

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 6th March, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DELEGATION FROM PARLIAMENT OF MALAWI

Mr. Speaker: Hon. Members, I wish to introduce to you and welcome this afternoon a delegation from the Parliament of Malawi seated at the Speaker's Row. They are Members of the Malawi Parliamentary Service Commission. They are here to learn on the establishment and functions of constituency offices and the Constituencies Development Fund (CDF). They are:-

1. Hon. Prof. Eta Banda, MP, Leader of Delegation
2. Hon. Christine Chiwoko, MP
3. Hon. Alfred Mwachumu, MP
4. Hon. Watson Makala Ngozo, MP
5. Hon. Mugema Peter Banadol, MP
6. Hon. Patrick Akimu Mwanza, MP

They are accompanied by two Parliamentary officers, namely Messrs. Renado Mapemba and Leonade Begezi.

On behalf of the House and my own behalf, I wish the delegation a fruitful and happy stay in Kenya.

Thank you.

PAPERS LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the inquiry into receivership of the Kenya Planters Co-operative Union (KPCU) Limited.

(By Mr. Mututho)

NOTICE OF MOTION

ADOPTION OF REPORT ON RECEIVERSHIP OF KPCU

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

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the inquiry into receivership of the Kenya Planters Co-operative Union (KPCU) Limited laid on the Table on 6th March, 2012.

QUESTIONS BY PRIVATE NOTICE

Mr. Speaker: Hon. Members, please note that the Communication on the Presidential Memorandum, we were not able to quite get it ready this afternoon. The Communication will be made tomorrow afternoon.

Member for Rangwe!

APPOINTMENT OF FRANCIS KIMEMIA AS ACTING HEAD OF PUBLIC SERVICE

(Mr. Ogindo) to ask the Minister of State for Public Service:-

(a) What legal basis and procedure was used in the appointment of Mr. Francis Kimemia as the Acting Permanent Secretary in Office of the President and Head of the Public Service and Secretary to the Cabinet?

(b) What law provides for the appointment in an acting capacity and what are the other terms of the appointment?

(c) Why was the appointment made without the approval of the National Assembly?

Mr. Speaker: Member for Rangwe! The Question is dropped.

(Question dropped)

LACK OF WORSHIP FACILITIES FOR MUSLIMS AT UON

Mr. Affey: Mr. Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Muslim students at the University of Nairobi have not been provided with facilities of worship at the institution?

(b) Is the Minister also aware that the said students are discriminated against, given that students of other religions practise their faith in proper places of worship?

(c) What urgent steps will the Minister take to address the act of discrimination?

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Muslim students at the University of Nairobi (UON) are not being provided with facilities of worship at the institution.

(b) I am also not aware that the said students are discriminated against and that students of other religions practise their faith in proper places of worship. The places of worship surrounding the university are owned by respective religious groups. The University has no

permanent places of worship for any religion within its precincts. However, when any religious group requests for a place of worship, permission is normally granted on temporary basis. This has been extended to Muslim students over the years.

(c) Having stated that there is no discrimination, it is pertinent to state that the University is a secular institution which does not discriminate any student on religious grounds. As far as the welfare of Muslim students is concerned, the University has treated their requests with decorum and has never created any room for discrimination. This has been done through appointment of the Muslim Chaplain to cater for the religious concerns of Muslim students.

Mr. Affey: Mr. Speaker, Sir, I want to thank the Assistant Minister for this answer. The UON is a very important institution of higher learning and I have deep respect for the administration there. The huge number of students of Muslim faith--- As you know, there is demand on the part for Muslims to perform religious duty five times a day. Most times when the students are supposed to be in class, a huge number of the Muslims perform this activity outside on the grass. This is not a useful site for the University to put the students through. What arrangements can the Assistant Minister make so that these students are given a designated place where they can perform their prayers in a dignified manner?

Mr. Kamama: Mr. Speaker, Sir, the House will agree with me that religious matters are sensitive because they are very personal. We will liaise with the administration of UON to ensure that students are given special and also good place where they can perform their prayers. You know performing prayers in the field brings to question matters of hygiene. That may not be good. So, we will make sure that they get a special place where they can perform their prayers. This will have to be done.

Dr. Khalwale: Mr. Speaker, Sir, in most of the universities, they have made it possible for the Christians to put up chapels where they pray. Could the Assistant Minister confirm that he will liaise with the universities so that they donate land to the Muslims who can then build their own mosques within our universities?

Mr. Kamama: Mr. Speaker, Sir, that is a good request, but as you all know land matters are also sensitive. In the meantime we will give them special places where they can perform their prayers. However, with regard to issues of land ownership, we will not entertain that in the meantime.

Mr. Yakub: Mr. Speaker, Sir, I would like the Assistant Minister to explain to the House more about the complaints we have received from the students of UON that non-Muslims have St. Paul's University Chapel, Mamlaka Hill Chapel and St. Andrews. Why should the Muslims not get at least one area for them to build a mosque?

Mr. Kamama: Mr. Speaker, Sir, I stated that students, not only in UON, but all universities together with their constituent colleges will have to provide special places where Muslim students can perform their prayers. We will ensure that is done by all the universities in the country.

Mr. Olago: On a point of order, Mr. Speaker, Sir. In view of the Question that was asked, would it not have been in order for the hon. Assistant Minister to let the House know that St. Paul's Chapel and St. Andrews Church belong to the respective diocese of Catholic and Anglican Church of Kenya (ACK) and not the university.

Mr. Speaker: Order, Member for Kisumu Town West! You know very well that would best qualify as a point of information. So, I am afraid that it will pass unattended.

Mr. Njuguna: Mr. Speaker, Sir, since the Assistant Minister has agreed to set aside special places in the universities for the Muslims to have a place for worshipping, could he at the same time consider allocating some funds to facilitate establishment of these worship centres?

Mr. Kamama: Mr. Speaker, Sir, on the issue of funding, that policy of allocating funds for each and every religious group in universities is not of the Ministry. This is usually done by various faiths, denominations and sects. However, it is not going to be a priority to look into all those issues.

Mr. Twaha: Mr. Speaker, Sir, I was the Chairman of the Muslim Students Association at the UON between 1988 and 1989 and Prof. Mbithi gave me a run around for the whole year and I am shocked that until today this thing has not been resolved. Does the Assistant Minister realize that it is not the University that will be donating land to the Muslims? In fact, it will be the Muslim Community that will be donating a mosque to the University. The mosque will remain an asset of the University.

Mr. Kamama: Mr. Speaker, Sir, if that request is put to us, we can look at it, but for as long as the Muslims praying in the mosque do not claim land from the University. That can still be considered.

Mr. Wambugu: On a point of information, Mr. Speaker, Sir. There is an issue that was raised by an hon. Member about St. Andrews Church. It is actually not under Anglican Church of Kenya (ACK) but the Presbyterian Church of East Africa (PCEA).

Mr. M.H. Ali: Mr. Speaker, Sir, I would like to bring to the attention of the Assistant Minister the fact that the Muslim population has gone up over the years and whenever it is prayer time, you will find a very huge group of Muslims praying outside in the fields which is not very comfortable to others and it is because of that reason that Muslims have volunteered to build the mosque for the university. Could the Assistant Minister assure the House that they will provide a piece of land then the Muslims will finance the construction of the mosque for the university?

Mr. Kamama: Mr. Speaker, Sir, I think I had partly answered that question and I want to restate that the university has no permanent place of worship by any religion or sect. We can only facilitate by providing some designated places for Christians and Muslims. In this case, I have undertaken to actually liaise with the university to make sure that Muslim students in the University of Nairobi and other universities are given special places where they can perform their prayers.

Mr. Affey: Mr. Speaker, Sir, I want to thank the Assistant Minister for being consistent in the manner in which he has answered the Question that the feelings of these students will be taken into account. I just want to get the surety of the Assistant Minister that while doing this, if possible, he could involve the student leadership of this particular community so that together with the administration, they can find a suitable place where Muslims can pray without any hassle.

Mr. Kamama: Mr. Speaker, Sir, we will do exactly that.

ORAL ANSWERS TO QUESTIONS

Question No.903

NUMBER OF ACADEMIC ATTACHÉS IN MISSIONS ABROAD

Mr. Kaino asked the Minister for Foreign Affairs:-

(a) whether he could provide a list of Education Attachés in all the Kenyan embassies, High Commissions and diplomatic missions, stating their respective stations, qualifications, positions and district of birth;

(b) whether the officers deployed meet the minimum educational requirements to hold their respective positions; and,

(c) whether he could consider rationalizing the deployment of the officers with regard to regional and ethnic balancing.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) The hon. Member wanted to know whether currently we do have Education Attachés serving in our missions abroad and the answer to that is no. Currently, the Kenya Government and especially the Ministry of Foreign Affairs does not have any Education Attachés serving in the missions abroad.

(b) Since we do not have Education Attachés anymore part “b” becomes not useful.

(c) Since parts “a” and “b” do not exist, I cannot answer part “c”.

Mr. Koech: On a point of order, Mr. Speaker, Sir. If you heard the Assistant Minister well, he indicated that part “b” of the Question is not useful. Is he in order to claim that minimum educational requirement for Education Attachés is not useful?

Mr. Speaker: Order, hon. Member for Mosop! I think the position is clear as I see it. The Assistant Minister says that the Ministry does not have Education Attachés to its missions. All missions of the Republic of Kenya do not have Education Attachés. Therefore, part “b” does not arise, neither does part “c”. Simple straight answer!

Mr. Kaino: Mr. Speaker, Sir, I appreciate the answer by the Assistant Minister but I have two issues. This is the sixth time I am asking this Question. I do not have a grudge against the Assistant Minister but I have not been furnished with answers to this Question and I request him to give them to me.

Secondly, who is handling education matters as far as education is concerned in our embassies or diplomatic missions abroad if there are no Education Attachés?

Mr. Onyonka: Mr. Speaker, Sir, in 1990 the public sector reforms were recommended throughout the Government. It begun in earnest in the Ministry of Foreign Affairs in 2007 when an inter-ministerial task force was established to conduct an audit of the Ministry’s structures and operations. As a result of that, recommendations were made by this task force and they proposed that staffing needed to be done within the missions in a rationalized manner. The issue that was raised was that the officers who were going to work in embassies abroad would become multi-skilled and multi-tasked to ensure that this exercise would be conducted effectively. Therefore, that actually happened because of rationalization, cost-cutting and all the other recommendations that were made by that task force. The recommendations were that we would no longer hire Education Attachés but the other officers who were working in these embassies would be trained to work and effectively serve the Kenyan public as pertaining to educational matters. That is exactly what has been going on.

Mr. Mututho: Mr. Speaker, Sir, in most of these countries there are over 5,000 Kenyan students. They have needs ranging from actual academics, personal and other factors. Are you considering having at least an Education Attaché to each and every embassy for the sake of those children whose parents have invested so heavily in terms of education?

Mr. Onyonka: Mr. Speaker, Sir, the question that the hon. Member has asked is good. There have been issues which have been raised as pertaining to whether the embassies are

serving the public well because of the rationalization which was done. Our budget was not able to accommodate us hiring more Education Attachés. As a result of that we are actually stuck in that position. For example, the Committee on Education, Research and Technology can make a recommendation and give proposals so that the Ministry of Foreign Affairs can change that policy. If this House would give the necessary funding, the Ministry is ready to accept Education Attachés.

Mr. Chanzu: Mr. Speaker, Sir, in view of the very important role that these Education Attaches have been playing in the embassies abroad, would the Minister consider making a comprehensive report to this House on the recommendations that were made so that we can be able to make our recommendations to him based on the report?

Mr. Onyonka: Mr. Speaker, Sir, the report does exist and we shall present it to the House as soon as possible.

Mr. Koech: Mr. Speaker, Sir, I want to thank the Assistant Minister for accepting that there are serious challenges facing our students abroad. I also want him to be aware that within the budget of the Ministry of Higher Education, Science and Technology, we provided for money for Education Attachés abroad but the Ministry did not approve it. Could they consider relooking at the report of the task force and I want to confirm to you that through my Committee we can actualize that.

Mr. Onyonka: Mr. Speaker, Sir, the Ministry of Foreign Affairs is aware that the Committee has been making recommendations and it means well. Our position is that if the Committee can come and we sit down together, we will come up with an amicable position on this matter. It is very important because many Kenyan students are now going out of the country and they need attention but I believe that we can look for a middle ground to make sure that this issue is solved amicably.

Mr. Speaker: Mr. Kaino, last question!

Mr. Kaino: Mr. Speaker, Sir, I am satisfied with the answer that the Assistant Minister has given, but as Mr. Chanzu had requested we have thousands of students in China, India and even in United States of America (USA) and considering that the embassy is not dealing with them, it is time that the Ministry considered to change that policy to allow hiring of Education Attachés.

Lastly, when I asked this question, it was the Ministry of Education which was handling it and not the Ministry of Foreign Affairs. We are confused who should handle it. Today, I am surprised that the Ministry of Foreign Affairs is the one that has come up with the answer to the Question. Previously, they used to say that it is the Ministry of Education that is involved. It should be clear so that teachers and all interested persons can know exactly where to go while searching for employment as Education Attachés.

Mr. Onyonka: Mr. Speaker, Sir, the truth is that the Ministry of Education and Ministry of Higher Education, Science and Technology Education has the responsibility of hiring and policy formulation with the Ministry of Foreign Affairs. I am going to repeat myself; I think the House Committee should come up with proposals which would be acceptable to both parties and all the inter-ministerial committees that would sit and deliberate on this matter so that we can agree to amicably sort out these issues. The truth is that when these Education Attachés go out of Kenya and to our embassies they are harboured by the Ministry of Foreign Affairs. Therefore, I believe that all the Ministries that are involved should actually look for a way to sit down and agree on the way forward.

Lastly, the hon. Member had sought to have the answer. I have it here and I will present it to him.

Question No.1267

CONSTRUCTION OF SEWERAGE SYSTEM IN MANDERA TOWN

Mr. M.H. Ali asked the Minister for Water and Irrigation what plans she has to construct a sewerage system for Mandera Town, which has a population of over 100,000 people.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Speaker, Sir, I beg to reply.

My Ministry, through the North Water Project Board, has commenced the procurement of a consultant to carry out detailed engineering designs for the proposed Mandera Sewerage Project and the associated expansion of the town's water supply. This follows the feasibility study which was carried out in 2009. Once the design and costing of the project component is ready, which is expected by May 2012, my Ministry will prioritize implementation in the next financial year.

Mr. Keter: On a point of order, Mr. Speaker, Sir. Just for clarification, I think from Question No.903, we should have gone to the Question by C. Kilonzo. However, you can see you have jumped that page to the next one.

Mr. Speaker: Order, the Member for Belgut! We have been over that many times. Let us proceed!

Mr. M.H. Ali: Thank you, Mr. Speaker, Sir. I had asked this Question in 2009 and the Ministry of Water and Irrigation had promised to do the feasibility study and the design during that financial year. But up to now, as you have heard from the Assistant Minister, the design has not yet been done. I want him to give assurance that this design should be done as he has said by May this year so that the next phase of the project can start.

Mr. Waititu: Mr. Speaker, Sir, we have already dispatched Kshs7.3 million to the North Water Services Board for that work and the work has actually started. We, therefore, expect that the work should be complete by May this year for the design so that we can prioritize the project in the next financial year.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. Could the Assistant Minister inform this House the policy of the Ministry in the establishment of the sewerage systems in other towns?

Mr. Waititu: Mr. Speaker, Sir, we prioritize the projects as need arises and also when we get funding from our donor partners and also from the Ministry.

Mr. Duale: Mr. Speaker, Sir, first, I want to thank this Ministry. I want the Assistant Minister, on the same issue, to tell us why the Garissa Sewerage Project that was initiated during the time of hon. Charity Ngilu is taking too long. Can the Assistant Minister undertake to visit that project and see what the contractor is doing in Garissa?

Mr. Waititu: Mr. Speaker, Sir, I can organize with the hon. Member so that we can go together. There is no problem. I am ready to visit the project.

Mr. Ochieng: Mr. Speaker, Sir, the City of Nairobi is expanding very fast. There are many houses or buildings that are coming up but the sewerage system has remained the same since Independence. What is the Ministry doing to make sure that they improve the sewerage infrastructure in Nairobi?

Mr. Waititu: Mr. Speaker, Sir, we already have a master plan for Nairobi and we have started implementing it, including the slum areas that we are upgrading.

Mr. Kabogo: Thank you, Mr. Speaker, Sir. The Assistant Minister has said that they prioritize other towns for sewerage system.

Mr. Speaker, Sir, if you remember, a while ago, there was a Question on Ruiru where sewerage was flowing into the river and the Minister did promise in this House that they would liaise with the Ministry of Finance to see that this project is funded for a sewer system, and yet nothing has been done. When will these promises be actualized by the Ministry?

Mr. Waititu: Mr. Speaker, Sir, we are still procuring funds for the Ruiru sewer. We are still negotiating with the Ministry of Finance so that we can get the funding.

Mr. Speaker: Order, Mr. Assistant Minister! Do you want that to remain on record; that you are still procuring funds?

Mr. Waititu: Mr. Speaker, Sir, it is true that we want to do the project, but we do not have the money so that we can tender for the project. However, we have promised the hon. Member that very soon we shall undertake the project.

Mr. Speaker: Very well, Mr. Assistant Minister! I can see you want that to remain on record!

Hon. M.H. Ali, ask the last question!

Mr. M.H. Ali: Thank you, Mr. Speaker, Sir. Mandera is about 1,200 kilometers away from Nairobi and 48 years since Independence, Mandera has never enjoyed a sewerage system. It is using pit latrines up to date. Mandera Town, being the headquarters of Mandera County, can the Assistant Minister assure this House and the residents of Mandera County that this project will commence immediately in the next financial year, as he has promised? That is beginning July, 2012.

Thank you.

Mr. Waititu: Mr. Speaker, Sir, we expect the designs to be ready by May. What we have promised is that we are going to prioritize the project in the next financial year. We are sure that we will undertake it when the funds are ready.

Mr. Speaker: Yes, Mr. Yakub!

Question No.1050

NUMBER OF LOW COST BOARDING SCHOOLS IN COAST PROVINCE

Mr. Yakub asked the Minister for Education:-

(a) whether he could state all the low-cost boarding schools in the six counties in the Coast Province; and,

(b) how much money the respective schools have received from the Government in 2009 and 2010.

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

(a) There are 15 low-cost boarding schools in the six counties of Coast Province as follows:- In Kilifi County, we have Kibarani and St. Michael's; in Kwale County, we have Waa Primary School; in Tana River we have Arap Moi, Assa, Walesorea, Mororo, Nanighi, Wenje, Hola, Mbalambala, Haroresa and Waldena. In Lamu we have Mokowe AZ. In Taita Taveta, we have Timbila and in Mombasa we have none.

(b) A total of Kshs7,700,034 has been received by the 15 low-cost boarding schools in Coast Province from the Government in the year 2009 and 2010. I have provided the hon. Member with the list of how the money has been given to the 15 schools.

Thank you, Mr. Speaker, Sir.

Mr. Yakub: Thank you, Mr. Speaker, Sir. I would like to thank the Assistant Minister for the answer and I have got a copy of his reply.

Mr. Speaker, Sir, I would like to ask the Assistant Minister what criteria he used in allocating money to these schools because if he looks in his answer, he will find that Kwale County, which is the biggest and is among the poorest, he only allocated one school. What criteria did he use in allocating money to such schools in all counties?

Prof. Olweny: Mr. Speaker, Sir, the Government gives this support to schools in Arid and Semi-Arid Lands (ASALS) which, of course, are having problems of poverty, drought, nomadic lifestyle and insecurity. Furthermore, for the Ministry to register a school as low-cost boarding school, there must be a request from the school management committee which passes this to the District Education Board, which endorses this and then it is given to the Ministry of Education, which then processes the support if there are funds.

Thank you, Mr. Speaker, Sir.

Mr. Joho: Thank you, Mr. Speaker, Sir. Looking at the answer and hearing the Assistant Minister say that Mombasa has actually none, and yet he knows Mombasa houses more urbanization trends, what will he do to ensure that Mombasa can as well serve in the low-cost schooling?

Prof. Olweny: Mr. Speaker, Sir, Mombasa does not fall under ASALS and Mombasa does not have the nomadic lifestyle, which is one of the criteria that we use to select such schools. Instead, Mombasa has a number of informal schools which are supported by the Ministry.

(Mr. Joho stood up in his place)

Mr. Speaker: Order! Mr. Yakub, ask the last question!

Mr. Yakub: Thank you, Mr. Speaker, Sir. I think it is very important for the Assistant Minister to be informed that Mombasa as a county has Kisauni, Changamwe and Likoni. He should not consider Mombasa as an island. What measures will the Assistant Minister take in areas like Kisauni, Changamwe and Likoni, especially Mwakirunge which are very poor? When will he allocate low-cost schools in those areas?

Prof. Olweny: Mr. Speaker, Sir, let me inform the hon. Member that he should put forward the cases of the schools that he considers deserve to be put under the low-cost boarding schools support through the District Education Boards and then the Ministry will consider them.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Yes, the hon. Member for Juja!

Question No.1079

ILLEGAL SALE OF LAND UNDER
PLAN TKA/4/03/2 IN THIKA

Mr. Kabogo asked the Minister for Lands:-

(a) whether he is aware that the Ministry issued letters of allotment to residents of Thika Kiangombe under Plan No.TKA/4/03/2 in the year 2003 but titles have not been issued to-date;

(b) whether he is also aware that land dealers are purportedly selling some parcels of the allotted land to unsuspecting members of the public, thus causing tension within the area; and,

(c) when he will issue title deeds to those allocated the land to save members of the public from losing money to fraudsters.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I beg the indulgence of the House so that we may answer this Question next week on Thursday.

Mr. Speaker: The hon. Member for Juja, do you agree?

Mr. Kabogo: Mr. Speaker, Sir, it would have benefitted the House if the Assistant Minister said why he wants the answer given on Thursday, next week. Of course, he has talked to me, but he needs to tell the House why he wants this Question to be deferred.

Mr. Speaker: Mr. Assistant Minister, that is legitimate!

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I have talked to the hon. Member and I have told him that the answer I have is not sufficient or good enough. I am looking for more information so that when I come here, I can answer the Question efficiently.

Mr. Speaker: So, you are comfortable with next Tuesday?

The Assistant Minister for Lands (Mr. Bifwoli): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well; it is so directed!

(Question deferred)

Yes, the hon. Member for Yatta! Where is the hon. Member for Yatta?

Question No.1004

PREMISES FOR KENYA HIGH COMMISSION IN UGANDA

Mr. Keynan: Mr. Speaker, Sir, I have been asked by hon. C. Kilonzo, who is on a CDF Committee meeting in Mombasa to seek the indulgence of the Speaker either to have this Question answered next week or I can ask on his behalf.

Mr. Speaker: Order! You are an old hand. If you had been asked to ask the Question on his behalf, obviously you know that you should have approached the Chair a lot earlier before the sitting. The Question is deferred until such time that the hon. Member for Yatta will be available and able to proceed with the Question.

(Question deferred)

Yes, the hon. Member for Karachuonyo!

Question No.1116

DELAY IN REMITTING PENSION DUES

Eng. Rege asked the Minister for Finance:-

(a) whether he is aware that the Pensions Department has not been remitting pensions to many beneficiaries of deceased pensioners as required by law;

(b) why pensions due to beneficiaries of the late Micah Akoko (A03-00273) have not been paid since his death on 2/12/1992; and,

(c) how many similar cases are pending at the Pensions Department and what measures he is taking to clear such cases expeditiously.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the Pensions Department has not been remitting pensions to many beneficiaries of the deceased pensioners as required by law. What I am aware of is that all cases submitted to the department and are fully supported are processed as and when they are received and payments released to respective payees.

(b) Death gratuity amounting to Kshs66,310 due to the beneficiaries of the late Micah Akoko, who died on 2nd December 1992, was processed and paid to the Public Trustee, Kisumu, in November, 1997. Dependant pensions of Kshs28,191 to each of the two widows of the deceased was also processed and paid to them in arrears in May and November, 1997.

(c) In view of “a” and “b” above “c,” therefore, does not arise.

Thank you, Mr. Speaker, Sir.

Eng. Rege: Thank you, Mr. Speaker, Sir. I asked part “a” of the Question because for many years, even before I became an hon. Member of Parliament, I used to represent many widows from Karachuonyo whose pensions could not be paid and, eventually, they got to be paid. That is why I said so.

Mr. Speaker, Sir, I had documents here which indicate that the widows have agreed and accepted that they received the payments of Kshs15,000 for succeeding months. However, the lump sum amount of money that is being talked about here was not paid to them and the latest investigation and according to the letter from the Criminal Investigation Department (CID), on January 25th 2012 the money was paid to someone else. That is according to the CID investigations and officers have been instructed to take up the matter to investigate who actually received this money within the Pensions Department. It is only in this House where we can represent our people who are being swindled of such monies.

Mr. Speaker: Order! Order, Member for Karachuonyo! Can you quickly come to the question?

Eng. Rege: Mr. Speaker, Sir, the question is: Could the Assistant Minister tell this House where the money is, so that the two widows could receive their rightful payment?

Dr. Oburu: Mr. Speaker, Sir, it is true that we submitted the money to the Public Trustee in Kisumu. It is also true that the two widows did not receive that money. Investigations were instituted and, up to now, we do not have an official report from the CID indicating who the beneficiary is. So, our role now is to find out how the Ministry of Finance and the Public Trustee’s office can get those widows out of their problems by paying them their monies while investigations are going on, to establish who actually defrauded the Government of the money.

Mr. Njuguna: Mr. Speaker, Sir, as the two widows continue to suffer, could the Assistant Minister inform this House clearly how much money was released before it disappeared between the Treasury and the other office?

Dr. Oburu: Mr. Speaker, Sir, as I read in my answer, the amount of money that was remitted to the Public Trustee in Kisumu was Kshs66,000. There was money which was paid to

them in arrears, which was supposed to be monthly repayment totalling to Kshs28,000. They were paid in two installments of Kshs15,580 each on 10th March, 1997. Then the balance of Kshs9,840.35 was paid in November, 1997. They continued to receive their monthly payment until the end of the five-year requirement.

Mr. Olago: Mr. Speaker, Sir, in that transaction, the Public Trustee was acting as an agent of the Ministry and not the widows. So, if the agent of principal is the one who has lost the money, then the principal should look for that money. But, in the meantime, the widows must be paid. Why has the Ministry not paid them while they are looking for that money?

Dr. Oburu: Mr. Speaker, Sir, I have said that, that is exactly what we are intending to do.

Mr. Speaker: Last question, Eng. Rege!

Eng. Rege: Mr. Speaker, Sir, I would like to thank the Assistant Minister for accepting that there was fraud somewhere. Could he kindly tell this House when the pension for the late Micah Akoko will be paid to the widows? That is because they are suffering and have kids to pay school fees for and yet, they cannot access that money?

Dr. Oburu: Mr. Speaker, Sir, I have said that we are sorting it out between us and the office of the Public Trustee. We shall endeavour to pay it as soon as possible.

Eng. Rege: On a point of order, Mr. Speaker, Sir. I kindly asked the Assistant Minister to give us a timestamp when this matter will be settled, so that I can inform the widows. That is because they are going to investigate. I know that the Government system will take forever.

Mr. Speaker: Order! I will let that pass, but that is not a valid point of order. Mr. Assistant Minister, do you want to make a response?

Dr. Oburu: Mr. Speaker, Sir, we are endeavouring to get the culprit, but as I promised, we are going to do our best to try to sort out this matter as soon as possible. We shall not let those widows suffer longer than necessary.

Question No.1155

MISAPPROPRIATION OF FUNDS BY ALRMP

Mr. Sirat asked the Minister of State for the Development of Northern Kenya and other Arid Lands:-

(a) whether he is aware that money that was earmarked for projects in arid and semi arid areas was misappropriated by the Arid Lands Resource Management Project (ALRMP) and, if so, how much was misappropriated and whether he could indicate the constituencies and districts that were affected;

(b) whether he could provide details of all projects that stalled as a result of the misappropriation and also state the number of people and animals that are affected due to the incomplete projects; and,

(c) whether he could confirm or deny that the misappropriation of funds by ALRMP has negatively affected the image and relations between the country and development partners.

(Dr. Kones and Dr. Nuh consulted while standing)

Mr. Speaker: Order, Member for Bura and Member for Konoin! I have given directions on this many times. Member for Konoin, you can comfortably sit between the Member for Migori and Member for Nyando and have a discussion without blocking the passages of the House. The same applies to the Member for Bura. Please, note!

Proceed, Mr. Minister!

The Minister of State for the Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of any money that has been misappropriated by Arid Lands Resource Management Project (ALRMP). However, I am aware that the Department of Institutional Integrity (INT) of the World Bank has been conducting an audit into the project. It inspected 28,000 documents of expenditure incurred in the financial years 2006/2007 and 2007/2008 in seven sampled counties of Wajir, Garissa, Tana River, Isiolo, Samburu, Kajiado, Nyeri and at the headquarters. The INT originally claimed verbally that 70 per cent of the project expenditure was ineligible. That led to the informal suspension of that project in August, 2010. When INT eventually submitted its draft report in April, 2011, two years after the audit had begun, that figure reduced to 29 per cent. Through a process of validation, INT's findings were agreed jointly between the bank and the Government of Kenya. The internal audit established that, that figure is now less than 4 per cent. However, subsequently, they have had other meetings. As of today, neither the INT nor---

(Mr. Koech consulted loudly while standing)

Mr. Speaker: Order! Order! Member for Mosop, surely, you can sit next to the Member for Baringo North and just have a discussion. Why do you not respect these rules? I have just given directions hardly five minutes ago. Member for Mosop, you are the Chairman of the Departmental Committee on Education, Research and Technology and I know that you are well educated. So, please, follow directions!

Proceed, Minister!

The Minister of State for the Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, as of today, neither INT nor any other party has found concrete evidence that funds have been misappropriated. As the INT Report states on page 6 and, I quote:-

“The audit does not prove that embezzlement occurred.”

On 15th July, I submitted a copy of the INT Report and other relevant documents to the Clerk of the Departmental Committee on Agriculture, Livestock and Cooperatives, of which the hon. Member is a member. I tabled copies of the correspondence that I submitted, which are very many. There are about 16 documents that I tabled before the Committee on this one. The documents that I submitted also contained evidence from the bank itself, from external experts of the project's impact and probity. In terms of its impact, ALRMP contributed immeasurably to the quality of life in a very vulnerable part of this country. Its work on drought management benefited over 14.7 million Kenyans, 5.8 million of whom were far-reached through 4,000 micro projects. A GPS reference map is available to show the location of all those projects.

Mr. Speaker, Sir, the assessment of the World Bank throughout the 15 years of the life of this project confirms their satisfaction with the financial management system of the project. Their comments are “exemplary performance of the project coordination unit”.

During a meeting in Washington in September, 2011, the Government of Kenya and the World Bank agreed on steps necessary to bring a closure to this audit. I believe that we are near the end of this process. The Treasury and the World Bank are discussing this. I have, therefore, made submissions to the board.

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to read a statement instead of just responding to the question that was asked?

Mr. Speaker: Minister, respect gravity.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, I chose to do this because it would have been easier to say that I was not aware and that money has not been stolen. Since this matter is already in the public domain, having been published in the newspapers, I thought I should use the chance to do this, but I oblige and, therefore, proceed to answer part “b” of the Question. In summary, what I was saying was that there was a difference of opinion in terms of what is called “ineligibility” between the Treasury and the World Bank, but they are sorting out the matter.

(b) No misappropriation has taken place or it is yet to be established. Therefore, no project has stalled as a result. The ALRMP closed in December, 2010. All the micro-projects were completed. An implementation completion report has been sent to the Government of Kenya and the World Bank, and it is rated very highly.

(c) I restate that no misappropriation of funds has yet been established. My Ministry has engaged with key development partners throughout the audit process, and they are aware of the situation. Nevertheless, they have found ways to continue funding. So, no funding has been stopped as a result of this particular audit.

Thank you, Mr. Speaker, Sir.

Mr. Sirat: Mr. Speaker, Sir, you note that the Minister started his answer with the statement “I am not aware of misappropriation”. He also said that the World Bank indicated that 33 per cent of the funding was misappropriated. This reduced to 29 per cent and, lastly, to 4 per cent. If he is aware that 4 per cent of the funds has been misappropriated, why would he say that he is not aware of misappropriation? How much is the 4 per cent in millions of shillings?

Mr. I.E. Mohamed: Mr. Speaker, Sir, “ineligibility” is different from “misappropriation”. In the World Bank’s terms, “ineligibility” means any expenditure they do not want to pay for.

Mr. Mbadhi: Mr. Speaker, Sir, could the Minister tell us what led to this ineligibility? What are the reasons that the World Bank gave for the ineligibility of the expenditure?

Mr. Elmi: Mr. Speaker, Sir, the reasons that are given in the different areas are varied. In some areas, they say that they do not agree; the details are in my long statement. For instance, in the case of vehicles that were taken to the dealers for service, in accordance with Government of Kenya procedure, you do not need to get quotation for this. In respect of such vehicles, the World Bank said that they did not get quotations. So, they did not approve the expenditure.

In some cases they were completely inaccurate. For example, they said that money was withdrawn from ATMs, yet the Government does not have ATMs. On investigation, it was established that it was the bank’s error in the statement. At that time, the bank from which money was shown to have been withdrawn using an ATM did not have ATM services. It is little things like these ones that have accumulated. The list is long.

Mr. Duale: Mr. Speaker, Sir, the body that we are talking about is the Arid Land Resource Management Programme. This is a programme that was funded by the World Bank in both the first and the second phases; it cut across all the pastoral ASAL areas. This is a

programme that has transformed the people. Can the Minister tell the nation and this House--- The programme has now stopped; the World Bank has refused to fund it.

Mr. Speaker: Order, Member for Dujis! Do not explain what you are asking in the question. Just proceed and ask the question.

Mr. Duale: Mr. Speaker, Sir, I am just building up the question. As we speak, the programme has stalled. Can the Minister tell the House why the World Bank stopped the project? Was it because of the Kshs300 million that was lost? Is there any other money that was lost from the Kenyan component, and who are the funders that he has now acquired?

Mr. Speaker: Order, Member for Dujis!

Minister, you can do well by just answering the first question.

Mr. I.E. Mohamed: Mr. Speaker, Sir, that project was actually successfully completed. When the World Bank brought in the complaint that there was possibility--- In fact, this came as third party complaints. That was how the audit was generated from a professor in the USA, who happened to live in Tana River at the time. So, the project came to an end. Our hope is that we will have another project with the World Bank.

Mr. Duale: On a point of order, Mr. Speaker, Sir. None other than the Prime Minister of the Republic of Kenya stood at the Dispatch Box six months ago and answered questions relating to the corruption deals in the Ministry of Education and the Kshs300 million loss under this programme. It is in the public domain that this programme was stopped by the World Bank as a result of embezzlement of funds. Is the Minister in order?

Mr. Speaker: Order! Order! Minister, you need not respond. That is a matter of argument.

Yes, Member for Bahari.

Mr. Gunda: Mr. Speaker, Sir, before the World Bank gives out money; does it spell out what constitutes ineligible spending, so that when the Government starts using the money it does not stray?

Mr. I.E. Mohamed: Mr. Speaker, Sir, the answer is "yes". In this regard, I would like to table the submissions that I made to the board, objecting to some of the practices, which actually relate to the World Bank's own basic principles. I table those documents and say that they are spelt out, but once in a while somebody seems to want to stretch it more than it should be.

(Mr. I.E. Mohamed laid documents on the Table)

Mr. Speaker: Last question, hon. Sirat.

Mr. Sirat: Mr. Speaker, Sir, who is responsible for the misappropriation or the ineligibility of the 4 per cent, and what action has the Minister taken?

Mr. I.E. Mohamed: Mr. Speaker, Sir, I want to repeat that as we speak the joint audit by the Treasury and the World Bank continues. I quote from them that ineligibility is not evidence of fraud. Therefore, I cannot answer his question.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. The report of the forensic audit that was done by the World Bank is out. The internal audit report by the Treasury is also out. Is the Minister in order to mislead the House that the audit is not complete?

Mr. I.E. Mohamed: Mr. Speaker, Sir, yes, the forensic audit report is out. The World Bank and the Government of Kenya sat and agreed on a process of undertaking a joint audit. After doing so, more objections were raised. So, it is not concluded yet. Once it is concluded, I will be happy to report back.

Mr. Speaker: Next Question, Member for Belgut.

Question No.1334

RECIPIENTS OF MONEY AWARDED
TO M/S PAN AFRICA BUILDERS

Mr. Keter asked the Minister for Labour:-

(a) whether he could state how Kshs662,993,980 awarded by Milimani Commercial Court to M/s Pan Africa Builders & Contractors Limited vide HCCNo.701 of 2005 was paid out, indicating the respective recipients, the reasons for payments and the amounts paid; and,

(b) why the lawyers who acted for the company in the suit were bypassed in the settlement.

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

Mr. Speaker: What is it Member for Kisumu Town West?

Mr. Olago: Mr. Speaker, Sir, I rise to raise the issue of whether or not this Question is properly before this House; in respect of the fact that the Question touches on issues which otherwise would relate to the issue of advocate/client confidentiality. With regard to part "b" of the Question, if any of the advocates in that suit is complaining, then we ought to know whether they have filed a bill of advocate/client costs.

Is it in order for this matter to be raised here when it does not comply with Standing Order No.41? Questions may be put to a Minister relating to public affairs with which the Minister is officially connected. As far as I am concerned, the Minister for Labour is not connected with this matter involving the suit in court. If fraud was involved, then the Ministry of State for Provincial Administration and Internal Security would be concerned. If impropriety was suspected, then the Attorney-General or the Minister for Justice, National Cohesion and Constitutional Affairs would be concerned.

Is this matter before the House properly, Mr. Speaker, Sir?

Mr. Speaker: Very well, Member for Kisumu Town West! I have heard you, but the Assistant Minister has not protested. So, I do not know who chose you to be his protector. I must first of all hear him before I can address myself to that concern.

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

(a) The Milimani Commercial Court awarded Pan Africa Builders and Contractors Limited Kshs662,993,980.06 following arbitration arising from a dispute with the National Social Security Fund (NSSF) regarding payment for contractual works at the Fund's Kitsuru Housing Estate.

In administering the payments, it was agreed that the NSSF makes direct remittances to sub-contractors engaged in the project as well as the claimants' lawyers. Pursuant to the court orders, the NSSF paid Litline Enterprises Limited Kshs20,045,738.90. Speedwings Limited was paid Kshs121 million. The lawyers for the claimant Kipkorir Kiptoo and Ikiara were paid Kshs40 million out of a total of Kshs143,815,878.98. Pan Africa Builders and Constructors Limited received a balance amounting to Kshs305,954,262.

Consequently, Kshs103,815,878.98 owed to the law firm was deposited with the Registrar of the High Court pending determination of the advocates final bill as they had disputed the calculation of the stated figure.

(b) From the above mentioned, it is clear that the lawyers who acted for Pan Africa Builders and Contractors were not bypassed in the settlement.

Mr. Keter: Mr. Speaker, Sir, in 1997, Pan Africa Builders was awarded a contract to construct 300 houses at the NSSF Kitisuru Housing Estate at the sum of Kshs1.9 billion. In 2005, they went to court. In 2010, they were awarded to be paid Kshs662 million. I am asking this Question not defending anybody or not on behalf of the lawyers. You will realize that in part “b” of my Question, I asked: Were the lawyers bypassed in this payment? In any work which is done by a lawyer, the whole cheque of Kshs662 million should have been paid to a lawyer, so that this lawyer could transmit it to the respective recipients. That is why in the first part of the Question I wanted to know the people who were paid. The answer to this Question said that in administering the payments it was agreed that the NSSF makes direct payments. I want to know from the Assistant Minister and I want him to table the agreements of the sub-contractors and the agreements which were arrived at. If you see the figures, one sub-contractor was paid Kshs20,045,738.90. The other one which is suspect, M/s Speedwings Limited were paid Kshs121 million. So, I want him to table sub-contracts if he has them.

Mr. Ojaamong: Mr. Speaker, Sir, in the Question he asked for the reasons for the payment which so far I am not privy to. I would request that I go and find out exactly what these sub-contractors did because this was done in those days when corruption was rife in Kenya.

(Laughter)

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

Mr. Speaker: Order, hon. Members! Let us save time on this one. Order, Member for Gwassi! I know something seems to have excited you. But that notwithstanding, the Assistant Minister says he wants time to go and find out. So, because we want to use our time well, if he wants time to go and find out, what I would like to know from him is how much time do you want?

Mr. Ojaamong: Mr. Speaker, Sir, I think two days is enough.

Mr. Speaker: Is it okay if the matter comes on the Order Paper again on Thursday at 2.30 p.m.?

Mr. Ojaamong: It is okay, Mr. Speaker, Sir.

(Mr. Mbadi stood up in his place)

Mr. Speaker: Very well. It is so directed. We must use our time well, Member for Gwassi.

Question No.1459

DELAY IN PAYMENT OF WORK INJURY
BENEFITS TO ASSISTANT CHIEFS

Dr. Nuh asked the Minister of State for Provincial Administration and Internal Security:-

- (a) why the Ministry has not paid work injury benefits to Assistant chiefs Yusuf Dabasa Abajilia P/No.1996076332 and Abdi Kambicha Abakuna P.No.1996120204 who were injured while on duty on 30th December, 2008; and,
(b) when they will be paid.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I have just consulted with the hon. Member and the answer to this Question is inadequate and, basically, belongs to the Treasury. I would like to seek the indulgence of the House to refer this Question to the Treasury because the Treasury is the administrator of the group pension, group personal accident scheme and work injury as from 2008.

Mr. Speaker: Member for Bura, what is your reaction to this?

Dr. Nuh: Mr. Speaker, Sir, I would have considered that were it not for the urgency of the matter. I have no problem if it is deferred to a different Ministry, but if only it can be answered within a week. I would really appreciate.

Mr. Speaker: Very well! Mr. Assistant Minister, it is an urgent matter. So, if it goes to the Treasury, invoking the doctrine of collective responsibility, when do you undertake that it be answered?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker Sir, I believe we could answer this Question on Tuesday or Wednesday, next week.

Mr. Speaker: I will take the earlier date, Tuesday, next week. Please, communicate that to your colleague.

Mr. Ogindo: Mr. Speaker, Sir, first of all, I must apologize that I was late when my Question was due. This was because I was caught in a jam that was caused by the Kenyans who were demonstrating outside this Parliament. I want to apologize profusely. I know time is up. Therefore, I would want to request you to consider reinstating my Question even if it is not today; I will be very happy.

Mr. Speaker: Very well, Member for Rangwe! I did not know before the sitting commenced that there was rioting going on around the precincts of Parliament. But I have checked and ascertained that as a consequence of the riots by members of staff of the Ministry of Health, some roads leading to Parliament were, in fact, literally blocked and so the Member for Rangwe could not get here on time. I, therefore, in those circumstances direct that the Question be reinstated. I do not know if the Minister is ready to answer the Question now.

QUESTIONS BY PRIVATE NOTICE

APPOINTMENT OF FRANCIS KIMEMIA AS ACTING HEAD OF PUBLIC SERVICE

Mr. Ogindo: Mr. Speaker, Sir, I beg to ask the Minister of State for Public Service the following Question by Private Notice.

(a) What legal basis and procedure was used in the appointment of Mr. Francis Kimemia as the Acting Permanent Secretary in the Office of the President and Head of the Public Service and Secretary to the Cabinet?

(b) What law provides for the appointment in an acting capacity and what are the other terms of the appointment?

(c) Why was the appointment made without the approval of the National Assembly?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I have got the answer. I have given a written copy to the hon. Questioner and I would like to proceed.

Mr. Speaker: You are ready to proceed?

The Minister of State for Public Service (Mr. Otieno): Yes, Mr. Speaker, Sir.

Mr. Speaker: The information received from both of you is to the contrary unless you were not honest with the Chair. If you were not honest with the Chair, then both of you should say so.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the hon. Member has requested that you reinstate the Question.

Mr. Speaker: Which I have done. But both of you did say that you wanted more time to look into this Question. Mr. Minister, you were here just about 15 minutes ago. I am normally very candid and I like to deal straight.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, it appeared the hon. Member was hesitant as to whether this answer should be given on the open Floor or not or he is satisfied with the written answer he has got. It is him to decide; if he wants to ask the Question, I am ready with the answer because he already has got the copy and other hon. Members would have a chance to raise supplementary questions.

Mr. Speaker: Order, hon. Members! In view of what I have disclosed to the House, I would want to give you some time. I would want to give you and the Member for Rangwe five minutes as well as the Government Whip. This House operates in the light of all surrounding circumstances. If you make intimation to Mr. Speaker, then you must live within the intimation that you make. I would like you to consult and come back to me so that I have a proper brief. I have disclosed the situation to the House and I will want to deal with this matter transparently.

You may withdraw and consult behind the Speaker's Chair.

Mr. Otieno: Thank you, Mr. Speaker, Sir. We will do so.

Mr. Speaker: Hon. Members, for the moment, that brings us to the end of Order No.6 although I may revisit it depending on the brief that I get from the two hon. Members.

Order hon. Members, before we proceed to the next order, I wish to make two communications.

COMMUNICATION FROM THE CHAIR

NOMINATION OF CHAIRPERSON AND MEMBERS OF IPOA

Mr. Speaker: Hon. Members, the first communication is with respect to the nomination for chairperson and members of the Independent Policing Oversight Authority (IPOA).

Section 8(i) of the Independent Policing Oversight Authority Act of 2011 provides that the IPOA shall be governed by a board to be known as the Independent Policing Oversight Board (IPOB). The Board shall consist of a chairperson, seven other persons and the chairperson of the Kenya National Human Rights and Equality Commission who shall be an *ex-officio* member. In accordance with Section 11(v) of the foresaid Act, the President shall select the Chairperson and members of the Board from the list of qualified persons forwarded to him by the selection panel and subsequently forward the names of the persons so selected as chairperson and members to the National Assembly for approval.

In a letter Ref. OP/CAB1/32A dated 5th March 2012 from the Permanent Secretary, Secretary to the Cabinet and Acting Head of the Public Service, the National Assembly has been advised that His Excellency the President in consultation with the Rt. Hon. Prime Minister has nominated the following persons for the position stated hereunder:-

- | | | |
|-----------------------------|----|-------------|
| 1. Macharia Njeru | `- | Chairperson |
| 2. Mbugua Thomas Kagwe | - | Member |
| 3. Fatma Ali Samani | - | Member |
| 4. Jedida Pilale Ntoyai | - | Member |
| 5. Jane Njeri Njoki Onyango | - | Member |
| 6. Madoka Grace Barbara | - | Member |
| 7. Vincent Kibeti Kiptoo | - | Member |
| 8. Rose Awuor Bala | - | Member |

Under Section 11(vi), the National Assembly is required, within 21 days of the day it next sits after receipt of the names of the nominees, to vet and consider all the applicants and may approve or reject any or all of them and request for the names of new nominees.

Hon. Members, I direct that these names and the accompanying curriculum vitae of the nominees together with the report of the selection panel including the score sheet be forwarded to the Departmental Committee on Administration and National Security for consideration prior to approval by the House. The Committee is subsequently hereby directed to table its report on or before Tuesday 20th March 2012.

Thank you.

CONSIDERED RULING

DEBATE ON REPORT ON DECLINE OF THE KENYA SHILLING TO PROCEED

Hon. Members, the second Communication is that you will recall that the Chairman of the Parliamentary Select Committee on the decline of the Kenya shilling against foreign currencies commenced moving the Motion on the above Report on Thursday, 1st March, 2012. However, the Member for Rangwe, Mr. Martin Ogindo, rose on a point of order claiming that copies of the Report circulated to the Members were not signed and that the annexes were missing. He, therefore, sought guidance from the Chair on how to proceed as the Report was incomplete. The claim was further spoken to by two other Members. The Chair directed that further debate on the Motion be deferred and that the Motion be listed on the Order Paper at the earliest opportunity after circulation of the Report as tabled in the House.

Hon. Members, I have perused the Report that was tabled in the House on 14th February 2012 and confirm that it is the same Report as I approved. Pursuant to Standing Order No.181 (3), a Report of a Select Committee together with the minutes of the proceedings of the Committee and with such note or record of any evidence by the Committee as the Committee may deem fit shall be laid on the table of the House by the chairperson of the select committee or by some other Member authorized by the committee on its behalf within 14 sitting days of the conclusion of its proceedings.

These minutes are appended as annexure (i). The list of annexes which are 18 in number are on page six of the Report and are intact. I have, however, ascertained that some copies given to the Members contained only the main Report but not the annexes. The claim that some

annexes had been removed is, in view of the foregoing, not accurate. Copies have now been made of the Report in its original form together with all the annexes as tabled in the House.

Thank you.

Hon. Members, the effect of that communication is, therefore, that business at Order No.11 will proceed when we get there.

Those who do not have the Report may make efforts to obtain copies thereof which are readily available both within the Chamber and in Room No.8.

Next order!

MINISTERIAL STATEMENTS

Mr. Speaker: Hon. Members, I am on notice that there will be Statements which are due for delivery. The first one that was drawn to my attention was from the Ministry of Finance, so I will take it first. I will then take the others.

RELEASE OF KSHS2 BILLION TO RURAL ELECTRIFICATION FUND

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, on Thursday 15th January 2012 following debate on the Floor arising from my answer to Question No.1359, you directed me to prepare a Ministerial Statement that would among other things clarify the assertion that my predecessor made to the Departmental Committee on Energy and Communications regarding the release of Kshs2 billion to the Rural Electrification Fund (REF). The said amount was to have been raised from the sale of 7.85 percent redeemable preference shares in the Kenya Power and Lighting Company Limited. The rights issue was intended to help the KPLC achieve the following.

First, it was meant to---

(Loud consultations)

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I would request that you ask the House to consult in low tones because we are unable to hear the Assistant Minister and yet we need to follow.

Mr. Speaker: Order, hon. Members! Please, lower the level of your consultations so that we can hear the Assistant Minister.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, the rights issue was intended to help KPLC achieve the following objectives:-

1. To raise Kshs9 billion in additional equity to finance capital development without increasing the gearing and financial risks of KPLC.
2. To improve the KPLC's credit worthiness with a resultant ability to access cost effective finance.
3. To improve its debt servicing capacity, for example, to ensure adequacy of future free cash flows to service the borrowing.

Mr. Speaker, Sir, I am aware that on 27th July, 2011, the Budget Committee of Parliament recommended that Treasury allocates Kshs2 billion to the Rural Electrification Authority (REA) as compensation for the non-refund of VAT amounting to Kshs1.891 billion. The Committee resolved that this compensation should be made from the proceeds of the Government's 7.85 per

cent redeemed preference shares realized from the KPLC's rights issue undertaken in December, 2010.

Mr. Speaker, Sir, from the explanation above, it is very clear that the principle objective of capital based restructuring of the balance sheet of KPLC was not to raise money for the Government, but to convert the non-cumulative redeemable preference shares debt with a bank value of 15.9 billion into ordinary shares or rather equity. The main benefit was that KPLC would hence forth have the capacity to borrow from the market for its own balance sheet.

Mr. Speaker, Sir, with respect to the rights issue, the GoK was entitled to a total of 340,786,884 rights. Out of this, however, the Government was only able to trade 161,606,812 rights by the end of the rights issue trading period. The sale of the rights at an average price margin of Kshs0.75 per right resulted in revenue amounting to Kshs123 million. The proceeds were treated as ordinary GoK revenue.

Mr. Speaker, Sir, it is important to note that a right issue involves sale of new shares by the company in order to raise additional capital. This is normally on the offer to the existing shareholders and is made on a *pro-rata* basis. The shareholders who chose not to take up their rights are free to sale the rights, and benefits from the margin between the offer price and prevailing market price as the offer price is normally discounted.

It would, therefore, appear that there was a misunderstanding on the intended source of the Kshs2 billion that the Committee sought to have allocated to REA.

As indicated above, one of the terms of the preference shares was divided payment at 7.85 percent effective from 1st July, 2009. It is, therefore, likely that this was the intended source of the Kshs2 billion for the funding of REA. It is true that there are Kshs2.496 billion owing to the Kenya Government from the KPLC on account of dividends declared and payable for Financial Year 2008/2009 and Financial Year 2009/2010.

In keeping with the existing financial regulations, Treasury has requested KPLC to remit these outstanding dividends to Treasury, so that the money can be accounted for as investment income, and subsequently, voted by Parliament under the Budget process as appropriate.

Mr. Speaker, Sir, the Government has consistently funded REA programme as a priority project to accelerate the development of rural based enterprises where the majority of Kenyans live and work. Indeed, REA was created as a specialized agency to undertake this important function on behalf of the Government. The cumulative allocation to the Rural Electrification Project in the last five years is in excess of Kshs33 billion, including Kshs1.4 billion, for operational expenses of REA since its formation.

Mr. Speaker, Sir, that is all I wish to say.

Mr. Speaker: Any one wanting clarifications, beginning with the Member for Gwassi? Mr. Assistant Minister, please, take notes.

Mr. Mbadi: Mr. Speaker, Sir, when the people of Kenya decided to make this Parliament to change it from Budget approving to Budget making body, I am sure, they knew what they were doing.

So, could the Assistant Minister confirm to us that on 27th July, 2001, or thereabouts, when we invited the Minister for a discussion as the Budget Committee, the Ministry misled us into believing that there was money available for REA to the tune of Kshs2 billion. We did not have to bother by reallocating funds from other Votes, yet, in essence, they were aware there was no money available to the tune of Kshs2 billion. That was what we, as a Budget Committee, were made to believe.

Mr. Shakeel: Mr. Speaker, Sir, the Assistant Minister has clearly stated that preference shares was disposed of and ordinary shares purchased in a company that is not wholly owned by the Government. Where is the investment sense when you are selling preference shares which are getting a higher rate of return by way of interest, and then going and swapping them for a lower rate of return and at lower cost of shares? Could he tell us where the investment sense is? Further, what was the matching investment of the private partners of KPLC, or did the Government take the whole burden?

Dr. Nuh: Mr. Speaker, Sir, when I listened to the Assistant Minister's Statement, I started doubting whether in the recommendation by the Budget Committee that this House passed, did it pass that the Kshs2 billion to be allocated to REA was to come from a dividends already held by KPLC, or the Committee recommended that this House approve Kshs2 billion to be allocated to REA was to come from sale of shares?

Mr. Speaker: Assistant Minister, make your responses, please!

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, could Dr. Nuh repeat his question?

Dr. Nuh: Mr. Speaker, Sir, he is older than me. So, I oblige to repeat.

The question I am posing is that the Budget Committee's recommendation that was passed by this House, to me read that the Kshs2 billion the Budget Committee was requesting to be allocated to REA was to come from dividends of Kshs2 billion already held by KPLC. However, his Statement says Kshs2 billion to be allocated to REA was to come from sale of shares. So, I am asking whether you, indeed, read the report that was passed by this House.

Mr. Speaker: Very well! Yes, Assistant Minister!

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, hon. Mbadi says that we misled the Committee that there was money and yet there was no money. In fact, Kshs2 billion was available. The Statement which I issued here arose from a question which was not asking the Government why it has not allocated dividends money, but why it had not allocated money from the sale of the preferential shares from KPLC. The recommendation of the Committee was not on the proceeds from the shares which were sold. The source of the money was from dividends. But the question we were asked is whether there was money there. We stated clearly that there was no money there. What we received was just a small profit from the rights issues which was a separate issue from the preferential shares. The source of the money was the dividends. What we received was just a small profit from the rights issue, which was a separate issue from the preferential shares. So, there was no money which was due as proceeds from the conversion of the redeemable shares into ordinary shares. That was what actually the answer was.

Mr. Speaker, Sir, on hon. Shakeel's question, he should realise that the Government was a major shareholder in the Kenya Power and Lighting Company (KPLC) and KPLC's position was actually almost driving it into insolvency, and it was the responsibility of the Government to try to salvage KPLC from that position of near insolvency. That was why this burden on KPLC of redeemable shares which were being paid for at an interest rate of 7.85 per cent per annum was transferred to redeemable preference shares in order to improve the balance sheet of the KPLC for it to be afloat again.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not told us why it is the burden of the Government of Kenya to clear debts of the KPLC when it is a company owned by private investors. Could he inform the House how much money the private investors have pumped into KPLC?

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I was still answering hon. Shakeel's question and I do not why he is in a hurry to interrupt me. I was coming to that.

The Government is a substantial shareholder in the KPLC and, therefore, again, it is the responsibility of the Government to ensure that the public is served with electricity. As its public duty, the Government was not going to allow the KPLC to go into insolvency. That is why we helped KPLC to improve its balance sheet by converting redeemable shares, which were regarded by creditors as a debt and, therefore, put KPLC's balance sheet into a very negative position. We felt that it was our responsibility to do that urgently. We did not give money to KPLC. We simply converted the redeemable preference shares to ordinary shares.

Mr. Speaker, Sir, there were no matching funds from the private financiers, of course, at that public juncture; but subsequently, the KPLC floated shares as a rights issue and the private sector participated in buying more shares, so that it could raise more money to improve its balance sheet.

Mr. Speaker, Sir, hon. Nuh has asked whether we actually read the recommendation. That recommendation of allocating Kshs2 billion from the Kshs2.4 billion which was due to the Government from the KPLC, it is true; when I was reading my Ministerial Statement, I stated that that money is there but it has not been transferred. The KPLC has not paid it to the Treasury as yet. So, we have not violated any resolution of the Committee because we do not have the money ourselves. The KPLC is still holding that money and we are just going to see whether to demand that they give it to us and we treat it as ordinary revenue. However, we have a difficulty in hijacking money which---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I am sure you heard the Assistant Minister say that they are waiting for this money to decide whether to treat it as ordinary revenue. Is it in order for the Assistant Minister to suggest that when the adopted Report of this House has already specified how the money should be treated?

Mr. Speaker: Order! Indeed, Mr. Assistant Minister, you ought really to be awake to that. That is not the kind of slip you make when responding to a question like that.

Proceed!

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, our difficulty in the Treasury is because it is this Parliament which approves the Budget. That particular amount of money is part of the monies which we had estimated as part of the general revenue to go to the Consolidated Fund to fund various projects also voted by this Parliament. This is a practice which is going to be for the first time that we hijack money which has not reached the Consolidated Fund and allocate it---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that we are hijacking money? Even the word he is using is unparliamentary! This House sets the rules and the Budget was passed by this House and the Assistant Minister himself intimates that it is this House which allocates resources. But he is again alleging that we are asking him to hijack money; is he in order to mislead the House?

Mr. Speaker: Order! Mr. Assistant Minister, I am sure you can do better than that.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, what I was explaining was that this particular money which they are saying should be given to the Rural Electrification Authority (REA) was already voted for by this Parliament to be part of the revenue which we were going to receive in order to allocate to other projects. So, it is like revising the Budget which was presented and approved by this Parliament.

Mr. Speaker: Order, Assistant Minister! I do not think I want to allow you to protract this matter beyond where you have reached. I would want to direct that you engage the Budget Committee and do what is right in accordance with the recommendations of the Budget Committee, which were approved by a resolution of this House. That is what I will direct you to do. If there are any further concerns, I am afraid the matter will have to be raised again in this House. That is where we will leave it. Mr. Assistant Minister, please ensure that you do so.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, we shall engage the Budget Committee; even there are other funds which are coming to REA from other sources.

Mr. Speaker: Please, do so. It is the easiest way to work.

Order! I want to take the Minister for Information and Communications. I think you have something on Kenya Broadcasting Corporation (KBC).

Proceed!

STRIKE BY KBC EMPLOYEES

The Minister for Information and Communications (Mr. Poghio): Mr. Speaker, Sir, the Member of Parliament for Yatta Constituency; hon. Charles Kilonzo, sought, a Ministerial Statement on the strike by employees of KBC which started on 29th February this year. Hon. Charles Kilonzo sought the following clarifications:

“(a) why salary arrears amounting to millions of shillings have not been paid to employees of KBC; why employees of KBC are the most poorly paid in comparison to employees of other Government parastatals; (b) why after KBC undertook restructuring and, therefore, promoted employees to new grades as reflected in the code of regulations, they continued to pay the employees using old grades and only implemented the new grades in respect of a few managers;

(c) why the Government failed to honour the promise made to pay the employees their new dues based on the restructured grades; and,

(d) why the corporation continued to have hundreds of employees on temporary terms for years contrary to labour laws.”

I wish to make the following Statement and clarify the issues raised.

First, the KBC management gave out a 21 per cent pay increase to its employees on 10th February, 2012. The management has already effected 9 per cent pay and backdated that to July, 2011. The employees have been assured that the remaining 12 per cent will be effected beginning July this year when the new financial year commences. The corporation also took a bold step of signing a recognition agreement with the Communication Workers Union of Kenya (CWUK). However, the employees have disowned this union and are seeking another union. This is their democratic right and one that would help the workers channel their grievances through the right body. The Ministry takes cognizance of the fact that the KBC staff have raised issues to do with grades, salaries and allowances. We have made proposals to the Treasury to pay for the public broadcaster and we hope they will address this matter in the shortest time possible. However, as you are aware, the budgetary process takes time and we have to give the Treasury time to handle this matter.

This will also go hand in hand with the general harmonization, re-categorization and resumption of public funding of the corporation. This will entail review of the Budget and involvement of other Government agencies such as the new Salaries and Remuneration Commission and the State Corporation Advisory Committee that will advice on re-categorization

of the corporation which is currently placed under Category C. The Board and the management have also been asked to start comprehensive restructuring aimed at improving service delivery. This follows the Ministry's request to the Ministry of State for Public Service to review the KBC's current structure of the human resource manual and career guidelines.

As I mentioned earlier, the process of restructuring KBC is currently in progress. A team of three officers from the Ministry of State for Public Service have been seconded to the KBC to work on improved scheme of service and to undertake a workload analysis beginning March, 2012. There is also a technical team from the Communications Commission of Kenya to audit technical equipment and a human resource team to carry out an audit on staff. I also wish to clarify that the new grading structure will cost the KBC Kshs30 million per month. As I have stated, we have asked the Treasury to pay for the public broadcast, which will enable the corporation to meet its new obligations. The KBC management was in the process of filing up existing vacancies beginning March, 2012 using some of the temporary employees who have been working in the corporation for long. However, due to the Government freeze on employment, the KBC had to put this process on hold.

In our tripartite meeting yesterday, it was agreed that the management consider filling up some of these available vacancies immediately using some of the artists who have been serving the corporation for a long time. It is also suggested that we use some of them in our new network called the Signet, a subsidiary of KBC, once it is incorporated. An improved artist policy is also being prepared by the management. To improve on the general welfare of the KBC staff, my Ministry has taken steps to contact agencies involved in mortgage schemes, for example, the Housing Finance Company of Kenya, with a view to having a credible housing scheme for the staff. Further, we have consulted with the KBC management to procure a comprehensive medical cover for all staff, a process that has already commenced.

In conclusion, my Ministry is already moving fast to ensure that the KBC is funded by the Exchequer to enable the corporation perform its mandate as a public broadcaster. The normal operations at KBC have resumed and I assure the House that the coverage of the proceedings shall run as usual. Let me just add that this House can help us make clear the rules also of striking in this country because the people I was addressing yesterday were not all KBC staff. Anybody can go in and be part of the strike and this has made it very difficult to deal with matters because we do not have the rules. It cost the corporation nearly Kshs20 million just because of this and in my view, we can do better if we have better rules of picketing.

Mr. Speaker: We will take clarifications and I am afraid we must restrict them, in view of where we are on time, to just five requests for clarifications. We will restrict them to five. I want to begin with hon. Keynan.

Mr. Keynan: Mr. Speaker, Sir, I would like the Minister to clarify what the Ministry is doing to make sure that KBC is efficiently managed taking into account that it has the institutional capacity to earn income from other media houses that would have benefited these workers who have been on strike. The issue is mismanagement, corruption and inefficiency. These are the issues that the Ministry must be prepared to address, so that the KBC becomes a profit oriented and a national institution that is efficiently managed.

Mr. Kioni: Mr. Speaker, Sir, these are problems that the KBC has been simmering for over a year. The answers that the Minister has given are lacking in terms of time span. Could he inform the House what the timing will be like? Within what time must we get the KBC upgraded? He has talked about Kshs800 million, what have they done and within what time limit? His answers are lacking in terms of when they are even going to finish the issue of

auditing and rationalization of the staff, so that we do not find ourselves waiting for another one year.

Mr. Ochieng: Mr. Speaker, Sir, the Minister should tell us why they have thought it better now to audit the workload in KBC. What were they waiting for all this time? When we were seeking for this Ministerial Statement, I wanted to know the earnings in terms of profits that the KBC rakes in. That has not come out in the Minister's Statement.

Mr. Mbuvi: Mr. Speaker, Sir, could the Minister clarify what action his Ministry has taken against senior KBC managers who have been accused of sexually abusing their juniors in exchange for promotions and other favours?

Dr. Khalwale: Mr. Speaker, Sir, I would like a clarification on the promised restructuring of the KBC. The Managing Director, the Editor-in-Chief, the Television Programmes Manager and the Manager in charge of IT all have suspect qualifications. In fact, on 21st October, 2010, this was a matter before this House in respect of the MD. Could the Minister confirm that in this restructuring, he is going to subject all the senior managers to competitive recruitment so that they are hired afresh, so that the best Kenyans are the ones in charge of our premier Kenya Broadcasting Corporation?

Mr. James Maina Kamau: Mr. Speaker, Sir, the KBC has been a monopoly in this country for a long time. Could the Minister tell this House why it has not been able to take off, considering that other media houses in this country are raking millings?

The Minister for Information and Communications (Mr. Poghismo): Mr. Speaker, Sir, we are glad that the strike is off and the workers have gone back to work. Just through that process, I have learnt a lot from the conditions at the KBC. I have learnt a lot about the workers' conditions.

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

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

The Minister for Information and Communications (Mr. Poghismo): Mr. Speaker, Sir, can you protect me from the Member for Gwassi and the Member for Bura?

Mr. Speaker: Order! Member for Bura, Member for Gwassi, order! Your conduct as a matter of fact, as to where we are, is disorderly. So, I will not allow you.

Proceed, Minister!

The Minister for Information and Communications (Mr. Poghismo): Mr. Speaker, Sir, hon. Keynan has asked about all the issues pertaining to KBC. There are a lot of corruption cases and he has asked what we are doing to alleviate or to try and track down these issues and deal with them. I can assure you that we signed together with the members yesterday a tripartite agreement of going back to work that everybody will be audited for what they have done in the organization. Those who found their way corruptly into Kenya Broadcasting Corporation (KBC) will be removed. Those who are doing things that Mr. Mbuvi is asking will also be dealt with. But those are criminal issues and I will come to that. I want to assure Mr. Keynan that for the workers to go back yesterday, we had to agree to relook afresh and audit every sector of KBC. That is what we are committed to. So, that covers all that!

Mr. Speaker, Sir, Mr. Kioni talked about timing and again, all these matters of agreement yesterday are time bound. We are giving them 90 days all the way to six months, depending on the Treasury on some of them; and depending on the staff for some of them and what else can be done but we are not taking this forever. Even hon. Members have agreed that we are going to have a review every so often to audit our own actions. As a matter of asking why now, Mr. Ochieng asked why now and not before. If you look at the development at KBC, where we found

it and where we are now, we have made tremendous progress. You can already see the equipment that we brought in and the conditions of work that are there. There have been major improvements of many things that have been dogging that organization. A workforce of over 1,200 working for a national broadcaster--- People have been there forever. Some of them came not knowing what to do. Some of them were brought differently and we are trying to deal with this matter. Some of them actually have no skills in some places like Dr. Khalwale was saying. We are going to deal with all that. Let me say that the auditing that has already begun--- As we speak today, the Ministry of State for Public Service has sent three officers to audit the workforce. We have our own department; Communications Commission of Kenya (CCK), which is going to audit technical equipment that is there. There was also a claim that the equipment that was brought there are substandard. We have now asked the CCK to go and audit the equipment. We have the human resource to be audited. We have impropriety in the fields at the ranks also being audited and so, what I am telling this House is that the work has begun. We have an agreement with the workers. There will be an ongoing audit and I personally gave the word that I will be going to KBC so often to check on this progress to make sure that the national broadcaster flies high the flag of this country, and not be put to shame like some of the things that I have seen in the last few days. So, I agreed with the workers that their complaints were genuine and we are doing something about them. That is basically why they went back to work.

On the other hand, I want to agree that those with suspect qualifications as raised by Dr. Khalwale will go as soon as we prove that. In fact, that is theft!

(Applause)

Those kinds of things will just be dealt with automatically. You cannot occupy some places if you have no qualifications. I think those are some of the places that if there is proof, action will be taken. That is why the audit is going to be done and it will be subjected to all members of staff at all levels.

Mr. Speaker, Sir, let me just give my word because all these questions are around audit. We have started the process of auditing. The issue which is most serious - and I think it was asked by Mr. Mbuvi - is that there are senior people who prey on their juniors. I think that is a crime and I hope that those people who are affected have gone to report these crimes. If there is any information given to us on that matter and we know who is doing that, we will take our own internal action. On the other hand, we will have to start criminal proceedings of people like that, if we know them. If you have some of them, let me know and we will deal with that matter.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Minister in order to feign ignorance of the harassment that junior staff are subjected to, when he knows that even after a court process, one artist called Elina Shiveka, continues to be victimized? She is languishing in Kisumu just because she cannot meet some of the expectation of her senior? Is he in order?

The Minister for Information and Communications (Mr. Poghiso): Mr. Speaker, Sir, I think I am not aware that the reason she is in Kisumu is for being sexually harassed by anybody. You need to take that kind of information to the police. I am not aware!

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Given that the Minister has accepted that there is a problem in the corporation, would it be in order if I ask him to consider reinstating one Mr. Nyakundi Milton who was just sacrificed the other day by the incompetent management of KBC? Given that he has already acknowledged that there are problems in that corporation

which we have said from 2010--- In this House, I have told the Minister severally that there is a problem.

Mr. Speaker: Order, Mr. Mbadi! You have made your point. You are raising a new matter though but because of the importance of this matter, I will allow the Minister to respond.

The Minister for Information and Communications (Mr. Poghisio): Mr. Speaker, Sir, I always knew that the hon. Member had an interest in this matter and now, it has come out. I am really happy that he has brought it up.

(Mr. Mbadi stood up in his place)

Mr. Speaker: Order, Mr. Mbadi! That will be legitimate.

(Mr. Mbadi stood up in his place)

Order, Mr. Mbadi! You know from what you said; from what you stated, the Minister says, therefore, you have an interest in the matter. There is nothing wrong with that! I do not see anything wrong, myself!

Mr. Minister, please, respond! Try and restrain yourself so that you do not provoke any untoward reaction.

The Minister for Information and Communications (Mr. Poghisio): Mr. Speaker, Sir, I think it is the person who was provoked. I would like to state that at KBC, unlike any other organization, even in any private business, there are problems. But to accept that there are problems is a big step in the right direction. We have also moved quickly and appointed three audit teams at the same time. There are three audit teams operating there as of today. I think that is really being serious about the things that this House has raised. So, I would like to end there and say that we are doing our best and, please, if you have to do anything about procuring positions, I think there is a process for that. So, I would like to encourage my friend, Mr. Mbadi, that there are processes for dealing with matters and not use the House to get his answers.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The allegation from the Minister is very serious. He is alleging that I am trying to procure positions. I have never procured any position! I have never even intimated to anybody that I want anybody employed anywhere at KBC. Mr. Milton Nyakundi is not related to me in any way! I am just concerned about the plight of a Kenyan who was trying to complain about the performance of KBC management.

(Applause)

That guy has a right to talk to us! He talked to me as a Member of Parliament. So, could the Minister---

Mr. Speaker: Order, Mr. Mbadi! Please, resume your seat! To the extent that you are concerned about the plight of worker Nyakundi, does that not define your interest in the matter?

(Applause)

Mr. Mbadi: Mr. Speaker, Sir, the Minister has said that I have tried to procure a position. He referred to me! Could he table before this House or even indicate who I have tried to procure employment for at KBC?

Mr. Speaker: Order! Maybe, if you there then. Yes, Mr. Minister!

The Minister for Information and Communications (Mr. Poghisio): Mr. Speaker, Sir, he has tried to procure for one Nyakundi just right now. Here! He said that we should take him back. That is procuring! That is trying to secure!

(Laughter)

(Mr. Mbadi stood up in his place)

Mr. Speaker: Order, Mr. Mbadi! As a Member of Parliament, the interest you have is genuine. You are concerned as a legislator and there is no reason for anybody to impute improper motive on your part. So, I am satisfied that you have, in fact, discharged your duty as a legislator.

(Several hon. Members stood up in their places)

Order! That matter must rest there!

(Mr. Ochieng stood up in his place)

Order, Mr. Ochieng! Order, hon Members! We will now take requests for Statements.

(Dr. Nuh stood up in his place)

Order, Dr. Nuh! That matter rests where it is now!

POINTS OF ORDER

CENSUS RESULTS FOR WAJIR SOUTH CONSTITUENCY

Mr. Sirat: Mr. Speaker, Sir, I rise on a point of order to request for a Ministerial Statement from the Minister of State for Planning, National Development and Vision 2030 regarding the revised census figures for 2009. In his Statement, he should state the following:-

- (a) What is the smoothening status for Wajir South Constituency Census results?
- (b) What was the criterion or the formula used in arriving at that figure?
- (c) What are the smoothening figures for all other constituencies in the country?

The Minister of State for Planning, National development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I will issue the Ministerial Statement on Tuesday next week.

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

BRITISH FOREIGN SECRETARY'S STATEMENT ON SOCIAL/POLITICAL SITUATION IN KENYA

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. I rise to request for a Ministerial Statement from the Minister for Foreign Affairs regarding a statement issued by the British

Foreign Secretary, hon. William Hague, in Nairobi on 3rd February relating to the social and political situation in Kenya which caused uproar and protests from many leaders in this country. I wish the Minister in his Statement, to state whether the Government, indeed, sought a statement from the Government of the United Kingdom on the same in terms of the protests and whether they have received such a statement from the Government of the United Kingdom and if so, what the contents of that statement are.

Mr. Speaker: Very well! The Minister for Foreign Affairs, when will this Statement be available? The Deputy Leader of Government Business, when can this Statement be made available?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, you can get the Statement by Thursday this week although I am aware that, indeed, the statement made by hon. William Hague was personal. However, the formal statement will come on Thursday this week.

Mr. Speaker: Order, the Deputy Leader of Government Business! That is enough response. I direct that the Statement be brought on Thursday this week. I so direct!

AMOUNT OF FERTILIZER TO BE IMPORTED BY AGRICULTURE MINISTRY

Mr. Kuttuny: Asante Bwana Spika. Ningependa kuomba taarifa kutoka kwa Waziri wa Kilimo. Huu ni msimu wa upanzi na wakulima wamejitayarisha lakini kuna mushkil kidogo katika pembe cheo ya kilimo.

(a) Katika taarifa yake, ningependa Waziri aielezee Bunge ni mbolea kiasi gani ambayo Serikali imeagiza;

(b) Waziri aielezee taifa mbolea ambayo imeagizwa itauzwa kwa bei gani kwa kila gunia; na,

(c) vile vile Waziri akaririe Bunge mahala wakulima watapata mbolea hiyo.

The Minister for Agriculture (Dr. Kosgei): Asante, Bwana Spika. Tuko tayari sana kutoa taarifa hiyo kesho kutwa ama Alhamisi ikiwezekana.

Ninashukuru.

Mr. Speaker: Sawa! Mheshimiwa wa Cherengani, kumbuka taarifa hiyo itatolewa Alhamisi wiki hii.

Mr. Kuttuny: Sadakita Bwana Spika.

Mr. Speaker: Asante.

ARREST OF KENYANS IN COMOROS

Mr. Nyammo: Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Foreign Affairs on the status report regarding Kenyans who were arrested in Comoros recently.

(a) Why were they arrested; how are they and what are they being detained for?

(b) How soon can he ensure that we bring these Kenyans back home safely?

(c) What is the status of their health?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate and issue a Statement by Tuesday next week.

Mr. Speaker: Very well! It is so directed; Tuesday at 2.30 p.m.

STATUS OF THE FINANCE BILL

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Minister for Finance regarding the Finance Bill. On that day, he said that he was ready to answer. He promised to do so today but he has been quiet this afternoon. Could I know where the answer disappeared to?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, we have several Ministerial Statements that are required. Last week, the Speaker had directed that we have one today which we did. We are ready any time.

Mr. Speaker: Very well! Mr. Minister, could you bring all your statements that are due tomorrow morning and deliver all of them?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Yes, indeed, Mr. Speaker.

Mr. Speaker: Very well. I so direct!

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. On 13th May, 2009, there was a directive that the Chair gave to this House that an independent forensic audit into the National Budget including the Consolidated Funds Services for the previous three years to the present date was supposed to be conducted. Up to date, this has not happened. I was just seeking your guidance. Could it be that this House gives directives in vain and if not, when will this audit be done and when will we be privileged to have the Report? It is important because the country needs to know the source of the mistake that was in our Financial Estimates and to be sure that there were no fraudulent activities.

Mr. Speaker: Very well! That is a fair concern. The Minister for Finance, where are we on that forensic audit?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, it has not been brought to my attention. However, now that it has, I will go and find out exactly what happened and report any time next week.

Mr. Speaker: Could you, kindly, give an indication to the House that you will issue the Statement by Tuesday, next week in the afternoon?

The Minister for Nairobi Metropolitan Development (Mr. Githae): I will do that, Mr. Speaker, Sir.

Mr. Speaker: Very well! Hon. Members, that then brings us to the end of Order No.7. I want to briefly revisit Order No.6 strictly with respect to Question No.1 by Private Notice which the Member for Rangwe had asked and I did ask the Minister to indicate whether or not he was ready to proceed and answer. I had received different intimations from as many as three Members. Mr. Minister, where are we now?

QUESTION BY PRIVATE NOTICE

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, we met, as you directed with the Chief Whip, hon. Muthama, and the Questioner, hon. Ogindo, and we agreed that the Question be deferred for further information and consultation until the Questioner advises the Speaker when it may be listed again for answering.

Mr. Speaker: The Member for Rangwe, is that the position now?

Mr. Ogindo: Mr. Speaker, Sir, that is the position.

Dr. Khalwale: Mr. Speaker, Sir, to my understanding, this Question had already become the property of the House. But now the way the matter is being navigated it is like it is being reduced to an issue between the Questioner and the Minister. If, indeed, it was a matter before the House and, therefore, the property of the House, we had prepared supplementary questions.

Mr. Speaker: The Member for Ikolomani that may very well be so but you know that the conduct of business in this House still retains some discretion on the part of the Speaker. Depending on the prevailing circumstances, I give directions.

I intimated to the House that--- Indeed, I made full disclosure as to what had transpired. Under those circumstances, I would like to defer this Question until such a time that I have intimation from both the Questioner and the Minister that they are ready to proceed for the benefit of the House and, indeed, the country as a whole. It would not be right for me to allow business to be transacted if it will lead to half backed positions. What the House seeks on behalf of the nation is full information. The intimation is that they are not ready with full information.

Very well! That settles Order No.6 and I want to move on to the next Order.

APPOINTMENT OF FRANCIS KIMEMIA AS ACTING HEAD OF PUBLIC SERVICE

(Mr. Martin Ogindo) to ask the Minister of State for Public Service:-

(a) What legal basis and procedure was used in the appointment of Mr. Francis Kimemia as the Acting Permanent Secretary in Office of the President and Head of the Public Service and Secretary to the Cabinet?

(b) What law provides for the appointment in an acting capacity and what are the other terms of the appointment?

(c) Why was the appointment made without the approval of the National Assembly?

(Question deferred)

BILLS

First Readings

THE KENYA SCHOOL OF LAW BILL

THE SUGAR AMENDMENT BILL

THE LEGAL EDUCATION BILL

(Orders for First Readings read – Read the First Time and ordered to be referred to the relevant Departmental Committees)

MOTION

ADOPTION OF REPORT ON DECLINE OF KENYA SHILLING

THAT, this House adopts the Report of the Parliamentary Select Committee on Decline of the Kenya Shilling against Foreign Currencies laid on the Table of the House on Tuesday 14th February 2012.

(Mr. Keynan on 1.3.2012)

(Resumption of Debate interrupted on 1.3.2012)

Mr. Keynan: Mr. Speaker, Sir, before I commence, will I be in order, because of what happened, to ask you to use your discretion for additional time?

Mr. Speaker: Order, hon. Keynan! As the Chair of the Select Committee, I did follow what transpired when this matter was on the Order Paper on Thursday last week. I know that there were many points of order which you had to respond to. According to our institutional memory, as captured by the HANSARD, you have five minutes. I will exercise that discretion that you have alluded to and add you another five minutes. So, in effect, I will double your time. Ten minutes, therefore!

Mr. Keynan: Thank you, Mr. Speaker, Sir. I hope that will be enough.

Mr. Speaker, Sir, first of all, I would like to take this opportunity to clarify a number of issues that have been deliberately distorted, just to mislead Parliamentarians and also the Kenyan public. This relates to the issue of discount window. I know that later on, a respected former Central Bank of Kenya (CBK) banker, and also a Member of Parliament, who will second this Motion, will also dwell on this particular issue. But the issue of discount lending *per se* is not illegal. But what happened? At that particular time, the counter-lending, first of all, was the last resort lending facility by CBK. The circumstances that warrant any financial institution to visit that facility are three.

Mr. Speaker, Sir, first, the particular institution must be in a dire financial strain. Two, there must be nationally acknowledged liquidity crisis which, again, must be within the confines or province of the regulator. The last one, which is very unlikely, is to visit the facility simply because it is there for profiteering purposes. In our context, and I want to confirm for purposes of record, indeed, the amounts borrowed from the discount window for the year 2011 for 12 banks out of 43 banks – and I will name the banks - indeed, totaled to Kshs600,000,189,000. This is not a fallacy. For the whole of 2010, the same is Kshs11,000,112,000. This is documented and factual. These are records from none other than the regulator, CBK.

Mr. Speaker, Sir, the banks are divided into three categories; the big banks locally, the international banks, the medium banks and small banks. Again, the issue we ought to ask ourselves as citizens of the Republic of Kenya is: What liquidity crisis did Kenya Commercial Bank, Barclays Bank of Kenya, Stanbic, Standard Chartered, Equity and many other banks experience that warranted them to visit that facility without any control by CBK? If that question could be answered! Whose work was it? If these questions are answered, then this issue of Kshs600 billion or it did not happen will not arise. The fact is that, that facility was visited. It is not one day thing. A bank would visit that facility today and borrow Kshs2 billion. Tomorrow, another one would come and borrow Kshs10 billion. The next day--- In total cumulatively for the year 2011--- This is not a fallacy or fiction. It is a reality and it is within CBK. It is in the

documents that they gave us, and which forms part of the Report. What prompted this? Where was the regulator? The import of this is high inflation. That money is something that the market could not accommodate. Therefore, it means that the Kshs600 billion and other monies that were given to those particular banks, in economic terms, is paper money which has no value. That is not something that the economy can accommodate.

Mr. Nyammo: On a point of order, Mr. Speaker, Sir. I think the hon. Member should not mislead this House and the nation. What kind of borrowing is he talking about? What was the duration of borrowing? The borrowing that we have in mind and we are aware of is overnight borrowing.

Mr. Speaker: Order! Order, Member for Tetu! I think you have skills in this area, but the way you have prosecuted that point of order, I am afraid, I cannot allow it.

Proceed, hon. Keynan!

Mr. Keynan: Mr. Speaker, Sir, I think the hon. Member will have time to contribute---

Mr. Speaker: Proceed! Do not respond to that!

Mr. Keynan: Mr. Speaker, Sir, the overnight lending and the discount window--- The hon. Member as somebody who was referring to this must read the Report and also familiarize himself with the issues. Otherwise, we will be wasting a lot of time.

Mr. Speaker, Sir, what I am trying to say is this: If this is defined, what liquidity crisis did those big banks experience that warranted the head of the regulator to open the public coffers to allow those banks--- I want to show the hon. Members the corresponding foreign exchange holding by the same banks. During that period, just for purposes of hon. Members, the same banks--- The Governor of CBK is on record as having said that there are five banks that had engaged in hoarding and speculation. The reason was this: During the time when those particular banks were borrowing from CBK at concessionary rate, CFC Stanbic Bank had Kshs70 billion equivalent in foreign exchange that they were hoarding to manipulate the market. This is a fact from the CBK. Secondly, Kenya Commercial Bank had an equivalent of Kshs57 billion in foreign exchange! Again, that was lying somewhere and yet, they were the first ones to visit the discount window. Standard Chartered had an equivalent of Kshs46 billion in foreign exchange that was lying somewhere. Citi Bank, which again minimally visited the discount window, had an equivalent of Kshs29 billion in foreign exchange. Barclays Bank had an equivalent of Kshs26 billion in foreign exchange. Commercial Bank of Africa had about Kshs26 billion and many others. In total, the 12 banks controlled 87 per cent of the forex market. If this can be answered-- - The result of that today is that the 180 days of the Treasury Bills are maturing. This means that in the next few weeks or months, these Members of Parliament will see a very high demand or budgetary requirement from the Government in order to pay interest rates on Treasury Bills and bonds. Why was all this happening? What securities did these banks give to CBK in order to secure the taxpayers' money, when they were doing all this overnight borrowing?

Mr. Speaker, Sir, cumulatively - and I want Kenyans and my colleagues in Parliament to note - today Kenya has the highest interest rates in the world. In addition, the shilling was the most unstable currency in the world. The premierness of the Kenyan nation has been questioned taking into account that Kenya's Gross Domestic Product (GDP) constitutes 67 per cent of the GDP of East Africa. Our Governor has been voted as the worst performing governor in Africa.

Mr. Speaker, Sir, today, the cost of living is very high and this is the reality that we must address. I want to refer hon. Members, from institutional memory, to what His Excellency the President said on the Donde Bill in 1999, when he was the Leader of the Official Opposition. A similar scenario happened in a country called "Ireland" involving one young man called "Leson"

and a bank called the “Barren Bank”. The same guy, during the time, in the name of free trade, manipulated the forex market. That action caused a regime change in the entire Asia. We are all aware of the number of regimes that fail because of high interest rates.

Today, even in countries like Greece, where we are told that there is crisis, the interest rate remains 6.5 per cent. Today, what business can give you 32 per cent return? I am not aware of one. All of us have been impoverished. Again, I want to refer hon. Members to what constitutes economic crimes. It must be a deliberate economic policy that impoverishes the citizenry of a particular nation. If you combine all this, without politics or any other issues, it means that the person at the helm of the institution that is entrusted with managing inflation by exercising oversight over financial institutions, just as other international bodies have said; he has slept on the job.

This person did not know the magnitude of his job or the mandate of his job. This constitutes economic crimes against the people of Kenya. It constitutes a deliberate effort to impoverish Kenyans and reduce them to paupers. It is because of this that the Kenya National Assembly, just like our counterparts in 1999---

Mr. Speaker, Sir, I want my colleagues to read the HANSARD of 1999 covering the Donde Bill. All those who opposed the Donde Bill, including me, lost their seats in the general election that followed. I want to warn my colleagues here. At that time, we were so naive that we did not know the consequences of our action. I want to remind my colleagues that the elections are just three months away. Farmers have been impoverished and exports earnings have been reduced. They have nothing. They are looking upon us to protect them. Let us save this country, because it is slowly becoming a cartel of economic friends. That is why, under the new Constitution, all Members of Parliament are strictly under oath to protect this country, if this is what His Excellency the President did as a policy.

Finally, let us even look at the three pillars of Vision 2030. They are social development, economic development and political development. Under economic development, the key pillar is macro-economic development. Under it is dynamic but low interest rate. Today, I am a privileged member of the Kenyan society simply because I am a Member of Parliament with a hefty salary. I do not feel it when the price of a kilogramme of sugar in my constituency is Kshs400. What about the poor people whom I represent in the villages? What about the farmers who are servicing loans with commercial banks? Those farmers have received demand letters that are asking them to pay up.

Mr. Speaker, Sir, if this House cannot put in place institutional mechanisms to bring down the bank interest rates to manage inflation, we will have failed. There is another worrying trend, which will come up later.

With those remarks, I beg to move and call upon hon. M’Mithiaru, who is a former senior official of the CBK and a Member of our Committee, to second the Motion.

Mr. M’Mithiaru: Mr. Speaker, Sir, I stand to second this Motion. From the outset, I would like to thank the House for the privilege of nominating me to this Committee.

Mr. Speaker, Sir, it is the CBK and the banking system that are now in question. We know that one of the roles of the CBK is formulation and implementation of the monetary policy. This is aimed at ensuring that we achieve stable prices within the Kenyan economy and also maintaining and sustaining a stable value in the shilling.

In order for the CBK to go around these roles, it has a few tools that it uses. I will name three of those tools, which are relevant to this debate. In order to implement the monetary policy, the CBK uses what they call “open market operations”. They also use the Discount Window of

the CBK. They also use a tool called the “Reserve Requirement”, where they require commercial banks to deposit a certain proportion of their deposits at the CBK, but that amount earns no interest at all because the whole issue is what direction the CBK wants to pursue in terms of the monetary policy.

Mr. Speaker, Sir, in the financial market, there is quite a number of players. We have the commercial banks themselves. We have the forex bureaus. When it comes to tools, there are the forex dealings and we have the CBK, which is the regulator of the banking system in Kenya. It is through this role of regulating that the CBK has to manifest that it has a monetary policy that it is following and giving direction, so that the country can have a stable economy.

After the general election of 2007, I would say that from 2008 up to the first quarter of 2011, the CBK actually played a good role amidst very many challenges. A few of those challenges were the aftermath of the post-election violence, the drought of 2009/2010, the global financial meltdown that really terrorised all the economies of the world, as well as the Current Account Deficit.

Mr. Speaker, Sir, I would say that from time immemorial, the Kenyan Current Account has been in deficit. Currently, the exports of Kenya, which earn foreign exchange, can only finance up to 51 per cent of the imports. So, for all those years, the Kenyan Current Account has been in a deficit.

Considering these facts, when it came to 2011, something seems to have gone wrong. This is because, amidst all those problems, the CBK was able to contain what is called the “trinity”. It was able to contain the interest rates. It was able to contain the exchange rate. It was able to contain inflation. The CBK was doing very well amidst all the problems and the challenges that I have just cited.

Mr. Speaker, Sir, in March, 2011, something started going wrong. We started seeing a runaway inflation. We started seeing the decline of the shilling. We started seeing high interest rates domestically. We would then have expected the CBK to play a leading role in terms of taking immediate action to arrest that situation before it went out of hand, but the response by the CBK was not that quick. If anything, what we heard from the Press was the CBK Governor said that there were some banks that were speculating, and that was why things were going out of hand. It was only the CBK that had the capacity and the instruments to contain that situation.

To correct an impression that has already been painted by the Mover of this Motion, one of the tools that the CBK should have used was its Discount Window. The Discount Window rate is fixed by the CBK to reflect the monetary policy objectives and direction. That is how the CBK fixes the Discount Window.

What now we saw from June, 2011, the discount window rate, ordinarily and principally, is supposed to be very punitive, so that the banks will visit the window as a last resort. A bank will visit the discount window as a last resort because the bank has already got some liquidity problems.

What we saw in this respect is that the discount window rate was cheaper than the rate obtaining in the inter-banks market. What now does that mean? It means that the rate that is supposed to be punitive was no longer punitive, but was actually eased for some banks to borrow through that window.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, it is not an offence, it is not breaking any law, it is not against any regulation to borrow from the discount window. However, the banks are in the business, so when they saw that the rates were cheaper, it was only reasonable that they take that route. It is out of that that we see the discount window activity in 2010, the volume or what we call turnover was Kshs11 billion. If you take the discount window turnover; I am not referring to loss, I am referring to the turnover because of the period. When you talk of the turnover of the discount window, the activity there from March, 2011 up to December, 2011, it was Kshs600 billion. So, the issue is; what was really going wrong here? Were the banks so liquid?

Our Committee had to have an inquiring mind here to ask what has gone really wrong. What was there earlier on? We had post election violence, financial meltdown and deficit in current account, but we never saw that activity in 2009/2010. However, in 2011, that activity was there. So, the issue is; what was actually really going on here? That is where our Committee made some deductions. When the interests rates went that high and when the value of the shilling fell down and weakened, then you could see how it affected the Kenyan economy. That is why the domestic interest rates went so high because the Central Bank of Kenya also adjusted the CBK rates which now stand at 18 per cent. That 18 per cent is the base on which the banks will fix their base rates and hence now their lending rates which is now upwards of 30 per cent. Can Kenyans really afford to service a loan that is 30 per cent and above? Can Kenyans who want to develop do so? Some Kenyans, especially the home owners, have really been impoverished such that now they are unable to repay the loans. For that matter, the ordinary Kenyans and all Kenyans have been affected.

Mr. Deputy Speaker, Sir, when it comes now to inflation which is now at a runaway rate, today many Kenyans are living on less than a dollar a day. Can they even afford a packet of *unga*? These are the questions that we really have to ask. For the Members of this House, sometimes when we have a Committee like this one trying to get the cause of all this, I urge the hon. Members to look at the real issues, so that we can see what is ailing Kenyans and we deliver to Kenyans what we know will assist the economy of Kenya.

If I can just give a small example on this; for the whole of 2010 up to March 2011, the inter- bank rate never rose beyond 2 per cent. In the same period, the CBK window was 6.75 per cent. So, the rate was punitive. Compare this with the rate in June, 2011, that is when actually the discount window rate was brought down. On 29th August, 2011, the discount window rate was 19.83 per cent. However, the inter-bank rate was 27.72 per cent. You could see the kind of variance that there is, making the discount window cheaper than what obtains in the market.

Sample this: On 15th November, the inter-bank rate was 22.5 per cent when the CBK was 30.1 per cent. This again was more expensive than what obtains at the CBK window. Our Committee was trying to narrow the causes of this because the argument was that the issue of the current account did not arise because we have been perennially in deficits. So, that was not an issue. The issue of the Euro crisis was not an issue. We even had a global financial meltdown; so that was not the issue.

On the issue of the increase in oil prices, that has been prevalent. However, we never saw the kind of runaway inflation and a terrible decline of the shilling that we have seen now. That activity at the discount window; our Committee is compelled to lean towards that direction; that what was so amazing here that there was that kind of activity which was six-fold more than what was being done previously.

Today, I saw a statement from the Kenya Bankers Association saying that the Committee is trying to mislead the public. I wish when they appeared before the Committee they had been able to give that kind of a report which they never did. All the banks that appeared and are trying to make noise; they were given the opportunity, but they never even mentioned what they are now highlighting in the media. Some banks said that they never visited the discount window, but records in our possession show they actually visited the discount window. So, there is some dishonesty in this particular respect---

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. I am trying to follow the argument by the hon. Member who has given us some figures - obviously they are not in the Report - but from what is on page 79 of the Report by the Committee which is a graphic representation of the relationship between the daily inter-bank rates and the CBK rates, it is very clear that over the period, the CBK rate was higher than the inter-bank rate. This is in a report of the Committee itself. However, what he is telling us is totally different. Now I am at a loss as to which one we should believe, between what he is giving us now and what the Committee has given us in a report on figure 2 on page 79 which shows us very graphically that between 11th January and 11th February, it is only one week that you can see the CBK discounted being lower than the daily inter-bank rates. At every other time, the CBK rate is higher than the inter-bank rates. This shows that the CBK was more punitive than the inter-bank rates. That is what it is shown on page 79, figure 2. It shows very clearly and I want the hon. Member to comment on that because we are actually getting lost between the two figures.

Mr. M'Mithiaru: Mr. Deputy Speaker, Sir, I am properly versed in this area, so really I am not trying to gabble around with figures. What I said is that the discount window rate must be punitive as the last resort. I said that from June 2011 that is when the discount window by design started now being lower than what obtains in the market. I gave examples of some two rates that I have quoted for August and November.

I thank the hon. Member for at least telling me what I know already. However, I was almost on my concluding remarks when I said that as a Committee we are trying to narrow down what is the cause of the decline of the shilling and what was the cause of the high inflation. We are now narrowing down that this activity at the window will give us a clue on what was actually going wrong.

I said that when the banks were offered the opportunity to give their views to the Committee, all they gave as the reason was the current account, petroleum and oil, Euro crisis and the Japan Tsunami. Those are the reasons they gave. They told us very little about the reasons for this increased activity by the banks; was there something lacking within our industry that was causing some discomfort which could even bring crisis within our own banking system?

Mr. Deputy Speaker, Sir, our Committee is very much alive to the situation that we need a stable banking system. Kenyans should be confident in their banking system. We have not threatened to disturb that scenario because it is not healthy for everybody. However, banks have played a role here. Their activity is the cause of all that. At the centre of that activity somebody was regulating. Somebody was watching. Why did the Central Bank of Kenya (CBK) allow discount window rates to be lower than what obtains in the market? That is the biggest question.

Why did the CBK take that long to correct a situation when they saw the direction we were moving was going to affect all Kenyans? Why did the bank keep quiet when they knew that if the interest rates are so high there would be a lot of defaults and that would even mean banks posting less profit and even going towards liquidation? So, why create a crisis?

Mr. Deputy Speaker, Sir, those are the issues. Fingers are pointing to the banks and saying they have caused this. However, our Committee was not able to pin down the commercial banks because somebody is supposed to tell them this is wrong. That is the regulator and that is why we narrowed down on the regulator. The banks should also be told that they must know they are operating under an economy and tomorrow they may see themselves out of business if they continue charging these high interest rates or engaging in some activities that will cause the decline of the shilling.

With those few remarks, I beg to second.

(Question proposed)

Mr. Nyammo: Mr. Deputy Speaker, Sir, I beg to oppose this Motion. I rise to oppose it because when you see a number of factors moving; inflation, exchange rate and interest rates, these are manifestations of something wrong in the economy. Regulating the economy is not like making instant coffee. We must agree, as a country, first and foremost that we have been living beyond our means. This is because we have been importing everything and anything. Why do we have to do that? What we import must be paid for by meager export earnings we have as a country.

The speaker before me talked about the monetary part only. As a country, it is for us to agree that when we are exporting employment to other countries we are affecting our economy negatively. For example, why do we continue importing furniture from China instead of furniture being made by our people who are suffering from unemployment? That is fiscal. It is not monetary. Why do we want to think that the banks are doing anything wrong when they are doing business? They are in business!

(Loud consultations)

They are in business!

Mr. Deputy Speaker, Sir, there is nothing easier than the blame game. Just because we do not want to address economic issues in this country we want to get a scapegoat. Just because we want to bury our heads in the sand; not agreeing that we have been living beyond our means---

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

Mr. Deputy Speaker: What is out of order? If you disagree with an opinion, it does not necessarily mean that one is out of order! Tell me what is out of order?

Mr. Mbadi: Mr. Deputy Speaker, Sir, our rules are very clear that if you have an interest in a matter, you declare it. Could Mr. Nyammo confirm to this House whether he brought down a financial institution which is still under receivership with taxpayers' money before he continues talking?

Mr. Nyammo: Mr. Deputy Speaker, Sir, yes, I owned, founded and headed the Kenya Finance Bank. I however, did not bring it down. It was brought down by people who know what they did. It was not by me.

(Laughter)

Mr. Deputy Speaker, Sir, I admit. Let me tell the House; the truth is going to come out that we alleged---

Mr. Deputy Speaker: Order, Mr. Nyammo! The rules of the House are very clear; you just have to declare if you have an interest and then proceed on. You do not change the debate from what is on the Order Paper today to the Kenya Finance Bank.

Mr. Nyammo: Mr. Deputy Speaker, Sir, the only interest I have in the banking industry is that I am a customer in a number of these banks. There is nothing more.

I am saying this; let us address the problems in our economy. Let us not get scapegoats to run away from our responsibility. Our responsibility is to take care of this country not to bring down individuals.

Thank you.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I stand to support this Report.

Ever since humanity started in this world under the Holy Torah, the Quran and the Bible, usury has been a destructive element. Usury has been promoted in this country by these actions or lack of action by the CBK. This is a money-making machine and only those who have money have made money out of these foreign exchange fluctuations. There have been many billionaires made from August 2011 to December 2011. We are now 40 billionaires and 40 million paupers.

Mr. Deputy Speaker, Sir, some banks have started commenting on the volume on the discount window. As the Chairman has said, it is the volumes we are talking about and not the figures. My brother; the acting Minister for Finance was with me when we were in the banking business and we know very well that we ourselves were subject of something we call “dimming and leading and kitting”. It was explained in very simple terms to me the other day; that you dig a hole to fill another hole. So what you are left with is still a hole.

Mr. Deputy Speaker, Sir, I think the basic thing is that Kenyans will inherit these losses. I know this will come in very few months. I am afraid to say the Kenya Bankers Association has exhibited monopolistic tendencies. So, we cannot depend on them anymore. There was a time when a banker’s word was his bond. It is no longer the case. The bankers’ words are not yet their bond. This report has shown very clearly that at least the Governor of Central Bank was ineffective. We are not saying that he is a corrupt person or he stole. But at the very least, he was ineffective. Whether it was a result of lack of back up, he must take the responsibility because the buck stops with him. I am sorry for him because he did not have a deputy Governor for two years. What was the Ministry doing when the Governor did not have a deputy Governor? He did not have an effective deputy Governor who could have looked after the monetary policies. Yes, he was sick, but he could have had an Acting deputy Governor. We could have had an effective acting deputy Governor. We could not bring down the Government because the man was sick. I am very sorry for him because he passed away. I really console his family. However, you cannot bring down the country. As we all know, nobody is irreplaceable. If a man is sick, give him the benefit of doubt; bring in an acting deputy Governor. So, I do not blame the Governor. I do think, perhaps, he had too much. But in effect, he is still ineffective.

During the worst time of the currency fluctuation, the CBK Governor was in Central America. Why did he not take the first flight back? Why did he have to wait for that whole conference to end? It is only a 10 hours journey and he would have been here. I want to put it on record today, that if you look at the time that the Governor spends in this country, three weeks out of a month, he is out. It has been noted and recorded as and when he was out of the country. The CBK has been run by comrades of bankers. Of course, they have interest. As hon. Nyammo said, they are here to make money. How could he have allowed the CEOs of other banks to run CBK? I even want to thank one of them for actually holding brief for the Governor. As such, I am sorry to say that we have no confidence in the Governor. He is an honest man. But he is a

professional and is a very qualified man. He told me one time that he was wasting his time as the Governor of CBK and that he could get more money in international banking. So, I am urging him to take up that job and leave us alone. Let us suffer. Let us return this country to the poor who have been ignored for a long time. The middle class of our society has been ruined. We cannot allow this to continue. I want to say as Jesus said let us kill off and finish with usurers and let this country return to the honest businessmen.

Thank you very much.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, let us really look at the cause of the depreciation of the Kenya shilling and not heap all the blame on one person.

Mr. Deputy Speaker, Sir, all the experts and economists agree on the following things: One; that the depreciation of the Kenya shilling resulted, or started mainly from the debt crisis in Europe, particularly, in Greece, Italy and Portugal. This was when there was an eminent threat of default by those countries. What happened? The euro started depreciating. The dollar started appreciating. There was actually flight of capital from euro world to the dollar. That was the beginning of the crisis. As a result the dollar strengthened, and strengthened also in relation to the Kenya Shilling. There was migration, investment to the dollar, because the dollar was seen as a safe haven---

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

Mr. Deputy Speaker: Hon. Githae, do you wish to be informed by the hon. Member?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, not for now. I just want to finish my presentation.

Thank you very much, but for now, no, Mr. Midiwo.

Mr. Deputy Speaker, Sir, secondly, the cause of the depreciation was the high energy prices. The price of fuel moved from 80 dollars per barrel to 120 dollars per barrel. This has nothing to do with Governor Ndung'u. If I may also add, the euro debt crisis had nothing to do with Governor Ndung'u. As a result, fuel prices increased. We had even supply disruptions in this country. We had tea auction boycott by Egypt which is one of our largest buyers. Therefore, what happened was that inflows of foreign exchange diminished. This had nothing to do with Governor Ndung'u. He was not responsible for the tea boycott. He was not responsible for the supply disruption. He was not responsible for the energy crisis---

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

The Minister who is also the Acting Minister for Finance and whose responsibility is to protect the Kenyan people, is on the Floor of this House trying to convince the country, that the euro crisis and the crisis in Portugal and Greece were responsible for the decline of the shilling. This morning the people from the IMF met the Finance and Budget Committees, and said, Kenya is lucky and I quote: "That they were not affected by the euro crisis" The Head of IMF--- and the same person said, he has met the Minister, and the people from the CBK.

Is he in order to try to trivialize such a big issue which is affecting our people and narrow it down to one person, while this argument is about the office, and not about Governor Njuguna Ndung'u? In any case, he is condemned already. Even if we do not catch him here, the other report was already passed in this Parliament. He is not fit to hold a public office. This was passed by this Parliament, including, one other Minister sitting in front of us.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I really do not see what was out of order in my presentation. Let me continue.

Mr. Deputy Speaker, Sir, the other cause of the high fuel prices was the Arab spring. It started in Algeria, went to Libya, Bahrain, Egypt and Yemen. It is still continuing in some of those countries. As a result, the crude oil prices again rose from 80 dollars per barrel to 120 dollars per barrel. As a result, this increased inflation. It caused fuel spikes in this country, and there were even shortages. This then resulted in panic buying of the dollar, as people tried to protect their positions, because they did not know how much it would be next week, and therefore, this is really what caused the high depreciation of the Kenya Shilling.

Mr. Deputy Speaker, Sir, as I said, let us be sober. This crisis did not affect only Kenya. Our other neighbouring countries were worse hit than us. Over the same period that we are talking of; from October to December, the Kenya Shilling depreciated by 19.7 per cent. The South African Rand depreciated by 20.6 per cent. Governor Ndung'u is not the Governor of the South African Reserve Bank.

In Uganda, our neighbour here, the depreciation rate was by 14.3 per cent. Again, Governor Ndung'u is not the Governor of the Central Bank of Uganda. In Tanzania, and I will give a reason why it was not as much, it depreciated by 10.1 per cent. What Tanzania did initially was try to sell foreign currency. They did that until they realised that their coffers were almost empty and then they left the situation to market forces. That was the situation. It had nothing to do with Governor Ndung'u.

Mr. Outa: On a point of order, Mr. Deputy Speaker. Would I be in order to ask the Acting Minister for Finance to table evidence of what he is referring us to from South Africa?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, it is there in the internet, in the website. This is not a secret. These figures are there. Let me proceed.

Mr. Deputy Speaker, Sir, what I am saying is that let us be sober in this discussion.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House that other countries also had currency depreciations, yet he does not tell the House that this country suffered that depreciation and we are back to the original rate of Kshs 82 to the dollar. There was speculation; other countries remained steady at that 20 per cent depreciation rate. They have not come back to the original rate. Is he in order?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, again I do not see what is out of order in my presentation. I will proceed.

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

Mr. Deputy Speaker: Mr. Minister, would you wish to be informed by hon. M.M. Ali?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I have no idea as to what he wants to inform me; let him inform me.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I was only concerned by various points of orders against the Minister, asking him to table things which are actually in the public domain. All of us who are able to read and comprehend, this inflation business, we all know about the Euro crisis which affected the whole world. Even in the biggest economy in Africa, South Africa, its Rand was affected. That is common knowledge. So, I do not think it is a requirement on the part of the Minister to table any such report; we are all aware of it. It is a fact. That is what I wanted to inform the Minister.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you for that wonderful information. It is appreciated.

Mr. Deputy Speaker, Sir, as I said, the only country in this region that survived this crisis is Rwanda and it survived because it has got fixed exchange rates; any other country which has a floating exchange rate suffered. I will go to the fourth reason.

Mr. Deputy Speaker, Sir, the fourth reason for the depreciation of the Kenyan shilling is our high import bill. In this country we are importing unnecessary items. We are importing - I am on record saying it - eggs, sausages, juice and oranges – completely unnecessary items. We must find a way of curtailing appetite for imported goods if this country is going to survive.

Mr. Deputy Speaker, Sir, the fifth reason is the result of the rapid development that we have all observed. There has been a high import bill of imported machinery and capital goods; you can see all the development that is taking place all over the country, particularly in infrastructure. That has had an effect on our current account, which for the last six months is in deficit. This has nothing to do with Governor Ndung'u. Governor Ndung'u has nothing to do with importation of capital goods, machinery and with the rapid development that we are now seeing.

Mr. Deputy Speaker, Sir, I will now come to what the chairman emphasized, the Central Bank window.

Mr. Keynan: On a point of order, Mr. Deputy Speaker, Sir. I must declare that the Minister is my good friend. I want to refer him to Section 4 of the Central Bank of Kenya (CBK) Act, which by now he should be familiar with; I want to read it out to prove that, indeed, what he said is completely out of order. I want to read out the functions of the Governor of the CBK, so that the Minister is aware that indeed the Governor has a very important role in financial management; it says:

“The principal objective of the bank shall be to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices. The bank shall foster liquidity, solvency and proper functioning of stable market-based financial system. It will formulate and implement foreign exchange policies.”

Mr. Deputy Speaker, Sir, these are the issues; therefore, the functions of the Governor are as enshrined in Section 4. So, is the Minister in order to mislead Kenyans that, indeed, the Governor has no role in managing monetary policy? More so, monetary policies all over the world, starting with the most developed economies in the US, are tools for the government of the day to make sure the financial markets remain stable, interest rates remain affordable and economic growth is realised. This is what the Governor was required to do!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I do not see what is out of order. I said clearly that Uganda was affected and Governor Ndung'u is not the Governor of the Uganda Central Bank. I said that South Africa was affected and Governor Ndung'u was not the Governor of the South African Reserve Bank. That is what I said.

Mr. Deputy Speaker, Sir, on the Central Bank of Kenya window, I think we need to make it very clear that in the Central Bank of Kenya window--- The CBK acts as a lender of the last resort. Before you are allowed to access the CBK window, first of all you must have borrowed money from the inter-bank market. Before you are allowed to go to the CBK, you must have taken all the other necessary steps to make sure that you are not out of liquidity. You do not just borrow automatically. It is after all these other facilities have failed--- If you have Treasury Bills you have tried to redeem or rediscount them. It is after all that has failed then you are allowed to go to the CBK window, or to the lender of last resort. That is the practice.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I think this House is entitled to the truth; if the Minister has made an allegation, we need proof. The CBK is on record as penalizing some banks. Could he prove to us today that before these banks accessed the discount window they had already borrowed money from other banks, and that they had exploited all the other avenues that he is alluding to? As an example, can he deal with the Kenya Commercial Bank (KCB)?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, as I said, the Central Bank window makes it a lender of last resort. You do not just access it “anyhowly” and when you want. You access it after you have exhausted all the other available options. Let us be clear that this is an overnight rate and whatever you borrow today, it must be repaid the following day. Therefore, it was not right to look at the total amounts, the turn over, and then you say that the banks borrowed Kshs600 billion from the Central Bank. First of all, the capital of the CBK is Kshs5 billion. My fellow colleagues, is it possible for an institution with a capital of Kshs5 billion to lend Kshs600 billion? It is not possible!

Mr. Keynan: On a point of order, Mr. Deputy Speaker, Sir. Kenyans are entitled to the truth, nothing but the truth. The Kshs600 billion is the cumulative figure for the whole of 2011. This is from the Central Bank and it is on pages 76, 77, 78 and 79 of the Report. I just want the Minister to say what was so phenomenal particularly with the KCB in the month of September. That month alone, the KCB borrowed from the discount window Kshs80 billion. Was the KCB under financial duress or financial restraint? Again, I want to quote Barclays, which is an international bank. If you do not understand what we are talking about, it is good to say that you do not understand but you should not mislead Kenyans when the truth is here. The Kshs600 billion is not a one night event. It is from January to December. A bank will have visited this every day. So, cumulatively from January to 31st December, the 12 big banks have borrowed. In fact, there are 43 banks, but this figure of Kshs600 billion is only for 12 banks.

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the mover to mislead not just the House, but the country at large? If you have an overdraft of Kshs100,000 and yesterday your overdraft was Kshs50,000, but your limit is Kshs100, 000, then after two weeks you ran the overdraft again, would it be correct arithmetically to suggest that you take the overdraft position of yesterday, December and June and add them up? These figures are not cumulative. This is a simple technical point that we are misleading the country on. This is not a cumulative figure. The banks borrow today and they have to have paid by tomorrow. So, you cannot cumulate these overdraft positions and then say it is a cumulative figure. Is the Mover in order?

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I have been a victim of this kind of attitude in this House before when I was moving a Motion. Purely on procedure, could the Chair prevail upon the Members that we want to debate this Motion? We do not want to debate points of order. Could the Members let the Minister finish his business so that we catch your eye? We want to contribute.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker Sir, the figure that has been flushed all over that the banks borrowed Kshs600 billion is not correct. This is overnight borrowing. You borrow today and you must repay it the following day. If you do not pay, you will be thrown out of the clearing house. Therefore, it is wrong to have the turnover as the amount that was borrowed by the banks. This amount is borrowed today and is paid the following day. First of all, it is not illegal to do so. That is actually the purpose of the Central Bank under Section 36 of the Act. So, the arithmetic is wrong.

Secondly, these amounts are secured by the amounts that the banks have placed with the Central Bank. The figures have been bandied here about the KCB, the Standard Chartered Bank, Barclays and Equity Bank, these are the seven biggest banks. Their clearance amount in the Central Bank is the highest, obviously. Take for example, the KCB; it has the largest branch network in the country. Therefore, its exposure will always be high. The same case applies with Barclays Bank, the Standard Chartered Bank and the CFC. So, there is nothing wrong. It has been stated that the banks did an illegality. There was no illegality at all.

Thirdly - and I wish Members could consult more quietly to listen to this - you will be the most stupid banker that ever existed if you can borrow overnight money and go and invest in 90 or 180 days Treasury Bills or in Bonds. You will be the most stupid banker. You are not even worth being called a banker. You cannot mismatch your assets and liabilities. This is what the banks are being accused of; that they were borrowing from the Central Bank window and then buying Treasury Bills and one, two or three year Bonds. That is not correct. If you look at the figures of their holdings in Treasury Bills, it was actually doing the opposite.

In January, the total amount held by banks in Treasury Bills and Bonds was at Kshs414 billion. As at December, it had moved down to Kshs336 billion, clearly showing that it was because of the tight liquidity that was forcing banks to borrow. This has nothing to do with Governor Ndung'u at all. The Kenya shilling is now appreciating at a rate that is making us uncomfortable. If we allow the Kenya Shilling to appreciate the way it is appreciating now at Kshs82, tourists will stop coming to this country, exports are going to suffer and remittances from the diaspora are going to suffer. Therefore, if at all Mr. Ndungu was responsible, then he has redeemed himself by the appreciation of the shilling. He has redeemed himself and, in fact, we need to commend him for a job well done, if at all he was responsible. But we are saying that these are the dynamics of the economy.

The reason why this has happened is because the CBK rate was increased, increasing interest rates and, therefore, dampening appetite for loans because most of the loans are used for consumption. Therefore, these figures that are being bandied are not correct. The reason why the banks accessed the Central Bank window is because of the tight monetary conditions that were imposed by the Central Bank and the Treasury. This is what made them borrow from the Central Bank. It was not for speculation or purchase of foreign currency or investment in Treasury Bills and Government Bonds. This is routine and you would expect the biggest banks to have the largest exposure. Banks do not go to the Central Bank rate because they like it. First of all, if you are seen to be borrowing too much, you are stigmatized because then it is said that there is something fundamentally wrong with your liquidity. So, banks do this as a last resort. They try to avoid it. They go to the inter-bank market, surrender their Treasury Bills and redeem their Bonds, but do this as a last result. It is not something that they like. The reason why the banks accessed the Central Bank rates is because of their liquidity. When the case ratio was increased, it affected their liquidity. When the CBK rate was increased, it affected their liquidity. Inflation also affected their liquidity. That is the reason why the banks accessed the Central Bank rate and not because they wanted to trade with the money.

Mr. Deputy Speaker, Sir, the Central Bank of Kenya (CBK) window is always higher than inter-bank rates, except for one month--- A maximum of two months from my figures, and that can be explained. The monetary policy team does not meet every day and, first of all, it checks to see whether this is permanent or temporary. It is important that we say so. We have a liberalised economy. You cannot impose exchange rates like what Rwanda did. Rwanda was able to escape this because they have a fixed exchange rate. But all the other countries that have

a floating exchange rate suffered. It has nothing to do with the CBK Governor and, therefore, it is wrong.

Lastly, what we need to do is to look at the dynamics of the economy. If we are to get out of the woods, we need to do the following. First, we need to reduce our inflation - and I am glad to inform this House that inflation has gone down from 20 per cent to 16 per cent.

Hon. Members: Fiction!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, those figures are there from the Kenya Bureau of Statistics. They are there! They are not my figures! It has gone down! So, we need to control our inflation. Secondly, we need to reduce our borrowing rates. I am glad to say that the interest rates are on a downward trend. That is a positive sign! Thirdly, we need to dampen our appetite for imports and, to me, this is the point that this House should be emphasizing. The House should request the Government to take all steps to dampen our imports. We must do that!

Thirdly, we must also export more. The sectors that are export-oriented must be given incentives to do that. To conclude, yes, the Kenya Shilling depreciated and, as the Treasury, we are not happy about it. But it has nothing to do with Governor Ndung'u. It has absolutely nothing to do with Governor Ndung'u! Those were the dynamics of the economy because then, if--

Hon. Members: Ah!

Mr. Deputy Speaker: Order!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, if Governor Ndung'u was responsible, how come now the Shilling has appreciated? If Governor Ndung'u was responsible for inflation, how come that inflation has now gone down? If Governor Ndung'u was responsible, how come that our foreign exchange reserves have gone up? What we are saying is that those were the dynamics of the economy.

Lastly, we have agreed that the most important thing is price stability of our commodities, goods, exchange rates and interest rates. That is the point we need to emphasize. When the market is volatile, it only increases possibilities of speculation and we want to do away with speculation. So, to conclude, we may blame anybody else but not Governor Ndung'u. We can blame our appetite for imports but not Governor Ndung'u! We can blame other people but not Governor Ndung'u!

(Laughter)

All the economies in the region as far as South Africa and Nigeria were affected. It had nothing to do with Governor Ndung'u. That resulted, most of the times, from external causes, high fuel prices and high food prices. In fact, if you look at the submissions done, the recommendations and the summary by the Committee, they are totally at variance. Therefore, I oppose this Report and it should be rejected.

With those remarks, I beg to oppose the Report.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I also had an opportunity to go through this Report and, as an experienced Member of this House, it is either you oppose or support. However, if you look at this Report, over 80 per cent – almost 90 per cent – is good. The obsession that we have here is about a few lines that can be amended. I believe that, that can be done and this House could be in agreement.

(Applause)

That is because when we zero in as if the whole report is about Prof. Ndung'u, then we lose it!

Hon. Members: Yes!

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, but what is happening is--- It seems as if we only want to discuss Prof. Ndung'u. While that be can be sorted out--- That is because if you look at all the reasons given, the causes are so many that you cannot blame Prof. Ndung'u alone because of this Report. Where we go wrong is when we want to zero in on Prof. Ndung'u and then lose the whole document. It is important that we agree that this Report can be amended because it is good.

(Applause)

It can be amended! Amendments can be brought and if we are in agreement with them, as a sober House, then we will not lose the baby with the bath water.

(Several hon. Members stood up in their places)

This is my time! If you look at the causes of inflation and the impact of the global economic crisis, the continuous and persistent drought in this country---

(Mr. Githae waved the report and consulted loudly)

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

Mr. Deputy Speaker: It has to be a serious point of order, Mr. Outa! We want this debate to continue and everybody to have his moment to be listened to. Do not give an opinion. Give a point of order!

Mr. Outa: This is a very serious matter, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is it?

Mr. Outa: Mr. Deputy Speaker, Sir, is it in order for the Acting Minister for Finance to give verbal instructions in the House?

Hon. Members: To who?

Mr. Outa: To Members here?

Mr. Deputy Speaker: Order! It is the responsibility of the Chair to maintain order in the House. In any case, the Chair has not seen the Acting Minister for Finance giving any instructions.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, as you said, it is important that we listen and be patient. That is because everybody will have an opportunity to be listened to. We have seen that there are so many factors like continuous and persistent drought, the post election violence and the rising of food and fuel prices. The Committee itself noted - and I want to quote from them - that the economic causes such as the wide currency account deficits, the Euro crisis, large import bills of non-essential commodities and the Arab uprisings or "spring". They also noted that there were other factors. They said that some people even panicked; the fuel industry. The importers panicked and went for the dollar. That aggravated the situation. We are all in agreement that the Euro depreciated steadily after the Euro zone debt crisis which also caused jitteriness. We are in agreement and this Committee acknowledges that the Governor took action. If you look at this Report, you will find that the

Committee is clear that the Central Bank of Kenya (CBK) started tightening its monetary policy stance since March, 2011. That is in this Report. The Committee acknowledges that. When they come here and tell us that the Governor took no action, that then becomes contradictory. That is their own Report.

Mr. Deputy Speaker, Sir, if you look at this Report, you will realize, again, that the Committee was also in agreement that there were other organs of Government that never took any action. They are in agreement that despite the Governor trying very hard to work: "The report observes that CBK undertook policy action to address depreciation of the Shilling, monetary policy actions which were not immediately backed by corresponding actions by other organs of the Government." That is on page 14, article 224. That means that this Committee is not solely blaming the Governor for the decline of the shilling, and that there were other factors. The Governor does not operate in isolation because they have a committee that is also charged with the responsibility, equally, as the Governor, to monitor. We have the Monetary Policy Committee headed by professors.

Hon. Members: He is the Chairman.

The Assistant Minister for Public Works (Mr. Kiunjuri): Yes, he is the Chair and he has his technical bench. Therefore, that is why I want to submit that he is not---

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

Mr. Deputy Speaker: Is it a serious point of order?

Mr. Keynan: Yes, Mr. Deputy Speaker, Sir. It is a serious point of order. This report has a number of aspects. What my good friend and my schoolmate is referring to is the selective submission by the Ministry of Finance. The observations that the Committee made were as a result of the submission but that was not our recommendation. I think it is good to get it clear. If you look at page 13, you will see that is a submission by the Ministry of Finance and those are not our words. It is what we got from the Ministry of Finance when they explained to us. Our recommendations are towards the end. So, it is good to get that. It is not our observation or our statement. It is the statement of the Ministry of Finance.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it is common knowledge that the Governor of the CBK does not operate in isolation. The CBK alone cannot bring about the issue of inflation on its own. If you look at the issue of drought, was the Governor in charge of controlling nature? Do you want to blame the Governor for that? If you look at the issue of the post election violence, will you blame the Governor for that? The problems in the Middle East and the war in Somalia; do you want to pile all these on the Governor of the CBK? It is important that we look at issues not in a malicious way.

With regard to the issue of interest rates, it is true that they are oppressive. The people of Laikipia would not like to listen to me saying that the interest rates should remain the way they are. I have a loan at the bank which is also very oppressive. Therefore, when we throw out the whole Report, we will not have a spring board on the action that must be taken. However, if it cannot be amended, then we can only either suspend it or throw it out. That is why I cannot support it.

Mr. Deputy Speaker, Sir, with regard to the issues that we should adjust in this country, this comes back to the same game that we have been talking about for the last ten years. That is the same thing we will say today and no action is ever taken in this country. If you talk about drought in this country, ask yourself a simple question. Were there not heavy rains and there was run off water to the Indian Ocean? We did not even tap that water using large tanks. We had the capacity to do that but we are very proud to go and buy relief food to come and feed our people

using billions of shillings. That is enough money that can be used to irrigate the whole of North Eastern Province. Therefore, let us take the blame game where it belongs; that all of us have been irresponsible. As Members of Parliament, we have not been able to pressurize the Executive so that it can take the action that is required to save this country.

On the issue of irrigation, today, we are talking about IDPs. Whereas some of us are saying that there is money to settle IDPs, others are saying that this is not the right land because we cannot collectively take action.

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

Mr. Deputy Speaker: Is it a serious point of order or a point of argument?

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. We have a Report before us and every Member wants to contribute. I think the Member is going out of this Report. Is he in order to discuss IDPs? This Report has nothing to do with the IDPs.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it is part of the problem. We do not want to talk about our problems but I look at them from a wide perspective. We do not want to look at the history of the decline of the shilling and where it started. Where did the rain start beating us? This is just like the way we talk about environmental degradation and climate change. We participated 30 years ago and today, we are reaping the fruits of what we have been doing for that long time. This is the same case with today. We must ask ourselves; do we really want to come and discuss this Report and forget about our past and continue behaving the way we have been behaving? It is high time that we took this responsibility seriously.

Yes, things were not okay but it is also important to look at what was happening in our neighbourhood. In Europe, at the same time, those countries were falling apart financially. Therefore, we should agree that there are issues to be addressed; deep seated issues that can correct the economy of this country once and for all and not blame one person. We should also look at the motive of the hon. Members because sometimes, a good Report is compiled but we zero in on a particular individual because we want to punish this and that so that So and So can be appointed to come and replace So and So. Therefore, we direct all our effort there.

Hon. Members: No!

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, that way, some of the issues that we discuss lose relevance. I would like to say that 90 per cent of this Report is good but now that it cannot be amended, we cannot support it.

Mr. Mbadi: Thank you, Mr. Deputy Speaker, Sir. I want to support this Report. Sometime in June, last year, I rose on a point of order to seek for a Ministerial Statement from the then Minister for Finance asking why the shilling was depreciating. At that time, the shilling was exchanging at Kshs80.4. The following month, the Government tried to dodge my statement and the following month in July, hon. Njoroge Baiya pursued the same and asked for a statement. The Minister refused to respond to that statement until later in September. That alone can indicate to the whole world that something was not right.

I have heard the Minister for Finance say that we should not blame the Governor. I want to remind the Minister that the Governor of the CBK is on record blaming the falling of the Kenya Shilling on banks. He told the whole country that there were banks that had formed cartels and that they were hoarding foreign exchange. If today what the Committee is saying is not true, then the Governor is the one who has misled the whole country that the banks were to blame. So, he should not blame us but himself. Even before I go into the details of the Committee's Report, one reason I feel very strongly that the Governor of the CBK cannot be

exonerated from blame is because we pay the Governor and the staff who work at the CBK to formulate and implement monetary policies to stabilize the macro-economic environment in the country. If they fail to do so, even without any criminal responsibility; even just ethical and moral responsibility, the Governor must take responsibility.

Mr. Deputy Speaker, Sir, the reason why I say that the Governor cannot be removed from blame is because, one, when this issue became so big, what did the Governor do knowing very well how fluid the financial market is? He said: "There is nothing we can do." The he said: "Banks are to blame." Later he said: "Now we can do something." That is clearly an indication of someone who has no capacity and, if he has, then he refused to exercise that capacity to control and stabilize the money market.

Mr. Deputy Speaker, Sir, it is important for this House to realize one thing; that Kenyans suffered and continue to suffer because of the depreciation of the Kenya Shilling. The people we represent are looking at us and asking--- Many of them send us text messages asking: "Mheshimiwa, what are you doing about this Shilling losing value everyday?" If we can sit in this House after tasking a very strong Committee to go and investigate and report back to us, to trash the Report because we want to protect an individual who has protected the bank cartels and people who are fleecing Kenyans; people who are rogue--- The bankers are literally thieves in this country; stealing from Kenyans in broad daylight. If you look at the year 2011 when this country was facing a lot of problems, that is the time that the banks in this country made billions and billions in profit. In fact, all of them reported increased profits. Where did they get that capacity? It was from fleecing the people of Kenya, and most of those banks are not even Kenyan banks. They are international banks; people who take our money to those foreign countries and *wazungus* who are already rich, leaving us even poorer. It will be a sad day if this House will sit here and reject this Report.

Mr. Deputy Speaker, Sir, I want to come to the discount window. The Acting Minister for Finance has talked to us as if this House has people who do not understand any basics in finance. But I want to remind him that even though he was at one time a legal secretary in a bank, that does not make him an expert in finance. There are people who have studied finance and understand it and so, you should listen to us when we talk. The reason why the Central Bank of Kenya (CBK) is the lender of last resort is to stop commercial banks---

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

Mr. Mbadi: Please, let me contribute *bwana!*

Mr. Deputy Speaker: Proceed, hon. Mbadi!

Mr. Mbadi: Thank you, Mr. Deputy Speaker, Sir. The reason why the CBK is the lender of the resort is to stop commercial banks from misusing that discount window. That was done with the express knowledge that we will be putting responsible and knowledgeable people to manage CBK. If those people can allow, in a specific one financial year, this discount window to be misused--- For what reason were they borrowing the money? The Minister was saying that one would be poor as a banker to borrow that money and buy Treasury Bills or lend to other banks. Then we ask: "Why were they borrowing the money?" Was it to give it to Mr. Mbadi to pay the interest rate after one year? No! It was because they were taking that money and speculating with it. They were buying forex and starving us of foreign exchange, thereby, making the Shilling to lose value. If you ask us: Why did the Shilling start appreciating? It is because we formed this Committee. That is why the value of the Shilling started appreciating. It is automatic and you can see. Unless some people benefited and profited from that behaviour by banks, supported by CBK---

Let us look at the Report, especially the submissions from the professionals. The Minister has rubbished the Committee for not knowing what it was doing. I watched the Kenya Bankers Association officials on television yesterday say that this is a Committee of people who are not knowledgeable. I want to read the exact submissions from those professionals the Committee listened to.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir. You have just heard what hon. Mbadi has said – that I rubbished the Report. I did not rubbish the Report. I just said that it is wrong to blame Governor Ndung’u alone for the depreciation of the value of the shilling. I said that it has some very good recommendations. Personally, I would be amenable to the Report being amended.

Mr. Mbadi: Mr. Speaker, Sir, the Minister said that he opposed the Report. He did not say he wanted it amended. He said he opposed and opposing the Report is rubbishing it.

Mr. Deputy Speaker, Sir, I want to take hon. Members to page 48 through to page 53, just mentioning a few submissions. There are contributions from various professionals. On page 50, there are submissions from the forex dealers. One of the observations is that there was a loose monetary policy.

An hon. Member: Which page 50?

Mr. Mbadi: There are so many page 50s! So, I cannot tell you which one, unless you sit next to me.

What I am saying is that there is a submission from the forex dealers, under item four. It says that there was a loose monetary policy of up to one per cent, which was a loophole that was used by greedy investors. That is a submission by a professional. Another submission says that there were gaps in the Monetary Policy Committee, and that the members of that committee did not understand the movement and the major drivers of exchange rate. Who is to blame for that?

Mr. Deputy Speaker, Sir, on page 53, we have an observation from Stanbic Bank, as follows:-

“The bank was not sure if the CBK’s Monetary Policy Committee did its work well.”

These are professionals. I want to take you to another observation by Family Bank. What did they say? They said that the CBK increased the CBR in small figures even after it knew that the situation was going to deteriorate greatly. Another contribution says:-

“The bank was concerned as to why the Governor of the CBK could not predict the fluctuations in the interest rate.”

Mr. Deputy Speaker, Sir, those are professionals’ observations. So, in a nutshell, it is not a creation of this Parliamentary Committee. This Committee listened to submissions from professionals. It listened to submissions from even the CBK. The CBK itself has acknowledged that some banks were involved in some activities which were not acceptable.

The CBK allowed all this to happen. We are paying Prof. Njuguna Ndung’u not to do politics. We are not paying him to enjoy himself in the office. We pay him, as the people of Kenya, to make sure that the money market is stable, and that the macro-economic environment is stable. We pay him because we know these eventualities about the Euros. We pay him because we know that there will be problems in the Middle East and in Asia, and so that when this happens, he can help us to contain the situation.

Mr. Deputy Speaker, Sir, we do not pay him to enjoy himself and claim that he cannot do anything. If he is not able to do all these things, the only thing that this House can tell Prof. Njuguna Ndung’u is to go home. He should go home and let us hire somebody who is competent

enough, and who has the willpower – somebody who knows that, that is where he can make good money.

I hear that he says he can make good money elsewhere. Why can we not help him? Why can we not relieve him of his duties? Some people need to be helped to make the right decisions. So, this House should help Prof. Ndung'u to make the right decision by quitting his job at the CBK and going to do what he can do best.

With those remarks, I beg to support.

Mr. Langat: Mr. Deputy Speaker, Sir, I thank you very much for giving me the opportunity to support this Report. I am a Member of this Committee. Before I start, first, I want to bring to the House the spirit of the Report. What we are looking at in this Report is not the steady decline of the shilling. It is the sharp and rapid decline of the shilling within a very short time. Therefore, under ordinary circumstances, the market forces will play their part. However, clearly these are not ordinary circumstances for the shilling to decline by 25 per cent or to depreciate by more than 25 per cent within a period of two months. Clearly, there was a failure by the market forces. Therefore, ordinarily, the regulator should have stepped in, in good time.

Mr. Deputy Speaker, Sir, we were told about the balance of payments. We do agree it is a fact that that could cause our shilling to depreciate. We were told about the Euro crisis; that is still acceptable. We were told about the prices of oil; that is still acceptable. But clearly there was something that was supposed to have been done in good time and it was done very late. No wonder---

Mr. James Maina Kamau: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that these cases are happening only in Kenya, while we know there was a crumbling of the USA Dollar at one time; the crumbling of the Indian Rupee at one time; the crumbling of the South African Rand at one time? This is not only happening in Kenya. Is he in order?

Mr. Deputy Speaker: That is a point of argument.

Mr. Langat: Mr. Deputy Speaker, Sir, I want to urge my friend to really listen because I have not even said it only happened in Kenya. I only said it happened, so fast, that market forces could not have been at play. Therefore, if, for example, we were to accept that the balance of payments was the issue and that the prices of oil was the issue then can somebody explain to this House why in a stroke of an action, the shilling went back to where it was yet the Euro debt crisis still exists? The balance of payments problem is even worse, the prices of oil are still an issue---

The Minister for Transport (Mr. Kimunya): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you wish to be informed by Mr. Kimunya?

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

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the hon. Member has asked for somebody to help him understand why the position was reversed so fast and the shilling appreciated. I would like to inform him that it reversed when the CBI rate was increased and the interest rate attracted more forex coming in. As a result of that, we now had more inflows of foreign exchange and a stabilization of the exchange rate.

Mr. Langat: Mr. Deputy Speaker, Sir, I want to thank the Minister for that explanation. I want to tell him that it is very unfortunate that such an action which should have been taken way back in March should have been taken when the damage was already done.

Therefore, there was human failure in the management of this system. When we asked the Governor for example, do you have standards on when to intervene in the markets? In the stock markets for example, if one share was to go up by Kshs5 shillings within a day---

Mr. Deputy Speaker: Order! Mr. Langat, you still have 15 minutes when this debate resumes.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow morning, 7th March, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.