA SHILLING

Mr. Omollo: Madam Temporary Deputy Speaker, four months ago, I sought a Ministerial Statement from the Minister for Finance in respect of the then depreciating Kenya Shilling. There was a loan that was being borrowed to cushion the falling shilling. Up to now, the Statement has not been delivered. When will this be forthcoming?

The Assistant Minister for Finance (Dr. Oburu): Madam Temporary Deputy Speaker, several Statements have been issued by the Ministry of Finance in regard to this, but we will look at all the Statements that we have delivered and if there is anything which is not covered in what the Member has asked, we shall deliver it before the end of the week.

The Temporary Deputy Speaker (Ms. A. Abdalla): We have covered the Statements.

Mr. Keynan: Madam Temporary Deputy Speaker, two weeks ago, I sought a Ministerial Statement from the Ministry of Lands on the illegal allocation of land belonging to the State of Kuwait. I can see the Minister here. I hope he is ready to issue the Statement.

MINISTERIAL STATEMENT

IRREGULAR TRANSFER OF LAND BELONGING TO THE STATE OF KUWAIT

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, on 16th February this year, hon. Keynan requested for a Statement on the following issues:-

(a) The circumstances under which L.R.No.1870/471 granted to the President of the State of Kuwait was fraudulently transferred to other parties.

(b) The directors of Koibarak Trading Company Limited, Mini School Investments Limited and Shimoni Resorts Limited.

(c) The steps taken to revert the ownership of the land to His Excellency the Ruler of Kuwait.

(d) How the fraudulent activity will affect Kenya as an investment and diplomatic hub including the cordial bilateral relationship between the State of Kuwait and Kenya.

(e) Safety of the land titles in this country in view of the fraudulent activities.

Before I read the Statement, I wish to add that, in fact, there was ongoing activity on this issue before the Statement was requested. I wish to respond as follows:-

(a) The Ministry wishes to state that under the records of the Ministry of Lands, LR No. 1870/471 measuring 0.7689 hectares and situated in Nairobi was transferred in 1962 to His Most Gracious Highness, Sheikh Jabil Alhamed Aljabir Alsabah for an amount of Kshs125, 000 by Mohammed Yahia Alwarib. The land was under leasehold term for 99 years with effect from 1st April, 1904 which was extended for a further term of 50 years with effect from 1st March, 2001 at an annual rent of Kshs100, 670. Our record shows that foreign transactions have taken place in respect of the land under reference. One, a grant number IR89699 was issued on 29th July, 2002 and registered as IR No.8996991 in favour Sheikh Jibril Alhamed Aljabir Alsabah. Two, there was a transfer which we have since discovered to be fraudulent to Koibarak Trading Company

Limited for Kshs1 million which was registered on 23rd September, 2002. Three, a transfer to Mini School Investments Limited for Kshs1.3 million on 8th November, 2002. Four, a transfer to Shimoni Resorts for Kshs130 million which was registered on 8th December, 2009. Finally, a charge to African Bank Corporation Limited for Kshs50 million which was registered on 8th December, 2009.

The Government of the State of Kuwait has informed the Ministry that it did not participate in any manner whatsoever in the first transfer to Koibarak Trading Company Limited. In this respect and considering the unequivocal statement from the Government of Kuwait and the fact that there is no copy of such a transfer document in the Ministry of Lands, it is obvious that no such transfer ever took place and the entry to that effect in our records was fraudulent. The Ministry will, therefore, not recognize the subsequent two transfers to Mini School Investment Limited and Shimoni Resorts Limited and the subsequent charge to the African Bank Corporation.

(b) On the issue of who are the directors of the three companies, a search at the Company Registry shows as follows: Koibarak Trading Company Limited, the directors are Kelse Mabale, who is a Kenyan, Leonard Kelly Mabale, who is a Kenyan and Humphrey Mgungu Mabale, who is also a Kenyan. With regard to Mini School Investment Limited, the directors are Jitendra Prabat, who is British and Birage Prabat who is also British. With regard to Shimoni Resorts Limited, the directors are Edward Kamau, who is a Kenyan and Njoroge Nani Mungai, who is also a Kenyan.

(c) The Ministry has cancelled all the four fraudulent entries in our records and reinstated the ownership of the parcel of land to Sheikh Jabil Alhamed Aljabir Alsabah. The State of Kuwait is now, therefore, at liberty to transact in the land in accordance with the special conditions contained in the grant. Further, it is also clear from our records that the persons who perpetrated the fraudulent dealings were assisted to do so by some officers in the Ministry. The matter has, therefore, been forwarded to the CID, so that all culprits are called before the law to answer for the offences. Copies of all the documents are with me and I will table them.

(d) In view of the steps taken to revert the ownership back to the ruler of the State of Kuwait, Kuwait and Kenya will not and cannot be affected by an isolated criminal activity of a few individuals. But I wish to apologize on behalf of the Ministry and the Government to the State of Kuwait and its leadership because of that unfortunate incident.

(e) The Ministry wishes to assure investors that, in spite of all the cases of land fraud discovered or reported now and again, the title deeds and other records are safe. In connection to this critical and wanting issue inherent in our manual paper-based system currently in use, in the last two years, the Ministry has embarked on a comprehensive computerization project that includes safeguarding of all existing land records and re-engineering of the current lengthy and archaic processes. The system is, therefore, going to be geographic information based land management system.

The projects mentioned under (d) above involve verification, scanning and computerization of land information to prevent any records interference. So far, over 70 per cent of the records in the Registry in Nairobi have been computerized. The remaining 25 per cent will be finalized by the end of this financial year. But it is important to note that the foregoing achievement is only an eighth of all the records country wide, which has already cost the Ministry over Kshs800 million. To fully operationalize the national land information management framework, the Ministry will require an amount of Kshs7 billion. That is when we can really guarantee the safety of records and title deeds. The current funds allocated to those

projects through the Development and Recurrent Votes is only about Kshs200 million per year. That funding is far below the target of the GIS based and new land information system under the Vision 2030. It is, therefore, critical to re-think the issue of funding towards that cost intensive project that will guarantee Kenyans and all investors effective and efficient land management systems. I thank you. I will now table all the records involving that transaction.

(Mr. Orengo laid the documents on the Table)

Mr. Keynan: Madam Temporary Deputy Speaker, I want to thank the Minister for that elaborate answer. But land is a very emotive and sensitive issue and, more so, when the sanctity of that important document called the title deed is put into question. But my worry is - and that is the bit that I want the Minister to address--- That is why I decided to have this issue answered by both the Ministry of Foreign Affairs and the Ministry of Lands. Later on, we opted for the Ministry of Lands. We want to project this country as an investment destination; as an investment hub. But when the very individuals, institutions, countries and friends that we are inviting to come and invest in this country--- Even their title deeds are not safe! We want to talk about enhanced economic growth. We want to project this country as the best in human resource capital. How is that achievable? We cannot be complaining all the time. What urgent measures, now that the culprits are known, have been taken? In the process of the inactions of one particular person, you have seen a bank and other individuals have suffered. I thought by now you would be telling us that the individuals will appear in court tomorrow, or that they have already appeared in court. What urgent measures have been put in place to make sure that, first of all, that land reverts to the true owners and, secondly, what are you doing to ensure that the criminals who are spoiling the image of Kenya are brought to book as a matter of urgency? How will you ensure that the same will not be repeated within that Ministry again?

Mr. Mbadi: Madam Temporary Deputy Speaker, I do appreciate and understand the frustrations of the Minister because he is working with people who have been in that system for too long and cannot change. I just want to know the following: Given that there has been an acknowledgment even from the Minister himself that a lot of things are going wrong in the Ministry of Lands, has he considered a radical surgery in that Ministry by replacing the staff who are involved in that exercise and getting new people? It has happened in other institutions. It is high time that the problem in the Ministry of Lands was fixed once and for all!

Mr. Shakeel: Madam Temporary Deputy Speaker, I want to thank the Minister for a very comprehensive answer. He has admitted that he found certain land transactions were fraudulent. He has further admitted that those actions were aided and abetted by certain officials of the Ministry. Could he kindly tell us whether those officials who were part and parcel of that fraudulent act are still in the Ministry? If they are, could they be charged or suspended immediately so that we can take further action?

Mr. Mungatana: Madam Temporary Deputy Speaker, the clarification that I want to seek from the Minister is whether his Ministry has an insurance policy against fraud. That is because here, we have citizens of Kenya who have paid Kshs130 million and he has said that the transaction was fraudulent. So what happens to them? Is the Minister prepared to pay because he has admitted here in the House that the fraud was perpetrated by his own officers? Is he prepared to pay for the second and third transfer because those people have suffered a loss? Could he clarify those two issues?

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, the mere admission that there is fraud in his Ministry does not help Kenyans who are suffering. Before a bank charges a property, there must be a search and a registrar who signs to confirm that, indeed, the title deed is okay. What happens in such a case? Who is going to pay? That is because to say that the matter is with the police is not enough. Those cases are rampant! Next week, I will also show you a similar case where a title deed was issued fraudulently in Kibarani and Kshs100 million was paid out. But when it went to his Ministry, it was detected to be a fraud involving his own officials. The Minister has admitted that there are officials who are not straight. What is he going to do to indemnify Kenyans who have fallen prey to corruption in his Ministry?

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, I think Mr. Mungatana would agree with me that in our fundamental principle governing land laws is a principle known as "*caveat emptor*" (buyer beware). So, before you commit your money, the law places upon you a duty; not on the recorder of transactions; not on the vendor but you as a buyer that, at all times, you must be aware and carry out due diligence. In respect to that particular property, the fact of the matter is that there is a property on this land which is in the possession of the State of Kuwait. In fact, they have people on that land! How someone can buy a property to which he has no access; how a bank which is supposed to undertake a valuation before committing its funds as a charge or mortgage can do that without going to that piece of land to determine whether that land – even if there is an encumbrance in the register - but on the ground -- That is supposed to determine whether that land is not in another person's possession. That is wanting.

I sympathize with the sentiments of the hon. Members with regard to the way these things happened. However, on this particular case, I have no sympathies because the State of Kuwait, in fact, has told us that nobody has interfered with their possession with regard to that land. There is a permanent building which they are occupying. It is when they wanted to undertake a transaction that they found that there was a problem. However, on the ground, there is totally no interference at all. So, sometimes the Ministry of Lands may be accused but you may find that even the banks are part of these processes which are fraudulent.

With regard to the question that Mr. Kiema Kilonzo asked, I think this is related to what I have said to hon. Mungatana. That is a principle in law which has been accepted since the Roman times, *caveat emptor*. This was during the times of Julius Caesar. This was a principle of Roman law that is well known so that when you undertake the purchase of any building, you as a buyer must beware and must carry out due diligence.

I again want to plead with Members of Parliament that if Kenya wants to become a developing country, in the true sense, our records should not be kept as they were in 1900. Our registers, especially under the Registration of Titles Act and the Land Act are precisely what the first white man did as a recorder of titles in the year 1902. These are paper manual records and it is a register just like any other register you will find in a primary school. So, I plead with Members of Parliament, and I am trying to convince my colleagues in the Government that if we want these records to be secure, we must be prepared to spend Kshs9 billion and not Kshs100 million. You must spend the money to have an efficient land information system. If hon. Dr. Otichilo was standing on my feet, he would explain the principle better than I can because it is a shame that in Kenya we are still using manual records with regard to land transactions. If you want to become a modern economy, we must have a modern land information system.

With regard to hon. Mbadi's question about radical surgery, again, that is in the Land Bills that if at all they are enacted, everyone in the Land Ministry will undergo vetting and will

apply afresh and it will be upon the National Land Commission to make a decision whether to carry them on board. That has worked with the Independent Electoral and Boundaries Commission (IEBC) and the Judicial Service Commission.

Mr. Keynan: Madam Temporary Deputy Speaker, first of all, you know that under the Vienna Convention, diplomatic properties are protected and this is not an ordinary title. That title belongs to the Head of State of a friendly nation. That being the case, now that the Minister has all the details concerning the individuals and from the look of things the individuals seem to be highly connected, will this be another case being investigated by the police or since this is very sensitive issue, will he ensure that these individuals are arraigned in court, prosecuted and punished according to the Kenyan law?

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, when it comes to prosecution, again, you have to follow the law. I cannot direct the Director of Public Prosecutions. I can only make a complaint and that complaint has been made and investigations are being carried out. However, I cannot direct the Director of Public Prosecutions. Not even the President can direct the Director of Public Prosecutions. This is the dearth of efficiency that we are having; that not very many people who should be behind bars find themselves behind bars.

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

The Temporary Deputy Speaker (Ms. A. Abadalla): What is out of order?

Mr. Keynan: Madam Temporary Deputy Speaker is it in order for my good friend to take my statement out of context? I did not ask him to direct the Director of Public Prosecutions. I know that is an independent entity. I said that this touches on the properties of a sitting Head of State and as the person in charge of land policies, he can set the time frame and say that this issue must be sorted out. Since the Minister has the information at his disposal, including the Directors, the individuals and the different transactions including what took place in the banks and in his Ministry, as the Minister, he can say that he needs this information because I have a letter that his Permanent Secretary has written to the Director of the CID. This means that this issue has not yet gone to the Director of Public Prosecution. Maybe what the Minister should be telling us at this stage is: Has the CID completed investigations and submitted a file to the Director of Public Prosecutions or this is a normal police case that can take three, four or five years before investigations are completed.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, I think if he reads the tone of the letter that he is holding he will see how the Permanent Secretary said that this must be done immediately. In fact, she is very angry in that letter. So, everything is being done to ensure that people are prosecuted. As I pointed out, the names are known. The Directors of these companies are also known and I am waiting for the conclusion of the investigations.

Hon. Shakeel has also said that the staff is known and that is, indeed, true. It is something that I have made full disclosure. The other point that I wanted hon. Keynan to appreciate is that not every property that belongs to a Head of State or a Head of Government and for that matter even of a Government necessarily falls under the conventions that he has referred to. If that was the case, there are very many Heads of States and Governments who have properties all over Nairobi. If they were considered to fall under the Vienna Convention, we would not even cope in giving them the kind of protection that they are supposed to have. So, I will find out but I do not think that it falls under the Vienna Convention.

[The Temporary Deputy Speaker

(Ms. A. Abdalla) left the Chair]

[Mr. Deputy Speaker resumed the Chair]

MOTION

ADOPTION OF IEBC REPORT ON PROPOSED BOUNDARIES OF CONSTITUENCIES/WARDS

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on The Revised Preliminary Report of the proposed boundaries of constituencies and wards by the Independent Electoral and Boundaries Commission (IEBC) laid on the Table of the House on Wednesday 22nd February, 2012.

Mr. Baiya: Mr. Deputy Speaker, Sir, I beg to table before this House the corrigendum to the Report of the Departmental Committee on Justice and Legal Affairs containing corrections moved under Order No.48. I have notified the office of the Speaker and leave was also granted by the Speaker.

I beg to table the corrigendum.

(Mr. Baiya laid the document on the Table)

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. The Chairman of the Departmental Committee on Justice and Legal Affairs is just about to move a Motion on the report of the boundaries. He has just tabled a corrigendum which hon. Members have not read.

(Applause)

If you remember last week, I raised the issue of the Committee's mischief. This Report has been tabled before this House and we have interrogated the report. We do not think it is fair and it is suspect that the Committee has come up with another report within a report and they are about to move it before this House.

I urge you to reject that move so that we do not shortchange Kenyans with a bad report which is only meant to satisfy the selfish interests of a few Members of Parliament.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. I echo the sentiments by hon. Midiwo because issues of boundaries are so critical that we should not hurry. I have just come in. The Report that I have been given is dated 22nd February, 2012. Now, if the Chair of the Committee on Justice and Legal Affairs is going to table an amendment to this Report, which we do not have, then so many of us will not have the benefit of going through that Report and making meaningful contribution. So, I agree that we should defer this Motion until we go through that Report that is being tabled now.

The Assistant Minister for Roads (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir. I think that it is unfair to accuse the Chairman for tabling a corrigendum of the Report. It would only be fair if we sincerely look at the Report without making such accusations. I think it is not in order to accuse him.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. I think the issues regarding this Report are weighty. This matter has been dogged with interests. Right at the beginning of 2012, rigging has been done. I do not think that this House should actually be duped into accepting other interests from a Committee of this House, which are glaring. Until hon. Members have enough time to study this matter, I would beseech you that it be deferred until a later date. There is no hurry in Kenya.

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. Even before this corrigendum has been tabled, I had very serious issues with this Report. We are waiting for the Chairman to get into that Motion for us to raise those issues. But now he has spoiled it even further by making a suspicious document called a corrigendum, which is not circulated. He is expecting us to listen, debate and actually approve this Report. This Committee on Justice and Legal Affairs is just joking with the intelligence of this House!

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Deputy Speaker, Sir. The bottom line of all this is that we are talking about wards and constituencies. Actually, the bottom line is about boundaries. We know the essence of who rules or represents Kenya really depends on the kind of report that we are placing before the House, either for approval or disapproval. I would really plead with the Committee that, unless they put before us a full Report without any pretence of bringing any additions or corrigenda; that the debate only begins when all the material is placed before the House, I think that is the best way to go.

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I am very happy because you were on the Chair the last time hon. Midiwo raised the issue of the constitutionality of this roadmap, as far as the role of the Committee and Parliament is concerned in the delimitation of boundaries as per the Report tabled by the Independent Electoral and Boundaries Commission (IEBC). This is a very controversial political issue in this country. We had a number of burning issues with the Report as tabled. In this House, the Standing Orders are very clear as far as how reports are tabled. This corrigendum is a foreign thing to hon. Members of this House. We came to the House today to debate the Report as tabled seven days ago. Through your indulgence, we need more time to study the “animal” called corrigenda and see whether it affects specific constituencies, wards and boundaries. We need your indulgence to save the House and the nation. Give us more time to study the extra report in the name of corrigendum.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. After quite a long time, I wish to agree with hon. Midiwo that this Report needs more time. That is because what the Committee on Justice and Legal Affairs did is suspect. When I look at it--- Even when they had a petition of people who came all the way from Mwingi with 12,000 signatures, nothing has been noted here. They went all the way to wherever they went to, to divide wards for themselves. Therefore, we request to be given time so that Kitui County and the rest of Kenyans can have justice.

Mr. Keynan: On a point of order, Mr. Deputy Speaker, Sir. I do agree with some of the sentiments, but we must also take into account the fact that this particular process--- Those of us who are familiar with the contents of the IEBC Act do know that this Parliament has, up to tomorrow mid-day, either to accept--- Even if we do not pass it, that does not stop---

(Loud consultations)

Mr. Deputy Speaker, Sir, let me just finish. I think I have the right to be heard!

Mr. Deputy Speaker: Order! Allow hon. Keynan to finish.

Proceed, hon. Keynan!

Mr. Keynan: Mr. Deputy Speaker, Sir, let us take into account the sentiments of those hon. Members who have issues with the wards. But generally saying that this Report is not good is, I think in my opinion--- Two things are very clear. If, in our own wisdom, time lapses and Parliament does not participate in the final determination of this process, then we will have set a bad precedent that will affect us forever as a country. As the way forward, I would like to suggest that those hon. Members who have issues with the way the Committee on Justice and Legal Affairs did this Report, have a right to suggest amendments and seek the deletion of some parts of the clauses. But generally talking about the Report, I think will not be fair. So, I want to suggest that we continue with the debate because we have that deadline of tomorrow and suggest amendments.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I think the question here is whether to debate the Report as was presented to us on 22nd February, 2012 or to accept---

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

Mr. Deputy Speaker: Mr. Shakeel, hon. Mbadi is on a point of order!

Mr. Mbadi: Mr. Deputy Speaker, Sir, I would urge the Chair, because of the sensitive nature of the Motion just before us, to reject the corrigendum and allow us to debate the Report as we have read it. If we agree with it, we will pass it. If we do not, we will reject it or pass it with amendments. But ambushing us here with a corrigendum whose content we do not know, it is not going to be fair to the people of Kenya.

Mr. Deputy Speaker, Sir, I want to plead with the Committee on Justice and Legal Affairs, it was moribund for about one year and we had peace. Now that it has resurrected, it should not create a crisis. Otherwise, we would wish that since the Committee was dead, we should have buried it.

Mr. Shakeel: Mr. Deputy Speaker, Sir, it is clear this Report has a lot of personal interests that are being catered for. It is professional that anybody who has an interest, especially as a Member of that Committee, to declare it upfront. Has the interest been declared by those Members of the Committee who have suggested amendments? Could they all declare their interests?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, what we are seeing here is a bit unfortunate. From the word go, even the original copy that we got from the Committee is full of flaws. For us to imply that we have additional information which has just been tabled, though they may have had good intention, probably to correct the errors which they committed, I think we need an opportunity to go through these corrections. Whatever they proposed is already before the House and it is now the property of the House. Therefore, it is my position that we need more time to read the whole Report in its entirety, including the corrections so proposed, so that we will be contributing from a point of information.

Issues to do with boundaries are very emotive. We need to know clearly what this Committee is proposing, so that we will be able to contribute properly.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, it is very unfortunate that some hon. Members are trying to superintend the work of this Parliament. When a Member stands here to castigate a Committee which has fulfilled its mandate by doing its work, I do not think that augurs well for this country. If anybody has any objection, it is better for him to raise it without castigating the Committee.

The new Constitution talks about giving people their right. When some people are trying to deny others their right because they are the majority, it will be very unfortunate. I, therefore, want to appeal to this House to consider the merit of every case.

I will give you an example. In Jara Constituency, at the time of Independence, we were---

Mr. Deputy Speaker: Order! The debate is not on the content; the debate is just on the corrigenda.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, the corrigenda is dealing with the issue I am raising here. It is addressing the rights of those people who feel that they have been denied their rights simply because they are considered to be minorities. The Constitution talks about marginalization and the rights of other people. Therefore, people should not accuse members of the Committee simply because they come from certain areas.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. In all fairness, let us all be sober in our approach to this issue. The speaker who has just spoken is telling us the content of the corrigenda. He seems to know what the Committee put there to protect his community. If he reads the original Report, his community has four new wards in it with 90,000 members. What about other members with about 150,000 people who are not members of that Committee? This is a grave matter!

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, the same hon. Member who is speaking here told me he will oppose this Motion because the corrigenda was brought by a Committee before which he did not have an opportunity to present his own case. Therefore, it is unfortunate that he does not know what he is doing.

Mr. Midiwo: No! The hon. Member cannot be right. *Kwenda huko!* I I am not scared of you!

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. My colleague, Mr. Mbadi, said and I wish to echo him, for the last one year when the Justice and Legal Affairs Committee had internal fighting this House and country had peace. If the CIOC was the one handling this Report we would not be---

Mr. G. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Mr. George Nyamweya, the hon. Member is on a point of order.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, if the CIOC was handling this matter we would not be having this problem. When the County Government Bill was on the Floor of this House last week and there was a proposed amendment which touches on this Report, the Justice and Legal Affairs Committee Members never showed up in the House. The only Member who showed up was Mrs. Odhiambo-Mabona and she could not even dare speak. So, this Parliament discussing those two reports would be discussing a matter which has been overtaken by events. The Bill on County Governments has put the limit of the county wards at 1,450. This Report proposes an increase.

However, what is amazing is that it is as if the people who sit in this Committee are not even politicians. The Committee Members are lucky that we are not referring them to the Powers and Privileges Committee. If this Committee was courteous enough, they would have come when we were discussing the County Government Bill.

Secondly, on the context, if you go to what is being said it appears the hon. Members assumed that this country has a Justice and Legal Affairs Committee to oversee this matter. I wish to plead with the Chair to give us time, so that this matter is discussed on another date.

Mr. Deputy Speaker: Order. Hon. Acting Chair of the Committee, had you signed the corrigenda? To the best of the information of the Chair, the Chair is still not in possession of that signed corrigenda.

Mr. Baiya: Mr. Deputy Speaker, Sir, I have just forwarded it to the Clerk. It is a duly signed Report.

Mr. Deputy Speaker: Order! Under our own practice, you would be required to sign every page of it. The Chair then will direct that sufficient copies for Members of Parliament be presented. Under the circumstances, the Chair will direct that this matter appears on the Order Paper, first thing, tomorrow morning. Every hon. Member will have acquainted himself adequately with the content of the corrigenda. Given the urgency of the matter, the Chair directs that you sign those papers and you table them as a matter of urgency. In the event you are not able to do it, the Chair will still allow you to table it and debate the same tomorrow. But you have to table it now for the matter to become the property of the House for it to be put for circulation.

Mr. George Nyamweya: Mr. Deputy Speaker, Sir, I rise on a point of order to seek the Chair's guidance. This House has departmental committees which it gives relevant duties and functions to perform. You may not like Members of those committees. However, you cannot rubbish reports of those committees purely because you do not like the members. I would seek your guidance that this House, if it feels it wants to censure any hon. Member or Members, to follow the procedure and actually table a substantive Motion to censure those people. However, we cannot degenerate the House into name calling and doing all sorts of things. I seek your guidance.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the honorable Member tempting us or pleading with us to take further action on the Committee on Justice and Legal Affairs? He should come out very clear. And it is him in particular who is the biggest problem.

Dr. Eseli: On a point of order, Mr. Deputy Speaker, Sir. It is quite obvious that Members would have liked to debate what the Committee has presented without the corrigenda. I do not know whether it is in order to ask whether it is possible to allow the Members of the Committee on Justice and Legal Affairs to move whatever they have in the corrigenda as amendments to the Report so that Members can go ahead and debate the Report as it is. Then the Committee can bring in the corrigenda as amendments to the Report.

Mr. Deputy Speaker, Sir, what is transpiring right now is turning almost towards personal levels and that does not augur well for the review of boundaries in this country.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. You have made a ruling so can we abide by that ruling? The Chair has made a ruling; can we abide and go to the next Order?

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the ruling you have made with all your wisdom, it is in order that we debate this matter tomorrow. However, we owe it to the House to explain that there were indeed errors in the Report that was tabled last week. This was due to the impossible period given of a few days for the Committee to go through so many documents. We worked until past midnight; the clerks could not possibly have done more than they could. We recognized the mistakes. In fact, in one glaring mistake it was indicated that one whole constituency was actually being recommended to be extinct. This is not the resolution of the Committee. These are errors we have detected. We have taken time off to try to correct those errors. I agree with Members that we need time to look at that corrigendum so that we can debate tomorrow.

Nevertheless, on the question of interest, every Member of Parliament seated here has an interest. If there is any Member who has no interest on this he should stand up now and tell us if he has no wards in his constituency.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker, Sir, we are following the Constitution in terms of what we were expected to do as a committee. Nevertheless, I want to agree with you that the corrigendum be supplied and that we debate it tomorrow morning.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. I think you have made a wise decision. You have made a ruling. We all respect the Chair. Therefore, I find it completely unnecessary and redundant to continue with arguments just to hide one's interest in this Report.

Mr. Deputy Speaker, Sir, I would beseech you that at this juncture, we move on with other business of the House.

Hon. Members: On a point of order! On a point of order!

Mr. Deputy Speaker: Order, hon. Members! However burning the point of order is, you still do not rise on a point of order when the Chair is on his feet.

Hon. Members, we have serious business to transact. The first business that I expect the Vice-Chairman to transact is to table the corrigenda.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to seek your guidance particularly in relation to the ruling that you have just made on the tabling of the paper. I am asking this in relation to procedure; ordinarily papers are laid under Order No.4. Would it be procedural to ask for the tabling of this at this particular point in time?

Mr. Deputy Speaker: Indeed, the Member for Rangwe is right! He said that "ordinarily" papers are tabled under Order No.4. However, under extraordinary circumstances the Chair has the prerogative to ask a Member to table documents any time that the Chair wishes.

Hon. Member for Githunguri, proceed!

Mr. Baiya: Mr. Deputy Speaker, Sir, I was moving an amendment to the notice of Motion and I mentioned quite categorically it was under Standing Order No.48. It is only that these amendments are numerous and they have been prepared in the document I am calling corrigendum.

Mr. Deputy Speaker, Sir, I have duly signed every page and I wish to table the same before this House.

(Mr. Baiya laid the document on the Table)

Mr. Mungatana: Mr. Deputy Speaker, Sir, still on procedure following what the hon. Member for Rangwe has raised, the Motion itself is not before the House. How can the Vice-Chairman of the Committee on Justice and Legal Affairs purport to be moving an amendment on what is not before the House?

Mr. Deputy Speaker, Sir, I was going to urge you to rule that it is not possible for him to do what he---

(Mr. Deputy Speaker consulted the Clerks-at-the-Table)

Mr. Deputy Speaker, Sir, I want your ears. I was begging for your ears because the procedure for Motions is so clear; the Motion must be moved and then if an amendment is to be moved, it is after the Question has been proposed after seconding.

The Vice-Chairman of the Committee on Justice and Legal Affairs has not even taken step one. He has not even moved this Motion. This Motion is not before the House.

Mr. Deputy Speaker, Sir, it is not possible for the Vice-Chairman of the Committee on Justice and Legal Affairs to purport to amend a Motion which is not before the House. Therefore, this corrigendum cannot be before the House this afternoon. I urge you to dismiss that move that has been made.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Even though the matter is urgent, procedure is procedure. I want to add my voice to what Mr. Mungatana said. We need not allow an illegality to happen in the House contrary to our Standing Orders. If the Motion has not been moved, we cannot allow the Vice-Chairman to purport to amend a Motion that has not been moved.

I would urge the Committee to allow the Vice-Chairman to move the Motion after which someone else can move the amendment through the corrigenda.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, you know you had given the House a direction; what was required of the Vice-Chairman to do. When he came and took the Floor he talked about a proposed amendment and then proceeded to say, "I Table". Now, on record we do not know what he has tabled; the proposed amendment to the Motion or the corrigenda? I think what is important for the purpose of the record is that your directive should be complied with then we can move from that step. Can the corrigenda be formally tabled and then we can move on how the other procedure can be taken up?

Mr. Deputy Speaker: Let us have a final one from Mr. Musikari Kombo then the Chair will give a further direction!

Mr. Kombo: Mr. Deputy Speaker, Sir, I think it is the Vice-Chairman of the Committee on Justice and Legal Affairs who is causing problems. As the Chair under Standing Order No.1, under extraordinary circumstances you can give directions. He should table the corrigenda as part of the Report that has already been tabled without a Motion or moving anything. This gives us a chance to study the corrigenda and then we can move the Motion tomorrow.

Mr. Deputy Speaker: Indeed, the Chair fully agrees with the hon. Members who have stated that we can only bend the rules to a certain level. We cannot bend them too much. Under our practice, ideally the Vice-Chairman of the Committee will have to move the corrigenda as amendments to the Motion. In the process, you can move the Motion first in an amended form, propose and then we will adjourn.

In the meantime, I give direction to the Clerk's Department to make sure that there are sufficient copies available to every Member. I hope when this matter will be before the House tomorrow, every Member would have acquainted himself adequately with the content of the corrigenda to be able to prosecute this Motion properly.

*(Several hon. Members stood up
in their places)*

What is your point of order, hon. Dr. Nuh!

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. With all due respect to your ruling, I think there is an issue raised by hon. Orengo which is really pertinent. He said whatever

we will have as record on the HANSARD - and I think that is the direction you give - should clearly be stated that what the Chairman is doing is only tabling a corrigenda to a report and not moving any Motion.

As you have directed, he can even move an amended version of his Motion tomorrow, which is still allowed within the Standing Orders. So, I think what we should have on HANSARD record, and that is what hon. James Orengo stated, is that what the Chairman of the Departmental Committee on Justice and Legal affairs is doing is to table a corrigenda to a report that he tabled a few days ago.

Mr. Deputy Speaker: Clearly, that is exactly what the Chair was saying, that he can move the Motion in an amended form tomorrow because he has already tabled the corrigenda.

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

Mr. Deputy Speaker: What is your point of order, hon. George Nyamweya.

Mr. G. Nyamweya: Mr. Deputy Speaker, Sir, I think it is important for the House to know that a corrigenda is not a different document. It is a document correcting that substantive document. So, it is not a separate document. Therefore, it is important to note that when he is tabling the corrigenda, he is not amending the original Motion. He is simply correcting errors in the original Motion.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order! The original direction obtains, the corrigenda has already been tabled. It is prescribed to be circulated. The hon. Acting Chair of the Committee will tomorrow move the Motion in an amended form.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, there being no other business to transact this afternoon, the House stands adjourned until tomorrow, Wednesday, 29th February, 2012, at 9.00 a.m.

The House rose at 4.30 p.m.