

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th March, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Order, hon. Members! I have three Communications to make this afternoon. The first one is with respect to the matter of trespass into private land by Administration Police (AP) officers, a claim of *sub judice* by the Member for Mutito.

DETERMINATION OF *SUB JUDICE* RULE ON QUESTION No.675 -TRESPASS INTO PRIVATE PROPERTY BY ADMINISTRATION POLICE

Honourable Members, on Tuesday 17th May 2011, hon. Martha Karua asked the Minister of State for Provincial Administration and Internal Security the following Question:

Question No. 676

(a) whether he is aware that a contingent of Administration Police officers trespassed onto private property that is the subject of a court dispute, namely Narok/Ngurumani/Kamorora/1, in April 2010 and have remained there since despite protests by the registered owners; and,

(b) whether he could order the immediate withdrawal of the police from the property.

This Question was answered by the Assistant Minister of State for Provincial Administration and Internal Security. Certain elements of the Question, however, remained outstanding and were deferred to be addressed at a later date.

Hon. Members, on Tuesday, 17th May 2011, when the Question was revisited in respect of the outstanding issues, hon. K. Kilonzo rose on a point of order and stated that he had previously asked a Question touching on the same matters as the Question asked by the hon. Member for Gichugu. The hon. Member further stated that there existed three pending court cases relating to and whose subject was the same as the particular matters raised by the Member for Gichugu in Question No. 676. The Member for Mutito further stated that restraining court orders had been issued in the matter and that the matter was, therefore, *sub judice*. The hon. Member tabled seven documents in support of his claim for *sub judice*.

Hon. Imanyara then rose on a point of order seeking clarification as to whether it was possible for hon. K. Kilonzo to revisit a Question that had been fully answered and in respect of which the only outstanding matter was the tabling of certain documents. In response to the matters raised by hon. K. Kilonzo, hon. Karua stated that in her view, once a Question had been substantively answered, a point of order relating to *sub-judice* was overtaken by events and ought not to be raised. She further stated that Question No. 676 as asked acknowledged the fact that there were ongoing court cases but did not relate to the particular court cases. On these grounds, she urged that the Chair allow the answering of Question No.676 to conclusion.

The Assistant Minister in the Ministry of State for Provincial Administration and State Security, on his part, stated that there, indeed, existed about seven court cases on the matter, all of which had a bearing on the issue of trespass. He further stated that he had previously answered the Question and that he was ready to report on the issues that were outstanding on the Question. Hon. Olago, who also stood on a point of order, sought directions from the Chair as to whether it was in order for a Member of the Back Bench to attempt to frustrate the answering of a Question that had been asked by a Member by raising a point of order which directly went against the Question asked.

Hon. Members, having reflected on the contributions of Members on this matter, I isolated the following as the issues that require the directions of the Chair:

1. Whether or not a Member of the Back Bench can claim that a Question raised by a fellow Member of the Back Bench is *sub judice*;
2. At what point should a claim of *sub judice* be made; and
3. Whether in the light of the documents laid on the Table by hon. K. Kilonzo, the subject matter of Question No. 676 is *sub judice*.

Hon. Members, I will pause for a minute to allow those at the door to come in.

(Hon. Members at the door entered the Chamber)

Hon. Members, in respect of the first of these issues which is whether or not a member of the Back Bench can claim that a Question raised by a fellow Member of the Back Bench is *sub judice* need not detain us, it is clear that the Standing Orders, as adopted by this House, bind and apply in equal measure to all Members of the House. Members are obligated and encouraged to abide by the provisions of the Standing Orders and in so doing, may, where necessary, bring to the attention of the Chair any contravention of the provisions of the Standing Orders. It, therefore, remains open to any Member who takes the view that a matter before the House offends the rule of *sub judice* to rise and draw the attention of the Chair to the same. It is thus in order for hon. K. Kilonzo to claim *sub judice* in the matter of Question No.676 and his concern calls for due consideration and response.

Hon. Members, the second matter requiring my determination is that of the point at which a claim of *sub judice* should be made. Concern was raised by several Members that in the present case, the claim of *sub judice* was made when the substantive Question had previously been answered and when all that remained were clarifications on certain outstanding matters.

Hon. Members, while Standing Order 80(2) prevent deliberation by the House of matters that are *sub judice*, “where the discussion of such matter is likely to prejudice its

fair determination”, the Standing Orders do not specify the point at which a Member should rise to claim *sub judice*. Although it would be expected that the claim of *sub judice* would be made ahead of any discussion on the matter in issue, there is no bar in the Standing Orders to such a claim being made at any point during the discussion of a matter if the Member takes the view that the ongoing discussion offends the rule of *sub judice*.

Hon. Members, I therefore, find that although the claim made by hon. K. Kilonzo came in the dying stages of the Question when the bulk of the Question had been disposed of, the claim was still within the confines of Standing Order 80 and the concerns of the hon. Member, therefore, require to be addressed before the House proceeds with deliberation on Question No. 676.

Hon. Members, the third and final issue is this: whether in the light of the documents laid on the Table of the House by the hon. Member, the matters the subject of Question No. 676 are *sub judice*. Standing Order 80 which has often been the subject of communications by me, gives guidance on the subject of *sub judice*.

Standing Order 80(1) stipulates that “no Member shall refer to any particular matter which is *sub judice* or which, by the operation of any written law is secret”. As to which matters are to be considered *sub judice*, standing order 80(2) provides that “a matter shall be considered *sub judice* when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination”.

Hon. Members, Standing Order 80(4) requires a Member who alleges that a matter is *sub judice* to provide the necessary evidence. On Tuesday, 17th May 2011, the Member for Mutito tabled in this House the following documents-

1. Paper Number 1: An order dated 30th August 2010 issued by the High Court sitting in Nairobi, the parties being Jan Bonde Nielsen *versus* Herman Philipus Steyn, Hedda Steyn and Ngurumani Limited in which, amongst other orders, an *ex-parte* interlocutory injunction was issued restraining the defendants their agents, employees and/or nominees from interfering with the plaintiff’s homestead commonly known as Ol Donyo Laro and an *inter-parte* hearing date set for 13th September 2010;

2. Paper Number 2: A Notice of Motion dated 21st September 2010 filed on behalf of Ngurumani Limited against the Commissioner of Police, the Commandant Administration Police and others, seeking, *inter alia*, orders of *mandamus* and prohibition against the respondents;

3. Paper Number 3: A Notice to the Registrar dated 15th September 2010 by Ngurumani Limited that informed the Registrar that Ngurumani Limited intended to file an application for Judicial Review Proceedings for orders of *mandamus* and prohibition against the Commissioner of Police, the Commandant Administration Police and others.

4. Paper Number 4: Summons to Enter Appearance dated 7th April 2009 issued to Ol Donyo Laro Estate Limited in the matter of Ngurumani Limited *versus* Ol Donyo Laro Estate Limited;

5. Paper Number 5: An Application dated 14th May 2009 brought under certificate of urgency by Ngurumani Limited against Kenya Civil Aviation Authority and another seeking leave to bring a judicial review application for orders of *certiorari* and prohibition against the defendants;

6. Paper Number 6: An Amended defence and counter-claim filed on 20th May 2010 by Ngurumani Limited in the matter between Ol Donyo Laro Limited and Ngurumani Limited; and

7. Paper Number 7: An Application dated 16th September 2010 brought under certificate of urgency by Ngurumani Limited for leave to apply for judicial review orders of *mandamus* and prohibition against the Commissioner of Police, the Commandant Administration Police and others.

Thereafter, at my request, the hon. Member for Mutito submitted to my office a compendium of further documentation, including some of the documents that the hon. Member had earlier tabled in the House on 17th May 2011. The bundle of documents includes a charge sheet, not previously tabled by the Member, the complainant being Peter Jan Bonde and the accused being Philip Styne. The subject of the charge is assault causing actual and bodily harm contrary to Section 251 of the Penal Code. According to the charge sheet, the accused was to appear before the Chief Magistrate's Court in Kibera on 31st August 2010.

Hon. Members, I have carefully studied the seven documents tabled by hon. K. Kilonzo and the compendium of documents subsequently presented to me by him. These documents bear witness to the hon. Member's claim that several court matters relating to the property known as Narok/Ngurumani/Komorora/1 have indeed been filed. In fact, the documents indicate there have been matters in Nairobi and Nakuru.

Further, the first document tabled by the Member indicates that at an *ex-parte* hearing held on 30th August, 2010 in the High Court sitting in Nairobi, an interlocutory injunction was issued and an *inter partes* hearing set for 13th September, 2010. Although the documents submitted by the hon. Member indicates that there have existed civil proceedings in respect of the property known as Narok/Ngurumani/Koromora/1, Standing Order No.80(2) as read together with Standing Order No.80(4), place the onus on the Member claiming *sub judice* to provide evidence to show that the proceedings are active. Under Standing Order No.80(3)(a) and (b), criminal proceedings shall be deemed to be active when a charge has been made or summons to appear have been issued and shall be deemed to have ceased to be active when they are concluded by verdict and sentence or discontinuance. Under Standing Order No.80 (3)(c), civil proceedings would be considered active when arrangements have been made for hearing, such as setting down a case for trial until the proceedings are ended by judgement or discontinuance.

Honourable Members, in the present matter, with respect to all the civil matters cited, I do not find that the Member has met the requirements of Standing Order No.80(2), (3)(c) and (4). There is no indication from the documents tabled by the hon. Member on the present status of the court matters to which the documents refer. The following pertinent questions remain to me unanswered:-

- (i) Did the applications referred to ever proceed to full hearing?
- (ii) Are the applications presently or at all listed for hearing?
- (iii) Were the interlocutory orders issued by the High Court on 30th August, 2010 extended?
- (iv) Has judgment been issued in any of the matters? Have the applications been withdrawn?

Concerning the criminal matter, there is similarly no indication of the present position on the case from the documents on record. Did the case proceed to Court? Has

the matter been concluded? Were the charges withdrawn? What sentence was meted out, if any? I, therefore, find that in respect of the criminal case, the Member has not met the requirements of Standing Order 80(2), (3) (a) and (b) and (4).

Honourable Members, in the circumstances, bearing in mind the considerable length of time that has elapsed without the Speaker being furnished with the requisite evidence in terms of our rules, the claim by Mr. K. Kilonzo that the matters, the subject of Question No. 676, are *sub judice* does not meet the threshold of the Standing Orders. I, therefore, rule that Question No. 676 be fully answered. To this end, I direct that the Question be listed in the Order Paper for disposal at the earliest opportunity that Order No. 6 permits. I thank you.

Hon. Members, at the door may walk in.

(Hon. Members at the door entered the Chamber)

ASSENT TO BILLS

Honourable Members, the second communication is as follows; Regarding returns on Bills received from the Honourable Attorney-General, pursuant to the Standing Orders; Standing Order No. 125 requires the Attorney-General to present to the President within 14 days of receipt from the Clerk, every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return with the Speaker indicating the time and the date that the Bill was presented to the President. The returns now received indicate that the following two Bills were presented by the Attorney-General to His Excellency the President for assent and were duly assented to on 27th February, 2012 at 12.00 noon. The Bills are:-

(i) The Intergovernmental Relations Bill, 2012, which was passed by the National Assembly on 23rd February, 2012;

(ii) The Transition to Devolved Government Bill, 2012, which was passed by the National Assembly on 23rd February, 2012.

As you are aware, Hon. Members, His Excellency the President in exercise of the powers conferred on him by Section 46(3) and (4) of the former Constitution as saved in Section 3 of the Sixth Schedule to the Constitution, declined to assent to the County Governments Bill and submitted a Memorandum indicating specific provisions of the Bill to be considered by the National Assembly.

I thank you.

Order, hon. Members! We will allow Mr. George Nyamweya to walk in.

(Mr. George Nyamweya entered the Chamber)

MEMORANDUM FROM HIS EXCELLENCY THE PRESIDENT ON COUNTY GOVERNMENTS BILL, 2012

The final Communication is with respect to His Excellency the President's Memorandum. At the afternoon sitting of Wednesday, 29th February, 2012, I directed that the Memorandum by His Excellency the President on the County Governments Bill, 2012 (Bill No. 1 of 2012) be committed to the Departmental Committee on Local Authorities

for consideration. Thereafter, Mr. Mbadi rose on a point of order and sought directions from the Chair on whether or not the Memorandum violated Article 261 of the Constitution, as read together with the Fifth Schedule to the Constitution, which sets out specific timelines within which legislation to implement the Constitution should be enacted. Following several contributions----

Order, hon. Members! I hear a strange voice! I do not know where it is coming from.

(A strange voice was heard from the background)

Hon. Member for Bumula, I am reliably informed that, that is your voice.

Very well! Honourable Members, I think we need to pay attention. I will take advantage of that to pause for the two Members at the door to walk in.

(The honourable Members walked into the Chamber)

Hon. Member for Bumula, I beg your pardon. I know you are a very diligent Member of this House and you have always conducted yourself strictly within the purview of the Standing Orders.

(Applause)

Hon. Members, I will continue from where we left off.

Following several contributions on the issue by a number of Members, I undertook to give guidance on the matter. Honourable Members will recall that this House passed the County Governments Bill, 2012 on Thursday 23rd February, 2012. His Excellency the President, however, pursuant to section 46(3) and (4) of the former Constitution, which are saved by section 3(2) of the Sixth Schedule to the Constitution, declined to give assent to the Bill and submitted a Memorandum in respect thereof indicating specific provisions which should be reconsidered by the National Assembly including recommendations for deletion and amendments. As Honourable Members are aware, the County Governments Bill, 2012 is one of the proposed statutes which in terms of Article 261 of the Constitution and the Fifth Schedule of the same, was required to be enacted within a period of eighteen months from 27th August, 2010, the date of the promulgation of the Constitution. The final date for the enactment of this Act was 27th February, 2012.

The question that then arises, and on which the directions of the Chair have been sought, is whether or not the submission of a Memorandum by His Excellency the President on the County Governments Bill, 2012, which Memorandum is dated 27th February, 2012, accords with the constitutional requirements of Article 261 and the Fifth Schedule to the Constitution.

Honourable Members, Article 261(1) of the Constitution requires Parliament to enact any legislation required by the Constitution to govern a particular matter within the period specified in the Fifth Schedule, commencing from the effective date. The applicable provisions on the procedure for the enactment of legislation during this period of transition is to be found at Sections 30 and 46 of the former Constitution. Section 30

provides that the legislative power of the Republic vests in the Parliament of Kenya which consists of the President and the National Assembly. While Sub-sections (1) and (2) of Section 46 provide for that legislative power to be exercised through Bills passed by the National Assembly and assented to by the President. Legislation is, therefore, enacted, not when it is passed by this House, but when the President assents to it. It is thus clear that the requirement at Article 261(1) of the Constitution that legislation on County Governments be enacted on or before 27th February, 2012 sets out a deadline within which the processes both by this House and by the President must have been completed. In the event, the requirements of Article 261(1) of the Constitution were not met with respect to the County Governments Bill, 2012, as it ought to have been enacted into law on or before 27th February, 2012, now past.

Honourable Members, notwithstanding the foregoing, it is clear that pursuant to Sub-sections (3) and (4) of Section 46 of the former Constitution says that the President's right to refuse to assent to a Bill passed by the House and to return it to the House with a Memorandum is not taken away by the expiry of the period for enactment provided for under Article 261 of the Constitution. The question that then arises is as follows: Does this failure to meet the deadline fall under the ambit of Article 261 (5) especially taking cognizance of the fact that the Bill in question had been passed by the House? I am awake to the terms of Article 259 (9) as follows:-

“If any person or state organ has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly specified in the provision conferring the authority.”

I appeal to the Attorney-General to exercise his mind on this provision more so noting his submission in his contribution in the House when the issue was raised to the effect that he is already seized of the matter.

Hon. Members, I wish to further draw your attention to the provisions of Article 259(1), which states-

“This Constitution shall be interpreted in a manner that-

(a) promotes its purposes, values and principles”

Considering all the foregoing issues which are all formidable and the options available to the House in their entirety and the end result of the process envisaged in Article 261(5) and (6) of the Constitution, it is my considered view that the House should proceed to dispose of the Memorandum from His Excellency the President in the manner outlined in my communication of Wednesday, 29th of February, 2012, as it furthers the purpose of the timelines specified in the Fifth Schedule.

Hon. Members, the directions of the Speaker were also sought on two other matters. The first is the point of order raised by the hon. Member for Kimilili, Dr. Eseli, in which he observed that although the Constitution sets out, at Article 261 of the Constitution, penalties for Parliament where Parliament fails to enact legislation required for the implementation of the Constitution within the timelines specified, in several instances, it was the Executive and not Parliament that had occasioned the delay in the processing and publication of the required legislation.

(Applause)

For the information of hon. Members and pursuant to section 30 of the former Constitution as saved by section 3(2) of the Sixth Schedule, Parliament consists of the President and the National Assembly. Additionally, all Ministers, the Attorney-General and Assistant Ministers who constitute the core of the Executive are Members of Parliament and, consequently, exposed to the same perils with respect to implementation of the Constitution as the rest of us.

The Constitution and the Standing Orders are clear on the processes attendant to the enactment of legislation by this House once such legislation is published. I, therefore, urge the Executive to ensure that the timeframes envisioned for the processing of legislation by this House, including the publication period and the time required for consideration in the relevant Committees, are factored into the dates of publication of the legislation. This will ensure that legislation to implement the Constitution is enacted in a timely manner and with the requisite input of the House.

Hon. Members, the final matter, which was raised by hon. Charles Kilonzo and to which a number of Members spoke, related to the attendance in the House by Ministers of Government during the Committee Stage on the County Governments Bill, 2012. Hon. C. Kilonzo lamented that there were very few members of the Front Bench present during that critical debate. Although the Executive must determine for itself how the Front Bench shall be organized for the transaction of any business in this House, I note that on that date, in responding to this matter, the Deputy Prime Minister and Minister for Local Government; the Hon. Musalia Mudavadi, committed himself to communicate the sentiments of this House on the issue to the Cabinet. I will reiterate my stand on the matter as pronounced then and look forward to positive change by all concerned. We will, therefore, trust that the matter will be appropriately addressed.

I thank you.

(Applause)

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Local Authorities on the Reconsideration of the County Governments Bill, 2012, and the President's Memoranda laid on the Table of the House on Wednesday, 7th March, 2012.

(By Mr. Ngugi)

Report of the Departmental Committee on Equal Opportunities on the Ethnic Audit of the Kenya Civil Service.

(By Mr. Affey)

NOTICE OF MOTION

ADOPTION OF REPORT ON ETHNIC AUDIT OF THE KENYA CIVIL SERVICE

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

THAT this House adopts the Report of the Departmental Committee on Equal Opportunities on the Ethnic Audit of the Kenya Civil Service laid on the Table of the House today, Wednesday, 7th March, 2012.

Mr. Speaker, Sir, I just want to congratulate the Parliamentary Service Commission on this Report for your compliance. At least, this Commission, under your leadership and that of the Clerk, has been equal opportunity compliant as far as the House is concerned.

Thank you very much, Mr. Speaker, Sir.

(Applause)

Mr. Speaker: Thank you! Hon. Members, thank you also for the applause. I think it is deserved!

(Laughter)

Next Order!

ORAL ANSWERS TO QUESTIONS

Question No.1447

DELAY IN RECRUITMENT OF NEMA DIRECTOR-GENERAL

Dr. Kones asked the Minister for Environment and Mineral Resources:-

(a) why there has been a delay in the appointment of the Director-General of the National Environmental Management Authority (NEMA);

(b) whether he could provide a list of all candidates that were shortlisted by the recruiting agency and state when the appointment will be done; and,

(c) whether he can confirm that the appointment will be made according to the recommendations of the recruiting agency.

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Speaker, Sir, I beg to reply.

(a) The slight delay in the appointment of the Director-General of the National Environmental Management Authority (NEMA) has been occasioned by the process of

the organizational restructuring they need to factor in staff positions and job evaluations which would accommodate the spirit of the Constitution, 2010.

Mr. Speaker, Sir, the Board of Management of NEMA completed the recruitment process and submitted three names to the Ministry of Environment and Mineral Resources in September 2011. However, as the Ministry was drafting a devolution strategy, further analysis of staff positions in NEMA through internal consultations was necessary and because the process had to be participatory, it took a while.

(b) A total of 48 professionals applied for the post. The applicants are as listed:

(i) Mr. Francis M. Nkako,

(ii) Prof. Jacob Kibwage,

(iii) Dr. Abdulrazak A. Nunow,

(iv) Prof. Godfrey M. Wakhungu,

(v) Dr. Kennedy I. Ondimu. This officer is working with NEMA.

(vi) Mr. Benjamin M. Lang'wen, who is an employee of NEMA.

(vii) Dr. Ayub M. Ngaruga, who is also working with NEMA.

(viii) Ms. Beatrice Nzioka, who is also an employee of NEMA.

Mr. Kigen: On a point of order, Mr. Speaker, Sir. Would it be in order for the Assistant Minister to read the whole list instead of tabling it for hon. Members and save time for the House?

Mr. Speaker: How many names have you got to go, Mr. Assistant Minister?

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Speaker, Sir, if it is the wish of the House---

Mr. Speaker: How many names have you got to go?

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): They are 48, Mr. Speaker, Sir.

Mr. Speaker: Then just table the list!

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Okay. Thank you.

Mr. Speaker, Sir, with your permission, I am tabling the list.

(c) I hereby confirm that the names of the applicants recommended by the Board of Management of NEMA was submitted to the appointing authority on 20th January, 2012. The Ministry hopes that the recruitment will be done procedurally as per the recommendations of NEMA Board of Management.

Mr. Speaker, Sir, I lay the list on the Table.

(Mr. Kajembe laid the document on the Table)

Mr. Speaker: Proceed, the hon. Member for Konoin!

Dr. Kones: Thank you, Mr. Speaker, Sir. I want to thank the Assistant Minister for that answer. However, you can see the delay that this process has gone through from last year. Actually, before the enactment of the Constitution to date, the NEMA Director has not been appointed.

Mr. Speaker, Sir, there were allegations that the Board of Management had been forced to tamper with the list that the recruiting agency had come up with. If you look at the list which the Assistant Minister has given me, you will find that he has given me the

list of the applicants. I had asked for the list of those who were shortlisted. Could the Assistant Minister table the list of those who were shortlisted by the recruiting agency?

Mr. Kajembe: Mr. Speaker, Sir, all those who applied went for interview and out of those who were interviewed, three names were brought to my Ministry and they were forwarded to the appointing authority.

(Dr. Kones stood up in his place)

Mr. Speaker: What is it, the hon. Member for Konoin?

Dr. Kones: On a point of order, Mr. Speaker, Sir. I know the Assistant Minister is still answering, but is he in order to mislead the House that everybody who applied and who actually was shortlisted attended the interview when I have three people who were in this list but were never called for the interviews? Is he in order?

Mr. Kajembe: Mr. Speaker, Sir, according to the information I have, all these 48 people applied and they appeared before the Board for the interview.

Mr. Speaker: Order, Mr. Assistant Minister! You were challenged by the hon. Member for Konoin that he has on the list three persons who did not appear for the interview, although your assertion is that they actually all appeared. I want to believe the hon. Member for Konoin cannot be saying that out of nothing. At least, he has got the information from the applicants!

Mr. Kajembe: Mr. Speaker, Sir, the 48 professionals appeared before the Board of Management unless---

Mr. Speaker: Order, Mr. Assistant Minister! In that case, I want the hon. Member for Konoin to specify the three names and if you are unable to assert firmly that they actually came for interview, including supplying information on when they appeared for the interview in terms of the date, then I am likely to defer the Question for you to go and check further. So, hon. Member for Konoin, proceed to give him the three names!

Dr. Kones: Mr. Speaker, Sir, I will right away give you the first name and then you will give me two minutes to ascertain the two other names on the list. Prof. Michael Koech, the former Director of NEMA had applied and he never attended the interviews. I also have two documents from two others; I cannot get their correct names here, which I can verify given time in a short while.

Mr. Speaker: For the time being, Mr. Assistant Minister, when did Prof. Koech appear for the interview?

Mr. Kajembe: Mr. Speaker, Sir, with that then, I am not aware.

(Laughter)

Mr. Affey: Mr. Speaker, Sir, this is a very serious matter. As the Chairman of the Committee on Equal Opportunities, I would like to say that we are very concerned about the emerging trend in the country. This is a matter that was very close to the heart of the late hon. Michuki. I am sure that before he died, he wanted to make sure that the recommendations of the Board, as the Assistant Minister has just said---

Mr. Speaker: Order! Order, hon. Affey! Are you privy to any wishes expressed by the late hon. John Michuki? Have you had access to his will? What is your authority?

Mr. Affey: Mr. Speaker, Sir, my authority is that these names were submitted to the appointing authority before he died. He died before 20th January, 2012.

Mr. Speaker: Order! In that case, you cannot claim that the late hon. John Michuki had wished something.

Mr. Affey: Mr. Speaker, Sir, I am sorry about that, but let me ask the Assistant Minister the following question.

Mr. Speaker: Yes, please!

Mr. Affey: Could the Assistant Minister tell us the three names that he submitted to the appointing authority and when the appointing authority is going to appoint the Chief Executive Officer as per the wish of the Board? You have just said that the Board had recommended three names, which are these three names, and now that you are the acting Minister, when is the President going to appoint the number one on the list?

Mr. Kajembe: Mr. Speaker, Sir, the three names that have been submitted to the appointing authority are:

1. Dr. Abdulrazaka A. Nuno;
2. Prof. Jacob K. Kibwage;
3. Prof. Godfrey M. Wahungu.

The Ministry submitted the names to the appointing authority on 20th January, 2012.

Mr. Speaker: Yes, Member for Ainamoi!

Mr. Langat: Mr. Speaker, Sir, I thank you very much.

Mr. Affey: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade my question, which is: "When is the appointing authority is going to appoint the Director of NEMA? If he cannot answer, we will allow the Chair to direct the appointing authority to appoint because we need this office.

Mr. Kajembe: Mr. Speaker, Sir, the appointing authority is none other than His Excellency the President of the Republic of Kenya; the Hon. Mwai Kibaki. I have submitted the names to him. It is for him now to appoint the Chief Executive Officer.

Mr. Speaker: Hon. Kajembe, you still have not answered the question. You have been asked when the appointing authority will appoint. Answer the question. There are many answers. Please, answer, Assistant Minister.

Mr. Kajembe: Mr. Speaker, Sir, of late, the President has been very busy. I am doing my best to talk to the President for him to appoint the Chief Executive Officer.

Mr. Speaker: Very well!

Yes, Member for Kigumo!

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

Mr. Speaker: Order! Order! Member for Ainamoi, you will have to try again to catch my eye. For the moment, let us have the Member for Kigumo.

Mr. Jamlek Irungu Kamau: Mr. Speaker, Sir, could the Assistant Minister provide the scores that each of the three candidates got and confirm whether, indeed, it is true that two candidates tied at position number three, but only the name of one of those two who tied was submitted for approval?

Mr. Kajembe: Mr. Speaker, Sir, the Board did their best. What I am being asked to do is to give detailed information in respect of all that the Board did. What I am trying to tell this House is that after the interviews, three candidates were shortlisted and their names were submitted to His Excellency the President. I am the Assistant Minister for Environment and Mineral Resources, and when I speak here on behalf of my Ministry, I do so with authority.

(Applause)

Mr. Olago: On a point of order, Mr. Speaker, Sir. Whether or not hon. Kajembe is the Minister, he is stretching the patience of this House too far. The question he has been asked is whether candidate numbers three and four tied and that the name of only one of them was forwarded to the President. Is he in order to avoid answering such direct questions, which are very simple?

Mr. Kajembe: Mr. Speaker, Sir, there were no candidates who tied. The three candidates whose names have been submitted to the President are the ones who led in the race.

Mr. Speaker: Member for Ainamoi, are you done?

Mr. Langat: Mr. Speaker, Sir, my question has been partly answered. I wanted to ask the Assistant Minister to table the scores and tell us whether the names of the right candidates were forwarded to the President as per the scores.

Mr. Kajembe: Mr. Speaker, Sir, the answer is yes.

Mr. Speaker: Could you answer the other part of the question, Assistant Minister, as to whether or not you can table the scores?

Mr. Kajembe: Mr. Speaker, Sir, I do not have the scores with me here but they can be provided. It is important to provide the scores to this House, but since the names of the three candidates have already been submitted to the appointing authority, the point about the scores has now been overtaken by events.

Mr. Speaker: Order, Assistant Minister! You will note that you were not able to fully answer the first question by the Member for Konoin. Neither were you able to fully answer the question by hon. Affey. I hope you have noted that, because I want you to indicate how much time you require to be able to supply that information. You were given, for example, by the Member for Konoin, three names and one was named this afternoon. You do not know whether or not he appeared for an interview. You were unable to supply that information. Hon. Affey also had something else, which you have not responded to.

Mr. Kajembe: Mr. Speaker, Sir, I would ask for one week to provide the information to the respective questions.

Mr. Speaker: Assistant Minister, they are just two aspects – the three persons who were among the 40 applicants, and who apparently did not appear for interview, and the scores. Those are the things you are supposed to do.

Mr. Kajembe: Mr. Speaker, Sir, I will try to do so in one week's time. My only worry is what will happen if the appointing authority appoints the successful candidate before I bring my report to the House.

Mr. Speaker: Order! Order! That will not change the position. You are supposed to just supply information to the House and the public. That is all. This will not affect the power of the appointing authority. I direct that the Question re-appears on the Order Paper a week from today. It will appear next Wednesday at 2.30 p.m.

(Question deferred)

Mr. Speaker: Next Question, Member for Marakwet West!

Question No.1037
MEASURES TO CURB INSECURITY
IN MARAKWET DISTRICT

Mr. Kaino asked the Minister of State for Provincial Administration and Internal Security:-

(a) how many people have been killed, injured or robbed in Cherangany and Koisugur locations in Marakwet District since 2010 and how many suspects have been apprehended and charged with these offences; and,

(b) what measures the Government is taking to curb insecurity in the area.

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

(a) Since 2010 to date, three persons have been killed, three persons injured and four others robbed in Cherangany and Koisugur locations in Marakwet District. A total of seven persons have been arrested and charged before court for the offences. I want to give the names of those who have been arrested and those who were affected.

Mr. Speaker, Sir, Philip Kosgey, a male adult from Cherangany was shot on the chest with a shotgun and suffered panga cuts on the head, right arm and died instantly on 9th May, 2011, at about 6.00 p.m. Murder File Criminal Case No.862/42/2011 was opened and is still pending under investigations.

Mr. Joash Wanyonyi aged 37 years old was assaulted with a panga on 8th July, 2011, at about 8.30 a.m. He sustained deep panga cuts on the back of the head and died instantly, unfortunately. One suspect, Benjamin Kiptoo, was arrested and charged with murder vide police Criminal Case No.862/54/2011, Kitale High Court Criminal Case No.38 of 2011.

Mr. Daniel Cheruiyot aged 41 years was hit with a piece of wood on 5th December, 2011, at about 9.00 a.m. and rushed to Moi Teaching and Referral Hospital where he died while undergoing treatment. One suspect, Kibor Rotich, was arrested and charged with murder vide police file No.Criminal 862/95/2011 at Kitale High Court, Criminal Case No. 64 of 2011.

During the same period, three people were injured. Julius Kiptoo Suter aged 53 years working as a forest guard at Cherangany Forest Station was shot on the stomach on 20th May, 2010 at about 1.00 p.m. by armed gangsters while walking through Yatoi Forest. Case File No.862/35/2010 was opened at Kapcherop Police Station. One suspect, David Kemboi Kipyatich, was arrested and charged vide Court File No. 837/2010. The case is pending before court.

Mr. Emmanuel Rono aged 36 years was slightly injured on the left hand during a robbery incident along Kibigos-Tenden Road near Kaisugur High School on 4th January at about 8.45 p.m. He was also robbed of Kshs2,000. The case was reported at Kapcherop Police Station and case File No.862/05 of 2011 opened and is pending under investigation.

Mr. Ambrose Kosgey aged 39 years was slightly injured on the left leg during a robbery with violence along Kibigos-Tenden Road near Kaisugur High School on 4th

January. A report was made to Kapcherop Police Station, Case File No.862/5/2011 was opened and is pending under investigation.

During the same period, the following persons were also robbed: Mr. Justus Maina aged 30 years was robbed and the case was reported at Kapcherop Police Station. Criminal Case No.862/5 was opened and is pending under investigation. Mr. Ambrose Yigna and Billy Toroitich were also robbed of Kshs1,500 and Kshs450, respectively, on 28th May, 2010 at Yator Forest along Kapcherop. One suspect, David Kemboi Kipyatich, was arrested and charged vide Court No. 834/10. The case is pending before court.

Mr. Justin Kipsang 20 years old was robbed of one motorcycle make CVS Star valued at Kshs80,000 and a mobile phone make Motorola C118 valued at Kshs3,000 on 29th January, 2011 at about 12.00 p.m., near Chekaitir River along Kapcherop Kipkundur Road. The case was reported to Kapcherop Police Station and Case File No. 862/17 was opened. Three suspects were arrested and charged vide Court File No. 316/2011. The three suspects namely Samuel Wanjala, James Wamalwa and Sammy Kibet were arrested and the case is still pending before court.

The last one is Emmanuel Yator aged 98 years was attacked by a group of about 20 people who set on fire five grass thatched houses and stole 20 heads of cattle valued at Kshs850,000 on 13th December, 2011, at Kibigos Sub-Location. Nobody was injured during the incident. He was the one who was complaining that a grandson to Emmanuel Yator, Joseph Laban, was behind the murder of one Isaac Kibyegon Ayading. Police Case File No. 862/97/2011 was opened. The case is pending under investigations while efforts are underway to recover the cattle and arrest the suspects.

Mr. Speaker, Sir, the following measures have been taken: foot and mobile patrols have been scaled up by joint patrol teams comprising of regular and Administration police officers and an AP camp is currently under construction as we speak at Kibigor area and is expected to be ready soon.

Adequate regular police officers have been posted to Koisugur area to boost security operations in the area. Members of public have been advised to seek police escort while carrying valuables in the affected areas within Cherengany Forest. Community policing initiatives and intelligence information collection have been strengthened within that area. That is how we managed to arrest these suspects.

Mr. Kaino: Mr. Speaker, Sir, you can see how Marakwet people have been suffering in these areas. The Assistant Minister has only mentioned the crimes which took place two years ago. He says many people have suffered and others killed. The information he has given this House is the truth. However, there are more cases that have not been reported where people have been killed, robbed and injured in these areas. He did not tell us how regular police officers he has deployed in Koisugur. I do not think there are any regular police in Koisugur. However, I would like to confirm that the construction of the AP line is actually ongoing. Could he increase the officers who are patrolling these four roads, so that we reduce crime rates in the area? The Government has realized that the crimes are being committed there.

Mr. Ojode: Mr. Deputy Speaker, Sir, let me, first of all, acknowledge what the hon. Member is saying. I only deal with cases which have been reported. If somebody is mugged or killed and there is no report given to the police station, it becomes very difficult for me to launch the investigation. I would urge those who are affected to report

cases of mugging, murder and kidnapping in order for the police to come in handy to arrest those who are behind the acts.

On the issue of beefing up security, yes, I will do that if you still need more but that will come from the OCPD who knows the number of security personnel he needs. Otherwise, as at now, we have contained the situation.

Mr. Kigen: Mr. Speaker, Sir, the Assistant Minister has indicated that as a measure to curb this menace, he has increased patrols and the security personnel. I asked a similar Question last year and he told us the same thing. However, up to now, we have not been able to see those police officers. Could he confirm to this House how many security personnel he has deployed in respect to the Question raised by the hon. Member?

Mr. Ojode: Mr. Speaker, Sir, I am quite able to give the number, but in certain cases, it is not quite good for me to give the numbers, especially in Marakwet area, of how many police officers we have in a particular station. One, the reason behind that is because if people know that we have so many police officers at a given police station, it will jeopardize the sustainability which we are undergoing.

If the Questioner wants the number, I can give him privately other than publicly to avoid the interests of other groups.

Mr. Kigen: On a point of order, Mr. Speaker, Sir. Would I be in order to ask the Assistant Minister to table the number of officers that he has deployed both in Marakwet and Rongai?

Mr. Speaker: Order! Order! The Assistant Minister has given an answer which I am satisfied with. Really, he did not have to tell you the particular Standing Order which, in fact, gives him that authority. He does not have to disclose anything which is secret in its nature by reason of security. If you look at the Standing Orders, they will tell you so and he has given his reasons.

Last question, Mr. Kaino!

Mr. Kaino: Mr. Speaker, Sir, I am the Member of Parliament of that area and the only place where there is regular mobile police going round is between Kapsowar and Cheptongei. The areas where there are no police officers or even mobile police include Kibikos, Tenten and Kapcherop. The other places are Kipkundul, Yatoi and Kapcherop, then the last one is Kapcherop and Kapkanyar. Those are the areas we have heard people have been killed and others injured. The Assistant Minister mentioned the areas. Could the Assistant Minister provide mobile police officers to go round these four areas?

I am asking this because people have suffered, businesses have gone down and women have been raped. We have the police at Kapcherop who can be handling that area. The one in Kapsowar could be handling Kiptongei and to be coming on time---

Mr. Speaker: Order, Mr. Kaino!

Mr. Assister Minister, can you provide mobile police?

Mr. Ojode: Mr. Speaker, Sir, as I mentioned earlier, if need be, I am ready to provide mobile vehicles. That will come out from the Officer Commanding Police Division (OCPD).

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that "if need be"? The hon. Member says there is insecurity, it is up to the Assistant Minister to determine whether there is insecurity or there is no insecurity. If there is insecurity, he must provide security.

Mr. Ojode: Mr. Speaker, Sir, that is a genuine concern. The OCPD of that particular division will inform us what he requires. Sometimes the reason he has not asked us to give him more personnel could be because he has enough vehicles for patrol.

Going to what the Member for Rongai was asking, Standing Order No.80---

Mr. Speaker: Order! Assistant Minister, I have already dealt with that matter! Next Question by the Member for Migori!

Question No.1202

SHORTAGE OF TEACHERS IN PUBLIC SECONDARY
SCHOOLS IN MIGORI DISTRICT

Mr. Pesa asked the Minister for Education:-

(a) whether he could provide a list of all registered public secondary schools in Migori District, indicating their respective classes per school as well as the number of TSC teachers per school;

(b) if he could also state the curriculum based establishment for each school in comparison with the actual number of teachers and explain why a number of schools have only one or two TSC teachers; and,

(c) what immediate measures he will take to correct the acute shortage of teachers in Migori District, both at primary and secondary levels.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I beg the indulgence of the House to give me time until tomorrow afternoon to give an appropriate answer to this Question. I do not have one yet.

Mr. Speaker: Member for Migori, are you prepared to accommodate the Assistant Minister?

Mr. Pesa: Mr. Speaker, Sir, I am least prepared because the answer given to me here is sufficient for the Assistant Minister to answer this Question. In what I have here, he has included some schools which do not belong to Migori. I do not mind about that because I am concerned about my schools.

Mr. Speaker: Order! That is not the yardstick. The Assistant Minister himself must be convinced that he has all the information not just to answer your Question but to also deal with supplementary questions. In that case, I am prepared to defer the Question to tomorrow afternoon. It is not too far away. It is just 24 hours or less away.

It is so directed!

(Question deferred)

Next Question by the Member for Samburu East!

Question No.1225

INSTALLATION OF PHONE NETWORK IN SAMBURU DISTRICT

Mr. Letimalo asked the Minister for Information and Communications what plans he has to ensure availability of phone network in Sere Olipi in Samburu East District and its environs.

Mr. Speaker, Sir, I would like to bring it to the attention of the Chair that I have not been given a written answer.

The Assistant Minister for Information and Communications (Mr. Godhana): Mr. Speaker, Sir, we were just trying to give a photocopy to the Member of Parliament but we have agreed I can serve him with the answer immediately after the Question.

Mr. Speaker: Mr. Letimalo, are you prepared to proceed without the written answer?

Mr. Letimalo: Yes, Mr. Speaker, Sir. I am ready to proceed.

Mr. Speaker: Very well!

Assistant Minister, please, proceed!

The Assistant Minister for Information and Communications (Mr. Godhana): Mr. Speaker, Sir, I beg to reply.

Only 65 per cent of the population lives within areas where there is mobile coverage while the actual land covered by these services is 36 per cent. It is, however, recognized that there are limitations on the reliance of market forces in the delivery of universal communication services to all parts of the country. It is for this reason that my Ministry is in the process of establishing the Universal Service Fund (USF) as provided for under the Kenya Information and Communications Act (Cap.411A) and the Kenya Information and Communications Universal Access and Service Regulations of 2010.

Mr. Speaker: Order, Assistant Minister! As I see it, you have a very straightforward Question. Why do you not just deal with it summarily? It is so simple.

Mr. Godhana: Mr. Speaker, Sir, it is quite short.

The objective of the Fund is to support widespread access to communication services and compliment the private sector initiatives by subsidizing the cost of ICT infrastructural out and expansion to served and unserved areas of the country. The ultimate intervention is to ensure that all citizens including those of Samburu County including Sere Olipi have access to communication services as enshrined in the Constitution.

Mr. Speaker, Sir, the establishment of the organs that will manage the USF is in the process and we shall thereafter begin the implementation of the universal surface projects using the Fund.

In addition, the Ministry through the Communications Commission of Kenya (CCK) is considering the option of reviewing network rollout obligations to the existing mobile operators as a pre-condition for the renewal of their licenses upon expiry to include coverage of areas that are yet to be served in order to ensure that there is greater equitability in the distribution of resources in the county governments as envisaged in the new Constitution.

Thank you.

Mr. Letimalo: Mr. Speaker, Sir, you can see that my Question is that direct but the Assistant Minister has given us a lot of things which are really confusing. This is the situation; Sere Olipi is really isolated. The nearest place you can get network is Archers Post which is over 100 kilometers away. This place Sere Olipi is prone to insecurity and cattle rustling. For purposes of communication, the mobile phone network will assist to

bring down cattle rustling. Do you not consider to give priority to that area by providing mobile phone network?

Mr. Godhana: Mr. Speaker, Sir, immediately we start implementation of the process of deploying infrastructure, we will consider that.

Mr. Ethuro: Mr. Speaker, Sir, my good friend Mr. Letimalo has raised one fundamental issue; why Sere Olipi in particular must be covered. This country in 1965 came with a Sessional Paper that dictated how economic growth will take place in terms of areas of high potential. Could you consider that in this day of mobile telephony you are also going to ensure that the remote and insecure areas are covered by mobile phone network as a matter of priority? When are you going to do so? All you have been telling us, we knew three years ago.

Mr. Godhana: Mr. Speaker, Sir, the areas that are called under-served or unserved include even parts of my own constituency. We will ensure that in the process of deploying infrastructure--- We know even Turkana is captured in part of our report. Eventually, we will ensure that there is almost 100 per cent mobile telephony services in the entire country.

Mr. Chachu: Mr. Speaker, Sir, some of us hail from these constituencies where network coverage in terms of mobile phones is highly limited.

Mr. Speaker, Sir, Kalacha Village in my own constituency is not covered by any form of telephone; whether land line or mobile. We have had series of meetings with this Ministry and the Ministry of State for the Development of Northern Kenya and other arid lands. We have been promised more than three times that this Universal SAT Project would be implemented very soon.

Mr. Speaker, Sir, we have promised our constituents that this will be implemented. I have given them promises for the last five months. I told them that we have been assured by the Minister, the Permanent Secretary and the CEOs of the mobile telephone companies; such as Safaricom, Airtel Kenya, and others, that this will be implemented. When will the project be implemented?

Mr. Godhana: Mr. Speaker, Sir, I still want to assure the hon. Member that we will provide mobile telephone services up to North Horr---

Hon. Members: When!!

Mr. Godhana: Immediately, Mr. Speaker, Sir.

We had a bit of challenges with the mobile service providers, especially on the issue of technological convergence. We have already finished with the negotiations. Now, we are just finalizing putting in place the institutions that will manage the implementation of the layout of the infrastructure. Immediately we put this in place, we will just follow our priorities.

Mr. Chachu: On a point of order, Mr. Speaker, Sir. My questions are very direct and very clear. We had a series of meetings with this Ministry. As Members of Northern Kenya, we have even written to them telling them which areas need to be covered. It is now almost six months since we wrote to them. You have given us promises; please, tell us when? If you cannot give a promise, tell us so that we tell our constituents to forget about it, please!

Mr. Godhana: Mr. Speaker, Sir, as soon as the institutional management is in place---

Mr. Speaker: Order, Assistant Minister! Could you, please, give an estimate of time?

Mr. Godhana: Mr. Speaker, Sir, probably, around six months we would be able to start rolling out infrastructure.

Mr. Speaker: Very well, Member for Mathioya!

Mr. Wambugu: Mr. Speaker, Sir, the problem with the radio telephony in this country is due to limitation of service providers.

Mr. Speaker, Sir, when will he reduce the licensing fees for mobile operators, so that we can have more locals or Kenyans licensed to provide the service? The reason why those areas are not covered is because major operators do not want to go to those areas. An example is the road connecting Kenol Town in Murang'a to some places called Kirieni. We never get any coverage because the mobile service providers do not want to give us service around that area.

Mr. Godhana: Mr. Speaker, Sir, I have never heard any service provider complaining about expenses in licensing.

The problem has not been licensing. The problem is about the investment requirements in terms of funding in rolling out mobile telephony infrastructure. So, that has not been the problem,

Mr. M.H. Ali: Mr. Speaker, Sir, communication is very vital and key in terms of development and also for security purposes.

As you remember in 2008, the fibre optic line was dug. However, five years down the line, nothing has been done. The Assistant Minister has given assurance to this House. I had asked many questions relating to the same and he has given assurance that they will convince the service providers to provide network coverage in my area, particularly Khalalio and Waranqara areas. Could you ensure that he upholds this promise, that six months from today, he will be able to achieve this.

Mr. Speaker: Yes, Member for Mandera East, we will hold the Assistant Minister to account.

Mr. Njuguna: Mr. Speaker, Sir, noting the commitment by the Assistant Minister, could he inform the House, what measures his Ministry is taking to make sure that those areas receive constant quality reception from the mobile providers?

Mr. Godhana: Mr. Speaker, Sir, let me make the undertaking that the issue of quality service is a priority of the Ministry.

Mr. Mwadeghu: Bw. Spika, nchi hii imekuwa ni nchi ya milingoti. Safaricom ina mlingoti wake. Airtel Kenya nayo ina mlingoti wake. Wengine pia wana milingoti yao. Kwa nini hawa wote wasitumie mlingoti mmoja? Nchi yetu imekuwa ya milingoti. Labda hata Bw. Waziri Msaidizi utaitwa Waziri wa Milingoti.

Mr. Godhana: Bw. Spika, pengine mhe. Mbunge ambaye pia ni rafiki yangu, pengine hakuelewa wakati nilitumia msamiati wa "technological convergence". Maana yake ni kuwa tunataka kuunganisha teknolojia mbalimbali ili tupunguze gharama ya kutumia milingoti mingi. Hiyo ni moja kati ya yale mambo ambayo yalichelewesha kidogo. Ningependa kumhakikishia, Bw. Mwadeghu, hayo yote tutayatekeleza.

Mr. Shakeel: Mr. Speaker, Sir, the Assistant Minister has been very candid about the services that they wish to provide in six months' time.

Could he also tell us whether at any time he has written to any of these three providers to provide a security service under the basis of corporate social responsibility

and for the interest of this country? If so, what was their reaction? If all of them have refused let us know because they are also operating in our country. If they have not done so, I think they are not patriotic companies.

Mr. Godhana: Mr. Speaker, Sir, the issue of social corporate responsibility is being undertaken by all those institutions. I am not able to give a list of the areas they have funded now. But I know, for sure, they have done it. I know one that is in the areas of----

(Mr. Shakeel stood up in place)

Mr. Speaker: Order! Order! Member for Kisumu Town East, allow the Assistant Minister to complete his answer.

Mr. Godhana: What I know is that just close to my area in Ijara they had funded some ecotourism and conservation programmes. I believe there are so many other people, probably, who have benefited from their corporate social responsibility. So, I am sure that is being done.

Mr. Speaker: Very well, last question, hon. Letimalo!

(Mr. Shakeel stood up in place)

Order! Member for Kisumu Town East.

Mr. Letimalo: Mr. Speaker, Sir, in his statement, the Assistant Minister says he is in the process of initiating Universal Service Fund (USF). They are about to roll it out. When are they actually initiating that Fund, and how much is it?

Mr. Speaker: Order! Hon. Letimalo! One question at a time! Answer, Assistant Minister!

Mr. Godhana: Mr. Speaker, Sir, the issue of the USF has already been agreed upon between the Ministry of Information and Communications and the service providers. What we are now trying to do is to finalize the arrangements on the institutions that will manage the fund. That is what we are finalizing now. Immediately we finish, we will roll it out. We even have the report on the areas with access gaps. Immediately the institution is in place, they will give priority to these areas and implement it.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Ministers cannot be allowed to come and mislead this House. There is nothing to agree about Universal Service Fund (USF). It is in the law which he referred to. All they need to do is to roll this money for this godforsaken part of the country, so that we also have a network like the rest of Kenyans. This is the point the Assistant Minister is missing. We want him to ensure that priority is given to these areas that are not connected, so that we are not forgotten in the 21st Century as was the case in the 20th Century.

Mr. Godhana: Mr. Speaker, Sir, hon. Ethuro is just forgetting. In my last response, I indicated that we have agreed on a 0.5 per cent of their annual income to go into the USF. As a Ministry, we have given Kshs 1million towards setting up of the fund. So, the figures have already been communicated to this House.

Mr. Speaker: Very well. Next Question by Mr. Kiilu!

Question No.1290

REPAIR OF EMALI-UKIA ROAD

Mr. Kiilu asked the Minister for Roads:-

- (a) whether he is aware of the bad state of Emali–Ukia Road (C99), particularly the section between Emali and Mwanyani market;
- (b) what urgent measures he is taking to repair the road; and,
- (c) when the Government will upgrade the road to bitumen standard as directed by the President in a public rally at Emali market on 14th April, 2011.

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

(a) I am aware that Emali-UKia Road, C99, and particularly the section between Emali and Mwanyani, is in need of repair.

(b) My Ministry has set aside Kshs6 million for routine maintenance of the road. The scope of works will include grading and spot-patching. The design for Ukia-Emali Road was completed in 2007, and I have asked my officers to do a quick run to see whether there are changes on the road which would require to be included in that design.

(c) The Ministry, therefore, is in the process of sourcing funds for upgrading the road to bitumen standards.

Mr. Kiilu: Mr. Speaker, Sir, I would like to thank the Minister for giving fairly straightforward answer to parts “a” and “b” of my Question. I am, however, worried by the answer the Minister has given for part “c” of my Question. In his answer, the Minister has accepted that the design for this road was completed in 2007. From 2007 to last year on April 14th when this matter was revisited and the Government undertook to upgrade this road--- It is now five years. The Minister is now telling us that the Ministry is in the process of sourcing for money. My worry is that the priority ranking for this road is taking too long. Could the Minister give a fixed time when finally this Ministry will upgrade this road to bitumen standard?

Mr. Bett: Mr. Speaker, Sir, yes, I am aware His Excellency the President mentioned this road on his tour of Eastern Province; I am also aware of the limitation of funds available to us as a Ministry to build this road. I have, therefore, made sure that it will be factored into the financial year 2012/2013, so that it is taken care of when the budgetary allocations are made at the end of the financial year.

Mr. Ochieng: Mr. Speaker, Sir, sometime last year I raised a similar question where there were a lot of potholes on the main road between Ahero and Sondu Market; up to now the road is patched halfway. On some portions the potholes were just enlarged and left there. Could the Minister confirm when he is also going to undertake these repairs?

Mr. Bett: Mr. Speaker, Sir, the hon. Member will appreciate that, that is a totally different question from the one I have on the Order Paper; nevertheless, I want to indicate that we are looking into it, so that the amount of work left is completed.

Mr. Kiilu: Mr. Speaker, Sir, I can only thank the Minister and hope that he will live to what he has told this House; in the past he also undertook to do something---

Mr. Speaker: Order, Mr. Kiilu! If you have thanked him and you are hoping that he will live up to the undertaking, that is it. The matter must rest there.

Next Question by Mr. Litole!

Question No.1353

MEDICAL STAFF SHORTAGES IN SIGOR SUB-DISTRICT HOSPITAL

Mr. Litole asked the Minister for Medical Services:-

(a) whether he is aware that the number of medical workers attached to Sigor Sub-District Hospital is not enough;

(b) whether he could provide a detailed staff list of health workers who are currently deployed at the health facility against the officially required number; and,

(c) what measures the Ministry is taking to ensure that more officers are deployed in the facility.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that medical workers attached to Sigor Sub-district Hospital are not enough.

(b) Though the facility was gazetted as a hospital in August 2008, its infrastructure has not been upgraded and, therefore, it still functions as a health centre. There are 22 members of staff in this facility against a requirement of 27 members as per the staffing norms for Level III facilities. Below is the tabulation of available staff against the staffing norms for this level of facility, and I can table it for ease of reference by the hon. Member.

(Mr. Kambi laid the document on the Table)

(c) Staff shortages exist in all public health facilities in the country, mainly due to budgetary constraints. Improved staffing for Sigor Sub-District Hospital cannot, therefore, be considered in isolation. The Ministry has been progressively improving staffing for all public hospitals, depending on the budget availed by the Treasury for the recruitment of additional health workers and the service infrastructure available in each facility. Occasionally, the Ministry gets support from development partners to hire additional health workers; indeed one of the clinical officers at Sigor Sub-District Hospital is employed by a development partner to increase the capacity of the project. The hospital will continue to get consideration for staffing improvement within this framework.

Mr. Litole: Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer. However, according to the tabulation he has tabled, at present there is only one clinical officer in Sigor. One of them was transferred two months ago. I do not know whether he is aware of it. One of them is undertaking some studies and, therefore, is not working in the health facility. The third issue in the tabulation is that the post of a Community Oral Health Officer was advertised by the Ministry and a young man called Josphat applied, but up to today he has not been considered for employment. I, therefore, request the Assistant Minister to first of all---

Mr. Speaker: Order, Mr. Litole! You have told a long story and I have tolerated that. I would like you to come to the question that you want the Assistant Minister to answer.

Mr. Litole: Mr. Speaker, Sir, it is because of the suffering of the people of Sigor.

Mr. Speaker: Order, Mr. Litole! It is Question Time. If you want to make a contribution, wait for an appropriate time to do so.

Mr. Litole: Mr. Speaker, Sir, I would, therefore, want to request the Assistant Minister that the officer, Mr. Lomuk, who was transferred to Kapenguria be returned because the person in charge is not there.

Mr. Speaker: Order, Mr. Litole. Can you, please, frame that as a question?

Mr. Litole: Mr. Speaker, Sir, therefore, could the Assistant Minister post back the officer who was transferred to Kapenguria?

Mr. Speaker: Assistant Minister, will you repost that officer to Kapenguria?

Mr. Kambi: Mr. Speaker, Sir, I remember that the officer---

Mr. Speaker: Order, Assistant Minister! Will you re-post that officer to Kapenguria? That is the question you were asked.

Mr. Kambi: Mr. Speaker, Sir, it is not possible because I have to sit down with my team of staff and see how we can go about this case.

Dr. Nuh: Mr. Speaker, Sir, the Assistant Minister has conceded that there is shortage of health personnel across the country and a few days ago when the nurses went on strike, the same Ministry had issued sack threats to nurses if they did not resume work by 2.00p.m. What plans did the Ministry put in place to ensure that when all the nurses were sacked in this country, they had an equal number of nurses in the office to replace the sacked ones or they wanted to conduct murders across the country?

Mr. Kambi: Mr. Speaker, Sir, the Government pays nurses to save the lives of patients in hospitals. We do not pay them to demonstrate in the streets. In this regard, we have put in place a pilot project to recruit staff, so that we can address the issue.

Mr. Duale: On a point of order, Mr. Speaker, Sir. The health workers who are demonstrating are within the purview of Article 35 of the Constitution. Is the Assistant Minister in order to say that we pay them to treat Kenyans and not to demonstrate? That is within their constitutional right. Is he in order?

Mr. Speaker: Order! That is not a valid point of order.

Mr. Yakub: Mr. Speaker, Sir, the Ministry had promised that by today, they would sit down with the joint consultative team to save the situation. Right now, three Kenyans have died in one of the Government hospitals in Coast Province. What action is the Ministry taking and where have they reached in their discussions this meeting?

Mr. Kambi: Mr. Speaker, Sir, the situation is quite pathetic, but as a Government, we agreed with them. In fact, we have paid them almost 25 per cent, but they always change the goal posts and are now saying that the hospitals do not have equipment. So, these are problems which we cannot address within a short time. However, the Ministry has done a Cabinet Memo so that nurses could also be recruited annually like police officers to fill the gaps.

Mr. Litole: Mr. Speaker, Sir, there is a question which I did not ask on Table 3. There is an oral health officer who applied for this job and the vacancy was there. Why has the Ministry not employed this young man?

Mr. Kambi: Mr. Speaker, Sir, I will check with the panel which was conducting the interviews and if he qualified, then, definitely, we are going to recruit him.

(Mr. Litole interjected)

Mr. Speaker: Order, Member for Sigor! That is not the way we conduct ourselves here! First apologize for that conduct!

Mr. Litole: Mr. Speaker, Sir, I apologize.

Mr. Speaker: Proceed!

Mr. Litole: Mr. Speaker, Sir, this young man qualified from the Kenya Medical Training College, Nairobi with a diploma. What other qualification does the Ministry want?

Mr. Kambi: Mr. Speaker, Sir, I was not aware that this question is going to be asked. However, I have said clearly that I am going to check with the panel that was conducting the interviews and if his name is there and he qualified, then, definitely, we are going to recruit him.

Mr. Speaker: Hon. Members, that brings us to the end of Order No.6 and we are now well into the Prime Minister's Time.

Hon. Members, you will notice that we spent a little more time on Order No.6 because the office of the Right Hon. Prime Minister has written a letter to the Clerk, a letter which was not received until, as the Clerk indicates, 2.00 p.m. today. This letter is also signed by a nondescript member of staff in the Prime Minister's office. It is more or less, for all practical purposes, anonymous, because it is signed by somebody who has inscribed something on it for Caroli Omondi. We have previously given directions on this matter, so, this kind of correspondence to Parliament is obviously not acceptable.

The office of the Right Hon. Prime Minister is treating Parliament very casually and we want to send out a strong message to the office of the Prime Minister that really, he must accord due respect to Parliament. This kind of situation is not tolerable and I want a Member of the Executive, the senior most present; hon. Bett or is it Prof. Onger? You have heard me on this kind of correspondence. Prof. Onger, what will the Prime Minister do about this? This, obviously, is not acceptable.

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I apologize. I am in the dark and I have just walked in, but whatever may be the position, if it is passing on the message to the Prime Minister, I will do so. I will convey your sentiments accordingly.

Mr. Speaker: Prof. Onger, will you, please, note that the Right Hon. Prime Minister was actually present in the House on 29th February, last Wednesday and he gave an undertaking, directly by himself that he will be in the House to issue this Statement today. Consequently, therefore, we embraced it on the Order Paper as it is and now we have a letter which says that the Prime Minister is away in Brussels, Belgium, on official duties. Obviously, this is not good enough.

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I fully understand because the nature of the Query on the Order Paper infringes on the integrity of this Republic of Kenya, which is under threat. Therefore, the right person to address himself to this matter accordingly is the Prime Minister. I will accordingly remit the same sentiments. I will have the opportunity through the HANSARD to do exactly the same.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I rise on the Standing Order No.98 which provides that any Member may at any time on a point of order invite the Speaker or the Chairperson of Committees to name another Member for grossly

disorderly conduct. I am moving that we name the Prime Minister for the following reasons---

Mr. Speaker: Order, Member for Ikolomani! Before you proceed, I am not likely to go that way. I am not inclined to do so because if you go by our practice, the Prime Minister may, in fact, not be aware that he has committed gross misconduct and normally, we invoke the Standing Order No.98 when the conduct is on the face of the House. So, in those circumstances, I am not inclined to go that way. So, do not even prosecute it further.

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

Mr. Speaker: Order! I will not go that way.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. It could be related to the same matter but slightly on a different angle. You will find that the Standing Orders say that a Minister will be disorderly for not answering Questions just as it is disorderly for Members of the Back Bench not to ask Questions. We are confronted with one situation as the Back Bench that when a Member of the Back Bench asks a Question to a Minister and he is unable to come and prosecute the Question at the right time, that Question is dropped and that becomes a very heavy punishment for the Member who loses the Question and cannot re-introduce it in that session. But when Ministers are unable to answer Questions, the worst that this House does as sanctions, is asking a Minister not to transact any business which, in essence from the angle we are looking at, is even a reprieve given to the Ministers because sometimes they find it very uncomfortable to answer Questions in this House.

Mr. Speaker: Order, Dr. Nuh! I think what you should be doing is to address me using a different method; a different manner. Given your approach, to me, I am unlikely to do anything about it. That is because, first of all, you have to persuade me that the Right Hon. Prime Minister is out of order. Ask me to make that finding!

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I will try to persuade you. I want to persuade you on two accounts. One, Standing Order No.40 allows the Prime Minister to be deputized by the Deputy Prime Minister. On such an issue of real serious importance, we have not been given any explanation as to why neither of the two Deputy Prime Ministers could deputize the Prime Minister while he is away, as provided for in the Standing Orders. On the second account, in fact, you are right. The decision to name a Member remains with the Speaker. That is what Dr. Khalwale was trying to do under Standing Order No.98. Any hon. Member, including Dr. Khalwale and Mr. Ethuro, can petition the Speaker. Then you can rule on that after you have heard Dr. Khalwale. Have I persuaded you, Mr. Speaker, Sir?

(Laughter)

Mr. Speaker: Order! Mr. Ethuro, with respect to your interpretation of Standing Order No.40, I will want to hear a response from Prof. Ogeri, who is holding brief for the Executive before I give further directions!

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

Mr. Speaker: Order, Dr. Nuh! Let us conduct this properly!

(Prof. Ogeri sat in his place)

(Laughter)

Prof. Onger!

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, you obviously appreciate that when the matter was put before the Floor of the House, the Chair appropriately requested that I transmit that tacit message to the Prime Minister, which I consented to. I do not have any other additional brief beyond what I already have.

(Loud consultations)

Mr. Speaker: Order! Prof. Onger, the gist of what Mr. Ethuro has said is that; Standing Order No.40 actually gives latitude to the Right Hon. Prime Minister to delegate to any of his deputies, in the event that he is not available in the country such as stated in this letter; that he is away in Brussels. If the Right Hon. Prime Minister got up to provide this Statement as he, indeed, committed himself to do on 29th February, then the easiest thing he would have done is to pass on the Statement to one of his deputies. Why has he not done so?

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, that is why really, at this stage and point in time, it would be very difficult for me to even guess why the Prime Minister did not pass that information to the two deputies.

(Laughter)

Mr. Keter: On a point of order, Mr. Speaker, Sir. Maybe, the Prime Minister could not delegate because the two deputies are busy also campaigning and they are challenging the Prime Minister. So, I think, as a House, hon. Dr. Khalwale has a right to move that Motion under Standing Order No.98.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, while appreciating the request for the Chair for Prof. Onger to deliver this message to the Prime Minister, I would like to inform the House that it may not be easy for Prof. Onger to deliver the message to the Prime Minister, nor is it going to be easy for him to take brief for the Prime Minister, while wholly aware that at any time, the Prime Minister may sack him.

(Laughter)

Mr. Speaker: Order, hon. Members! I have heard as much as I should on this matter. I am satisfied that the sentiments of hon. Members have been ably made, presented to the House and to me. I will want to reserve my directions as to why I have declined to name the Right Hon. Prime Minister. I will give my reasons for declining in a Communication next Wednesday.

(Several hon. Members stood up in their places)

Order! The matter must rest there!

(Dr. Khalwale consulted loudly)

Order, Dr. Khalwale! I have acquainted myself fully with matters pertaining to procedure as envisaged by Standing Order No.98, and it is on that basis that I will give directions - including my reasons for declining to name the Right Hon. Prime Minister - on Wednesday next week. Unless, therefore, you are going to say anything different, I will not entertain any further ventilation on this matter.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Because this matter touches on the security of Kenyans, especially Kenyans who live on the Coastal region, of non-*Miji Kenda* DNA, I am requesting the following: So that the Question is seen to move, we step down the Question, with your permission, from being addressed by the Prime Minister and probably be addressed by the Minister in charge of internal security. Why? That is because from the time I raised this Question, the matter has been snowballing. It has grown from what it was as "*Pwani sio Kenya*" to a situation where the UN Convention that provides for non-interference of member states of the UN into internal affairs of other countries is being breached by the Ambassador of Great Britain. It has grown further---

Mr. Speaker: Order, Dr. Khalwale! You are no doubt aware that, that matter was raised in the House yesterday, and there was a request for a Ministerial Statement in respect of which there was an undertaking given that the Statement will be issued actually tomorrow. So, surely, unless you want to take credit for raising the matter, what is new about it? That the British Ambassador has raised the matter? Honestly, stay away from there!

Dr. Khalwale: Mr. Speaker, Sir, as you will recall while you were in the Chair last week, when the matter was being postponed, I brought this issue about the Government of the UK. But I want to conclude by saying that the matter has gone further to a situation whereby members of that militia have gone and raided a police station in Kilifi. This is on record!

Mr. Speaker: Order, Dr. Khalwale! I respect your right to debate but, surely, you must live within the Standing Orders. That matter you have raised as your last matter surely can be very ably prosecuted and canvassed as the Statement is issued by the Minister for Foreign Affairs tomorrow. So, you want to preempt it before the Statement comes! With utmost respect, please, hold your horse! Tomorrow afternoon, you will have your field day on the UK.

Dr. Nuh: Mr. Speaker, Sir, I want to thank you for, at least, taking up this matter and saying that you will give a ruling next Wednesday. But as you prepare your ruling, there is one matter that, I think, we have raised, as a Back Bench, severally, and that I would want you to take into account. It is to the effect that when an hon. Member asks a Question and a Minister is unable to answer--- Sanctions have been given in this House many at times, that certain Ministers will not transact business in this House. But it has been punishment on the side of the Questioner. That is because a matter that should have urgently been addressed is at times delayed because the specific Minister cannot transact the same business until the allegations raised against him or her for not appearing in the House are dealt with. So, we are asking whether, indeed, the sanctions we seem to be giving in this House from the Chair of punishing a Minister by asking him not to transact

any business is of any essence. It is so much troublesome because, at times, it is even a reprieve. When a Minister is asked not to transact any business, he gets a leeway because the problematic way of coming, addressing an issue, quarrelling with hon. Members while trying to seek for answers has been lifted off the shoulder of that Minister. So, it happens that we are giving reprieve to Ministers and punishment to the Questioner.

So, in essence, this is a reprieve to the Minister and a punishment to the Questioner. So, when you are giving a ruling, please, try to see whether you can address this issue.

Mr. Speaker: Order, the Member for Bura! I have heard you and I will address that matter in the directions that I will give.

Mr. Duale: Mr. Speaker, Sir, I want to support my colleague, hon. Khalwale, in taking up this matter because the issue of the Mombasa Republican Council---

Mr. Speaker: Order, the Member for Dujis! I think I have addressed myself to that part. The matter is urgent and the House has said so. There was an undertaking by the Rt. Hon. Prime Minister that because the matter was urgent and important, he was going to come and give his Statement today but he has not done so today.

Mr. Duale: Mr. Speaker, Sir---

Mr. Speaker: Order, the Member for Dujis! First, you are out of order and you know what I should do.

The Minister of State for Provincial Administration and Internal Security, there is an aspect that was raised by the Member for Turkana Central; whether or not you are prepared to consider taking over this matter and issuing a Statement.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I have no problem at all with delivering that Statement provided we can do so tomorrow.

An hon. Member: The one on the Mombasa Republican Council?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Yes, the Statement on the Mombasa Republican Council.

Mr. Speaker: Prof. Saitoti, could you just restate what you have said?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, unless I misunderstood you, the question was whether I was prepared to come and deliver a Statement on the Mombasa Republican Council. I said "Yes" I will do that tomorrow.

Mr. Speaker: Very well! We will be prepared to take that. If you can make the Statement, that is fine because it is an urgent matter.

The Minister for Education (Prof. Ongeri): Mr. Speaker, Sir, in view of the new development, would I now be in order to be absolved from being a messenger to the Prime Minister because the issue seems to have been resolved amicably?

(Laughter)

Mr. Speaker: Order, Prof. Ongeri! You will not be absolved. I will still expect you to convey that message to the Rt. Hon. Prime Minister. I will give directions on the matter on Wednesday as I intimated.

(Mr. Ethuro stood up in his place)

What is it, Member for Turkana Central? That must be the last intervention on this matter.

Mr. Ethuro: Mr. Speaker, Sir, this is a minor one. While we welcome the undertaking by hon. Prof. Saitoti to comment on this matter tomorrow, the question you had directed to Prof. Saitoti was that he addresses my concern under Standing Order No.43 but he has not addressed that matter.

Mr. Speaker: Order! In fact, it was not you. It was just by default that I mentioned the Member for Turkana Central. In fact, it is a matter that originated from the Member for Ikolomani. The Member for Ikolomani asked whether we could step up the matter from the Rt. Hon. Prime Minister and let the Minister of State for Provincial Administration and Internal Security respond, which the Minister has very magnanimously agreed to do tomorrow afternoon. We are taking him on. We will receive the Statement tomorrow in the afternoon.

(Mr. Baiya stood up in his place)

Mr. Speaker: Order! The Member for Githunguri, I am afraid we must move away from that matter now.

Next Order!

POINTS OF ORDER

DEPORTATION OF ISLAMIC SCHOLAR

Mr. Speaker: Are there any Statements due for delivery? Is there a quick one?

Mr. Duale: On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Minister of State for Immigration and Registration of Persons on the deportation of an Islamic Scholar. The Minister was to issue the Statement yesterday but it was not issued and today I am not seeing him. I need your direction.

Mr. Speaker: Say that again.

Mr. Duale: Mr. Speaker, Sir, last week, I sought a Ministerial Statement from the Minister of State for Immigration and Registration of Persons on the deportation of an Islamic scholar. The Minister undertook to bring that Statement yesterday but it never happened. Today, I am here but I am not seeing the Minister. I need your direction on that.

Mr. Speaker: Very well! Do we have anybody from the Office of Leader of Government Business who can speak for the Government?

Is there a Minister who followed what the Member for Dujis raised? A statement that was expected from the Minister of State for Immigration and Registration of Persons should have come today and the Minister is not here. Is there any Minister who will hold his brief?

The Minister of State for the Development of North Eastern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, I undertake to inform the hon. Minister and ensure that the Statement is delivered next week on Wednesday.

Mr. Speaker: This is an urgent matter. I want to direct that that Statement is delivered tomorrow!

The Minister of State for the Development of North Eastern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, I will ensure that they get the word.

FAILURE BY ACTING MINISTER FOR FINANCE TO
DELIVER PENDING MINISTERIAL STATEMENTS

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Yesterday, you will remember that the Minister for Finance was directed by the Chair to bring all the statements that are due, including mine to this House this morning but he failed to do so. I have a feeling that this Minister does not want to bring the statements that we ask for in this House. I would like to request the Chair to help the Members who have asked for these statements.

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

Mr. Speaker: Order, the Member for Kisumu Town East! I will not take further intervention on that matter.

Hon. Members, I am satisfied that the conduct of the Minister for Finance amounts to gross disorder, more so because he, himself made an undertaking yesterday that he would be in a position to deliver all his statements as are due this morning. In fact, the Minister asserted that all those statements have been ready and it is the House that had not had the time for him. So, I find that conduct to be grossly out of order. I will want to hear the Minister as soon as he is available in the House before I mete out sanctions. I assure you that if I do not get a satisfactory explanation, I must mete out serious sanctions.

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

Mr. Speaker: Order, the Member for Gwassi! That should rest there. I will wait until the Minister is here. If I do not have any tangible explanation, I will mete out sanctions that may be different from just barring the Minister from transacting business.

BORROWING TO CUSHION DEPRECIATING KENYA SHILLING

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. In the month of October, I requested for a Ministerial Statement from the Minister for Finance. This was in respect of the borrowing that was being done to cushion the depreciating Kenya Shilling. Up to now, the Statement has not been delivered. For how long should I continue to wait? I raised a similar concern last week and they promised to deliver the Statement any time this week but I can see that the week is ending tomorrow and I do not see it coming. Could I be guided accordingly?

Mr. Speaker: What area was it again, the Member for Nyakach?

Mr. Ochieng: Mr. Speaker, Sir, it was about the borrowing that the Ministry was doing to cushion the shilling that was depreciating by that time.

Mr. Speaker: Order! Hon. Members, I do not see the Minister for Finance here, nor the Assistant Minister. Hon. Nguyai, sometimes you act on their behalf. Where are you? The Deputy Prime Minister and Minister for Local Government, now that you are in the House, you are the senior most. When will your Minister deliver that Statement?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I will convey that he makes the delivery of that Statement tomorrow afternoon.

Mr. Speaker: Very well! It will be expected then.

Mr. Mbadi: Mr. Speaker, Sir, I just want to remind the Chair that today, I was expecting a ruling---

Mr. Speaker: Order! Order! I am aware of that. The Communication, in fact, is ready. But you notice that I spent some 32 minutes delivering Communications from the Chair. It would have been an over-kill if I went on to deliver yet another one and spent another 15 minutes. It is just optimal use of our time, which I keep on reiterating every so often. It will be delivered tomorrow afternoon.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I am also rising to do “a reminder of a reminder” on a Ministerial Statement that I sought on noise pollution by the Lions Eye Hospital in Loresho.

Mr. Speaker, Sir, I thought this Government would take issues of pollution very seriously. I sought the Statement last year and, up to now, I am yet to get an answer. The neighbours cannot sleep because the hospital is engaging in social events and playing loud music.

Mr. Speaker: Order! Currently, there is nobody from the Ministry of Environment and Mineral Resources.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I am sure that we will all appreciate that the circumstances under the Ministry of Environment and Mineral Resources are a bit unique. So, I would really request that I will---

Mr. Speaker: Order, Deputy Prime Minister! The Member for Turkana Central did say, even as he prompted the House, that he requested for that Statement last year. Last year, surely, cannot be relevant to what is happening now at the Ministry of Environment and Mineral Resources.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, following your direction, I was going to say that I will convey this information, so that the Assistant Minister in the Ministry can come here and deliver that Statement on Tuesday next week.

Mr. Speaker: Very well! It is so directed. Member for Turkana Central, please, note. Tuesday next week!

Next Order!

MOTION

ADOPTION OF REPORT ON DECLINE OF KENYA SHILLING

THAT, this House adopts the Report of the Parliamentary Select Committee on the 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 6.3.2012)

Mr. Speaker: Hon. Langat, you still had 15 minutes!

Mr. Langat: Mr. Speaker, Sir, yesterday, when we interrupted the debate, I was in the process of saying that when the Governor of Central Bank of Kenya (CBK) was explaining himself, we asked him: “Does the CBK have standards on what needs to be done at a given time?” For example, in the stock market, if the prices of any share were to rise or fall below some amount, then the Capital Markets Authority (CMA) will respond. Apparently, at CBK, we do not have those standards. No wonder at some point, the Governor of CBK was saying: “We are not going to respond or intervene against the problems affecting the Kenya Shilling.” At some point, he was also saying that some banks were hoarding dollars. Clearly, that is a Central Bank that does not have standards and benchmarks to measure and detect problems.

Mr. Speaker, Sir, we expect the CBK, being one of the top parastatals, to have professionals, systems and mechanisms of anticipating problems in the market. Even if we excuse them for failing to anticipate the problem, there is no way we can also excuse them for reacting too late. When you look at the reaction by the CBK, you will see an institution that is firefighting. They were issuing circulars day after day and week after week. In the process, the market was confused and some opportunists took advantage. I agree with one of my colleagues who said that we pay the Governor and staff of CBK so that they can monitor the market and advise the Minister for Finance and the market in general, about the happenings in the market.

Mr. Speaker, Sir, I want to agree with what the acting Finance Minister said; that we cannot blame the CBK alone. I want to agree with him because even when you look at our Report, we are in agreement with that. For example, the fiscal arm of the Government which is the Ministry of Finance has issues to resolve. We have always been saying that we need to address the food problem in this country. But, unfortunately, at the time of trying to address the problem, no funding is proposed for the farmers. We want to address issues of fertilizer and prices of seed but, unfortunately, no money has been provided. But when there is hunger, we are very ready to provide money and get dollars to import food. We are in an economy where even toothpicks are imported in this country. I think the fiscal arm of the Government should also bear the responsibility so that, in the long-term, we should be able to see our Shilling stabilizing.

Mr. Speaker, Sir, the Ministry of Finance, together with the CBK, must have a working formula. That is because our Committee noted, for example, that the CBK may not even have been aware that it should have intervened at some point. Therefore, I want to propose that the CBK and the Ministry of Finance must also have a clear working relationship, so that whenever there are problems, they can be addressed in good time.

Mr. Speaker, Sir, I support this Report. I want to agree that the banks also took advantage of the borrowing window. None other than the Governor himself said that, ordinarily, the Central Bank Rate (CBR) should always be higher than the inter-bank rate. But, unfortunately, in the month of November, 2011, at most times, the inter-bank rate was higher than the CBR rate by a huge margin of 8 per cent and 9 per cent. Given the responses that the CBK was issuing, it was possible for Bank “A” to borrow money from CBK at 22 per cent and lend it inter-bank at the rate of 30 per cent, and still make 8 per cent the same day using Government money.

Mr. Speaker, Sir, it is also possible that banks could borrow from the CBK and buy Treasury Bills (TBs) with that money because at some point the TB rates were higher than the CBKR rates. Therefore, we expect the CBK to be a bank that is strategic and which is able to foretell the problems in the market, and not be a bank which is reactive, and which reacts very late.

Therefore, I support the Report of the Committee.

Thank you very much.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, what is critical in this Report is that we need to ask ourselves what the responsibility of the CBK was. The second question we should ask ourselves is what the Governor of the CBK should have done. Under the circumstances, the Report says very clearly that the CBK opened the window, which is normal. Central banks all over the world lend money to commercial banks because a central bank is the lender of the last resort.

The Committee went out and found that this money was actually given at a rate that was lower than the inter-bank rates. We need to ask ourselves, as Members of this House, why the Governor made that decision. Did he make that decision because it was prudent or did he make that decision because it was the right thing to do at the time? If commercial banks took this position, where they borrowed Government money from the CBK and bought TBs at rates which were going to become advantageous to them, in the process causing the Kenya Shilling to spiral down to an extent of losing value by 20-30 per cent, to me, there is an issue touching on the credibility of the Governor of the CBK.

Mr. Speaker, Sir, any economics student will tell you that the role of the CBK is to manage the micro policy of the country. I believe that, under the circumstances, the responsibility of this House is to ask ourselves whether the Governor of the CBK managed the micro policy of this country for the Kenyan Government not to lose in terms of the ordinary mwananchi being unable to purchase the very basic necessities for his survival.

Finally, when the Kenyan Shilling spiralled to Kshs110 to the US Dollar, what did that mean to those of us importing goods into this country? Was that purely an accident or was it by design? From what the Report shows, this was by design. If this decision was taken purely by the Governor of the CBK himself---

Mr. Speaker, Sir, I know that under the micro policy of the CBK, there is a committee which handles this matter and which deals with it. Did this committee sit? In the Report, I have not seen whether the House Committee actually consulted the committee that handles the micro policy in terms of interest rates and money circulation in the economy. My argument is that if that was what happened and the CBK Governor made a decision that caused the Kenya Shilling to lose value against major currencies of the world, then there was something wrong.

Finally, my argument is very simple. I saw yesterday in the Press one of the executives of the banks said that it was not Kshs600 billion. I was happy that the Chairman actually said that this money was cumulative. Over a period of two months, there was a cumulative value of over Kshs600 billion; this was Kenya Government's money, which the banks used in speculation and made Kshs28 billion. If this is what happened and evidence has been provided by the Committee, then there was something terribly wrong about our monetary policy at the CBK.

With those remarks, I beg to support.

Mr. Okemo: Mr. Speaker, Sir, I thank you very much for giving me the opportunity. I would like to make my contribution to this debate, but first I would like to announce that I am a Member of the Committee, and I would like to apologise that I managed to attend only one meeting. However, I have been able to read the Report. The Report contains a lot of good issues.

The Committee has actually interrogated the matter very thoroughly. The facts that are in the Report are facts that have come from various experts. However, having looked at the facts that are contained in the body of the Report and the conclusions, I have a problem. The conclusions do not seem to tie-up with what I see in the body of the Report. I will say why.

Mr. Speaker, Sir, when you look at the state of the economy and the problems that we faced in September/October, 2011, when the country was going through this emergency, you have to look at the fiscal policy stance and the monetary policy stance at the time. You have to look at the two together to be able to determine whether the state of the economy was healthy or not. I just want to isolate three issues, which are the three macro-economic variables – inflation, interest rates and exchange rates. These are the three critical macro-economic variables, which we must look at.

At any point in time, the fiscal policy and the monetary policy are impacting on those three economic variables. The Report has talked about the Current Account deficit. When you talk about the Current Account deficit, you are talking about imports and exports. So, what are the factors that have been in play all the time, even prior to the emergency, in terms of exports and imports? Imports have continued to impact on the economy negatively because there has been no form of control. Therefore, all kinds of imports, including non-essential items, have come in. That is a fiscal consideration.

Mr. Speaker, Sir, the export revenue has continued to be eroded. If imports have continued to go up and exports revenue has continued to come down, it means that day by day, the pressure on the balance of payments continues to increase in the context of the three economic variables – inflation, interest rates and exchange rates. It is not true to say that the problems that existed before do not exist today and, therefore, there is no problem. In fact, the problem is continuous.

We must, first of all, look at the 2008 to 2011 situation. We started off with drought, post-election violence and many other things. So, the economy was actually in a form of recession. Therefore, the fiscal policy stance of the Government was to revive the economy. Reviving the economy means that you had to have an expansionary fiscal policy, where you do budget deficit financing, meaning implementation of infrastructure and other development projects, including the very popular Economic Stimulus Programmes. If you look at the facts of what has happened up to today, it should actually have been stopped in 2010/2011, but it was a very popular move.

It was very popular in terms of Members of Parliament and our constituencies because these projects added value to the constituents.

Mr. Speaker, Sir, as that went on, what was the monetary stance at the same time? The CBK was accommodative. It reduced Treasury Bills rates from 7 per cent to 3 per cent and kept them artificially low at that level. The idea was to force commercial banks to lower their interest rates, so that they could expand credit to stimulate the economy. That went on until the credit expansion became so big that the liquidity was too high. In fact, the creation of credit during the same period was about 38 per cent to 40 per cent

increase meaning that all the banks were flush with cash. The liquidity was extremely high. Even by 2010, the liquidity was still extremely high.

As that went on, the collection of revenue by the Government as the Government expenditure there was a big gap creating a big budget deficit. If there is a big budget deficit that means there is pressure. That means we are spending more than we are collecting. That money has to come from somewhere. Some of the expenditures involved imports, which means, therefore, that if we did not get enough foreign exchange reserves-- These foreign exchange reserves will come out of exports and also capital inflows through foreign direct investments. This has an impact on the CBK because if these do not come in then the CBK does not have sufficient reserves to be able to regulate the banking sector. To be able to do that, you must have enough reserves to pour into the banking system in order to increase the supply of dollars and thereby reduce the exchange rates to keep the shilling stable.

So, this is the scenario that was under play by the time the crisis came to be. As this was continuing, the pressures were still going on. The oil prices were increasing, therefore, imports were increasing; therefore, the pressure on the shilling, inflation and the exchange rate continued. So, it is not right to say that these factors were always there and are still there; and therefore, they do not contribute because they do and they continue to do so.

Even as we are today, we are not out of the woods. In fact, if we make the mistake to relax some of the measures that have been put in place today, we can very easily go right back to where we were before the crisis. Therefore, what I am saying is that all these points are actually contained in the report. That is why I am saying it is a very good report, except I do not agree with its conclusions. However, the body of the report is good. It states the problems. It states why those problems happened. However, the conclusions are not the solution to the problem. We need to look at what the solutions to the problem should be.

Before I come to that, how---

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. With due respect to the Chairman of the Finance, Planning and Trade Committee who we remember very well how he struggled to join the Select Committee, is he in order to come to the Floor of this House and say that he does not agree with the conclusion of the report and yet he is a Member?

Mr. Okemo: Mr. Speaker, Sir, I thought in my opening remarks, I made it very clear that I was a Member of this Committee, but I did not have the opportunity to attend the sittings because I was doing other parliamentary work. I only attended one meeting. Even if I had attended, I think as a Member of Parliament, I have the right to come on the Floor here and express my views whether they agree with or conform to the Committee of which I was a Member. I think that is allowed for.

Mr. Speaker: Order, hon. Member for Nambale! Just indicate one thing to me: The report as tabled among other things must be embracing minutes of different sessions of the Committee. Are you captured in any of those minutes as being in agreement with the report? Finally, have you signed the report?

Mr. Okemo: Mr. Speaker, Sir, I have done neither. If you look at all those minutes as I said, I only attended one meeting. If you look at the report, I have not signed it. However, as a Member of Parliament, I have the freedom to now participate---

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. With hindsight, Mr. Okemo is the Chairman of the Finance, Planning and Trade Committee. When this select Committee was being constituted in this House, he struggled to be a Member of this Committee. Is it in order for him to take this House for a ride by insisting that he becomes a Member and then fails to attend the Committee's sittings and comes to contradict its report? Is he in order?

Mr. Okemo: Mr. Speaker, Sir, I think the key word here is "struggled." "struggled" means with difficulty. Yes, I was struggling with my conscience because this issue had already been seized of by the Parliamentary Committee on Finance, Planning and Trade. We had actually gone almost halfway through. However, this whole thing was hijacked by the Ad Hoc Committee. I think even in future, we need to be clear that when a matter rightly belongs to a Committee of Parliament that is where the matter belongs. The Ad Hoc Committee is doing what the Committee of Parliament ought to have done and completed. We have not even written our report. We are still halfway and we are still going to continue to pursue this matter. As far as I am concerned---

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

Mr. Speaker: Order, Member for Rangwe. You must let that matter rest there.

Mr. Okemo: I think so. Let me give my views. These views have nothing to do with the Committee. They have to do with Kenyans and the economy of this country. He cannot gag me from giving views that might contribute to the improvement of the economy. I do not think that is in order.

Mr. Speaker: Proceed, Mr. Okemo!

Mr. Okemo: Thank you, Mr. Speaker, Sir. Let me continue to make my comments.

First of all, there has been a lot of talk about the inter-bank rates and the discount window rate of the CBK. What I would like to do is to try and throw a little bit more light than has been done so far. The inter-bank rate is the window where commercial banks among themselves either lend to each other or borrow from each other. The rate that is determining the inter-bank rate is supply and demand among the banks. That is how that inter-bank rate is determined. However, the discount rate is a totally different animal. It is a window which is opened by the CBK whereby commercial banks go to the CBK to borrow as a lender of last resort. There is a formula for the inter-bank rate; it is not just done haphazardly. The rate which is charged in the discount window rate is the CBK rate plus the penalty.

I can be able to prove from the same statistics which have been offered that, that is exactly how it was. In the whole of 2010, for example, the inter-bank rate was about 1 per cent. That is a reflection of demand and supply in the inter-bank rate. This means that because the banks were awash with liquidity there was no much need to trade on the inter-bank rate. That is why the rate is so low; one to one point something per cent.

Mr. Speaker, Sir, during the same time the discount window rate was about 6 per cent which reflects the Central Bank of Kenya (CBK) rate plus the penalty. In fact, the rate was 6 per cent when the CBK rate at that time was 3 per cent and the penalty rate was 3 per cent. So, if you look at your table of all those rates for the---

Mr. Langat: On a point of order, Mr. Speaker, Sir. Is it in order for Mr. Okemo to mislead the House that the CPR rates are the inter-bank rates plus a penalty? When we

look at the statistics, on the 25th of November 2011, the inter-bank rate was 30.87 per cent. The discount window rate was 22.5 per cent---

Mr. Speaker: Order, Member for Ainamoi! 30 point what?

Mr. Langat: Mr. Speaker, Sir, on the 25th of November the daily inter-bank rate was 30.8732 per cent. On the same day the CBK rate was 22.5 per cent. If you were to use his formula, you would see that he is misleading the House.

Mr. Okemo: Mr. Speaker, Sir, obviously the hon. Member was not listening. That is not what I said and anybody who knows any economics would know that what he is saying does not make sense. I said that the lending rate in the discount window is the CBK rate plus the penalty. So, look at what the CBK rate was in November. It was 16.5 per cent. If you look at the rate of 16.5 per cent and look at what is being charged as the discount window rate, the difference is a penalty. That penalty means that because of the tight squeeze, the CBK was trying to instil discipline in the commercial banks to try and administer their liquidity efficiently. If you do not do so properly and you go there, then you have to pay the penalty. Look at all the rates from 2010 up to 2012---

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): On a point of order, Mr. Speaker, Sir. I rise on a point of order having been very moved by the sentiments of the Member for Nambale. Yesterday a Member rose on a similar point of order and asked another Member to declare some interest. I was emotionally moved remembering that I lost my first deposit of Kshs14,000 in 1984 in Kenya Finance Bank. That was immediately after completing university. That matter was casually put aside. Would I be in order, with tepidity and caution, to ask Mr. Okemo, the Member for Nambale, a very knowledgeable economist to kindly consider making a full disclosure and full interest on this matter without any prejudice to any matter that may be before some judicial process on the Floor of this House? His wisdom and intellectual prowess, if it was better utilized, we would not be facing this crisis.

Mr. Speaker: Member for Mukurweini, yes I will let the Member for Nambale respond but before he does, I want you to deal with the part where you are saying that you stood on a point of order and it was "casually put aside". That in effect, is casting aspersions on the Chair. Unless you are able to substantiate that, I am afraid that you must withdraw.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Yes, Mr. Speaker, Sir, I normally weigh my words very carefully and the statement I made was not about the point of order being raised by Kabando wa Kabando. I alluded to a point of order raised by another Member yesterday almost on a similar spirit that I have risen on today and stated the points clearly. When that point of order was raised, the Member on the Floor of the House who was asked to declare his interest did not make a full disclosure. I am not saying that the Chair then was culpable. I was laying the basis to ask Mr. Okemo to kindly make a full disclosure on the financial disclosures.

Mr. Speaker: In that case, Member for Mukurweini, you must withdraw that part. If that is your explanation, you must withdraw!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): There is no difficulty, Mr. Speaker, Sir. That point is withdrawn but the spirit lives on.

Mr. Speaker: Yes, Okay! Mr. Okemo, please, proceed!

Mr. Okemo: Mr. Speaker, Sir, I have absolutely no interest to declare. I do not have any shares in any bank in Kenya. I do not have any interest in the CBK. I am the Chairman of the Committee on Finance, Planning and Trade. I am making a contribution as a Member of Parliament and I believe that the views I am giving here could be of use to this country. I have absolutely no conflict of interest.

Mr. Speaker: Proceed then!

Mr. Okemo: Mr. Speaker, Sir, now that my trend of thought has been interfered with, let me quickly try to recollect where I was before I got interrupted. Yes, I was on the formula of the discount window.

Mr. Speaker, Sir, the figures as they appear here in the Report---

Mr. Langat: On a point of order, Mr. Speaker, Sir. I think this country is entitled to facts. I have given out the figures which were given to the Committee by the CBK. Mr. Okemo has stated that the CBK discount rate was 16 per cent in November. CBK discount rates are on a daily basis. Mr. Okemo could do very well by telling us which day the rate was 16 per cent so that we can compare with the inter-bank daily rates of that day.

Mr. Speaker: Order, Mr. Langat! That is not a valid point of order. You should have actually risen at the point where Mr. Okemo in his contribution was talking about 16 per cent. I think he cited a date. So, really, you actually want to take us back to the HANSARD. You want us to recall the HANSARD record if we are to deal with that point of order.

At the point where we are, it is not valid, I am afraid.

Mr. Okemo: Mr. Speaker, Sir, these are figures that I have actually extracted from the Report. The revised CBK rate---

Mr. Outa: On a point of order, Mr. Speaker Sir. With due respect to the hon. Member for Nambale and alluding to what the other Member has said about declaring interest, is there any interest? When listening to the presentation of the Member for Nambale, it seems there is a correlation. It is in the public domain that the Member has been in the main light of---

Mr. Speaker: Order, Member for Nyando! You know you are on a point of order. If you want Mr. Okemo to declare whether or not he has an interest in this matter beyond what the Member for Mukurweini prosecuted, then challenge him.

Note this; if you challenge him to declare whether or not he has interest and you do not have facts to prove that in fact he has interest then you will be treading on dangerous grounds.

Member for Nyando, you may therefore, proceed bearing in mind what I have told you.

Mr. Outa: Mr. Speaker, Sir, this is a very serious matter and you know for sure there are many Kenyans who are suffering now because of this situation. When the Member was asked to declare his interest, he did not state so. That is why I am asking him to declare his interest since we know that the officers who are investigating fraud cases in banks are from the CBK. Is there any correlation in this matter?

Mr. Okemo: Mr. Speaker, Sir, I do not quite understand the use of the terminology "correlation". As I said, I have no interest in any commercial bank. I have no interest in CBK either. So, if there is interest that is known then, let somebody come and say it. I do not see the matter here. I think the intention here is to derail me from my

argument and contribution, so that I lose my trend of thoughts and maybe, I do not prosecute.

Mr. Speaker, Sir, the inter-bank rate is determined by demand and supply in the inter-bank market; that is, lending and borrowing. Nonetheless, the discount window is determined by the Central Bank rate plus a penalty. I would like hon. Langat to listen. In October, the CBK rate was increased to 11 per cent. So, begin looking at that table and look at the discount window rate and you will see that it is above 11 per cent. You will see the corresponding table; you will see that the discount rate from November up to December was 16.5 plus the penalty. If you look at the CBK rate in December, at the beginning of December it was 18 per cent. So, if you look at the discount rate, the interest rate which was being charged there is 18 plus the penalty because it is actually 22.5, then it comes to 24 per cent. That is what it is right up to today. So, what I am saying is that the interest rate charged in inter-bank market and interest rate charged in the discount market are two different things.

Mr. Speaker: Order! Your time is up!

Member for Kandara!

Mr. James Maina Kamau: Thank you, Mr. Speaker, Sir, for giving me this chance to oppose the Report---

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

Mr. Speaker: What is it, Member for Gem!

Mr. Midiwo: Mr. Speaker, Sir, given the interest in that matter, could I ask that we limit our contributions to like five minutes, so that as many Members as possible can contribute?

Mr. Speaker: Order! For the time being, given the complexity of the matter, I would still allow each Member, at least, ten minutes so that they can articulate their issues.

Proceed, Member for Kandara.

Mr. James Maina Kamau: Thank you, Mr. Speaker, Sir, for giving me this chance to oppose the adoption of this Report.

Mr. Speaker, Sir, I find it very strange for the Committee to have come up with a report which is actually singling out one individual and subjecting him almost to mob justice. It is common knowledge that throughout the world there was a crisis.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

We had what was called financial instability in the world. For anybody to have thought that one person is the cause of all these, it was actually a misplaced idea. It was ignorance of issues. A member yesterday implied that---

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

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

Mr. Midiwo: Mr. Speaker, Sir, did you just hear the Member for Kandara refer to Committee Members, me included as ignorant and that is why we included the name of Prof. Njuguna Ndung'u? Would that be in order? I do not think I am that ignorant. I think

that is not the right language to use on hon. Members of Parliament. I am not ignorant myself.

Mr. Deputy Speaker: Hon. Member for Kandara, could you give your own contribution without necessarily getting----

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, I will continue with my contribution. What I was saying is that there were crisis all over Europe. There was euro zone crisis. Everybody knows what it was all about---

Mr. Keynan: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. James Maina Kamau to evade the very legitimate point of order by hon. Midiwo by referring to the Members of this Committee as ignorant when I know he is a former councillor and I am Ph.D student? Could he put his CV here to prove that he has any educational testimonials before he refers to us as ignorant people?

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, I do not know what the hon. Member is talking about here. I hold Bachelor's Degree in Political Science. So, I do not know what he is talking about here. Being a councillor does not mean I have never gone to school.

(Applause)

We did not come to discuss CVs----

Mr. Deputy Speaker: Order! You are not being of any help to the position or contributions you wish to make on this Report. Could you proceed and prosecute the report?

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, hon. Keynan does not want me to discuss these issues. I want to discuss what I want because I have my points here.

Mr. Deputy Speaker, Sir, we had the euro zone crisis. Everybody knows what was sweeping across Europe. Therefore, for somebody to say that the euro crisis that was in the UK could not affect Kenyans, it is unfair. We know we are part of the international community. A crisis in the middle of Europe, a Kenyan must feel it. Even crisis in the furthest part of America, a Kenyan must feel it. Why? We belong to the international community. We do not do business with animals, but with people. So, the euro zone crisis actually contributed to most of these problems that we have in this country.

Mr. Deputy Speaker, Sir, somebody said here and I agree with him that we are not yet out of the woods. The country has a problem because of over reliance on imports. We know that we import things that we should not be importing in this country. We import things like beans and medicine. I know, for sure, we have capability of manufacturing medicine. We have a lot of natural resources and raw materials. We do not need to import things like spare parts when we have Numerical Machines at the Kenya Railways. So, if we do not change the way of managing our economy, I am afraid, we shall not get out of this problem any time soon.

So, these are the things which contributed to the collapse of the shillings. I have said many times here, the crumbling of the shilling has not happened for the first time in this country. It has happened before. When it happened we did not go for the throat of the Governor of the time. We managed it and he is now alive. We have had the crumbling of the Indian Rupee. We have had also crumbling of the South African Rand. People of those countries did not go for throats of their Governors.

Mr. Deputy Speaker, Sir, our Governor is a very qualified person. I think we should even commend him for rising to the occasion and coming up with the ideas to save our shilling. They are now even condemning him saying he is not qualified. The Governor we have here is highly qualified in that profession. Saying we will sack him, we will not be saving the situation. Unless we are looking for an angel---

Mr. Outa: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the hon. Member on the Floor, could he kindly slow down a little bit so that we can understand as we listen to his contribution?

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, if that amounts to a point of order, I do not see what is out of order here. Maybe I will speak slowly, but I speak very fast because time does not allow me to be here forever. So, I want to utilize my time fully.

Mr. Deputy Speaker, Sir, in my opinion, the Committee should have come up with new policies. I have said time and again, as long as we do not go into manufacturing, we are not getting anywhere. Heaping all the problems on the Governor is not fair. Why do we not commend him when he does good things?

Mr. Deputy Speaker, Sir, I do not intend to talk for long. I beg to oppose---

Mr. Mbuvi: Jambo la Nidhamu, Bw. Naibu Spika. Hili ni suala ambalo limewaadhiri Wakenya wengi. Wakenya wengi wamenyang'anywa nyumba, mashamba, biashara zao na mabenki. Je, huyu Mbunge hayuko sawa kumsifusifu Gavana; hizi shida zote ni Gavana wa kulaumiwa. Niko na ripoti hapa kutoka kwa mtandao ambayo ilitayarishwa na watu wa Reuters, na ambayo inamonyesha huyu Gavana wetu kuwa Gavana anayeshikilia mkia barani Africa; hii ndiyo ripoti.

(Mr. Mbuvi laid the document on the Table)

Bw. Naibu Spika, isitoshe, jina la Kenya ni kubwa kushinda jina la huyu Gavana. Kutokana na ripoti ambayo nimetoa tunamomba huyu Gavana ajiuzulu kazi kwa sababu kazi imemshinda na Rais na Makamu wa Rais wamchague Gavana mwingine kwa sababu---

Mr. Deputy Speaker: Order! Mhe Mbuvi unasimama kwa jambo la nidhamu maanake kama nidhamu imekiukwa. Ungesema kitu ambacho Mbunge wa Kandara alikuwa amekiuka. Hujaeleza jambo alilokiuka mbunge wa Kandara.

Mr. Mbuvi: Bw. Naibu Spika nilisimama kwa sababu mbunge mwenzangu amemsifu Gavana asana.

Mr. Deputy Speaker: Hayo yalikuwa maoni yake, na si kumaanisha kwamba alikiuka nidhamu. Wewe utapata nafasi useme maoni yako.

Endelea, mbunge wa Kandara.

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow) : On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: On the same?

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow) : Yes, Sir.

Mr. Deputy Speaker: This has already been disposed of. Proceed, hon. Kamau. Hon. James Maina Kamau needs his time!

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, thank you for protecting me because they want me to forget what I am saying here.

What I am saying is that while all these things were going on, there was panic in this country. I am not an economist but I know that when the demand of anything is more than the supply, everybody knows what happens. When there was panic buying everybody started buying dollars, because that was the only currency that was used in trading in the world. That also created shortage of this currency and there was a crisis as a result of that.

Mr. Deputy Speaker, Sir, to conclude this issue, I want to ask the fellows who are prospecting for oil in this country to accelerate whatever they are doing, so that we have our own oil, and we do not over-rely on importation of oil; doing this is very expensive and is depleting our foreign currency reserve.

I beg to oppose the adoption of the Report.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Deputy Speaker, Sir, thank you for giving me a chance to contribute to this Report. From the word go, I want to say that I support this Report. Number two, I want the hon. Members to refer to page 77 of the Report and let us go through how banks were borrowing money from the Central Bank of Kenya (CBK).

Mr. Deputy Speaker, Sir, in 2010 the Kenya Commercial Bank (KCB) took Kshs0.96 billion. In 2011, the KCB took Kshs148 billion. I want to explain this. This is like an overdraft facility. The overdraft facility is not backed by any asset. The meaning here is this: When the KCB went to borrow this money from the CBK, Kshs148 billion was released to the Kenyan economy. This money was paper money. It was printing money. Hon. Members, we must be serious and understand what we are talking about when we are in Parliament and we are here to represent people.

Mr. Deputy Speaker, Sir, I want to go through the Report. Prof. Ndung'u was my classmate in the university and he was an intelligent man. I have a basic degree in economics and he has a Ph.D Degree. Are we saying that this man did not understand the meaning of allowing a bank to over borrow severally Kshs148 billion, which went into the Kenyan economy? What is the meaning of that?

Mr. Deputy Speaker, Sir, we come to Barclays Bank. In 2010, they borrowed Ksh2.3 billion. In 2011, they borrowed Kshs148 billion. This money was released to the Kenyan economy. We are saying it led to inflation. We are saying it was because of oil. It was printing of money through the CBK. There is no difference between the action of the CBK and the Goldenberg scandal. The difference here is that in Goldenberg the CBK did not function. People were paid money and there was no gold; it was illegal. In this case, people were paid money by the CBK when there was no back up; some people---

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Deputy Speaker, Sir. You heard the hon. Member on the Floor alluding to the fact that the CBK printed money. Could he table that evidence?

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Yes, Mr. Deputy Speaker, Sir. I will refer you kindly to page 77 of the Report if you have it. I have said that the KCB, through the CBK window borrowing, took Kshs0.96 billion. In 2011, through window borrowing, which means that it did not provide security – the money was not secured. The bank was over trading. The bank had no deposits to balance their books. They went to the CBK to assist them to balance their books.

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I think we must stand as leaders in this country by facts that we state. I want to speak for institutions that cannot speak for themselves, including Barclays Bank of Kenya; I want to declare my interest. I am a senior customer there. Borrowing from the discount window is not a crime. Borrowing through the discount window, whether by Citi Bank or the smallest bank, is not a crime. Somebody should explain how that was abused and what it led to. We should not just say that Barclays Bank borrowed this and CFC Bank borrowed this. As we speak here today, they are borrowing and the law allows them to do that.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Deputy Speaker, Sir, what I am saying here is that the law allows the banks to borrow, but that borrowing should be used judiciously by the CBK; in this case it was used in a manner--- The data is here. The bank in 2011 borrowed 148 per cent times higher.

Coming to Co-operative Bank in 2010, they borrowed Kshs2.2 billion. In 2011, they borrowed Kshs186 billion. There was something wrong in the banking sector. We need help.

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Deputy Speaker, Sir. I rose on a point of order to ask the contributor to show us where in this Report there is any evidence of CBK printing money for the purpose of giving it out as loans. I think he has not been able to do that. Is he in order?

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Deputy Speaker, Sir, unfortunately I cannot teach him economics. What I am saying here is---

Mr. Mwadeghu: On a point of information, Mr. Deputy Speaker, Sir. Those of us who have had the privilege of working with CBK do know very well that what the hon. Member is saying is that opening that window and allowing it to be misused the way it was misused was equivalent to printing money. That is all he is saying.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Thank you for that point of information.

The money came out into the market. There was a lot of money chasing very few goods in the market. What was the effect of having so much liquidity without balancing assets?

There will be many people borrowing and importing and in the end, what do we get? Because of overheating the economy by the actions of the Central Bank, the net effect here is that the foreign exchange went up. Another thing that you want to know is who the customers of these banks which were allowed overnight borrowing were. Who benefitted? This Report should be passed so that a proper committee is selected to give clear information as to who caused what and who benefited from what. These overnight borrowing which affected the economy, were they for the banks to benefit themselves or was this money used by the Kenya Government to build, for example, Parliament? Was this money used by the Kenya Government to do the Thika Road? The information will be available as to who benefited from this expansion policy in the market. This Report should be approved, so that we can get a committee to analyze it and give us direction.

What is the effect of this? As a result of the mistake made by the Governor by allowing banks to over trade - I may use that term because that is what they did - we had more money, exchange rates shot up and interest rates went up because of the foreign currencies. This was caused by the Central Bank. The captain of the Central Bank is one man who must take responsibility, namely, Mr. Ndung'u. If a team is doing poorly, the

coach should take responsibility. For example, the other day Gor Mahia and Chelsea football clubs sacked their coaches because they were not achieving the results for their teams. The Governor has not done for the nation what he is supposed to do. The effect of this is that we are now experiencing high interest rates. Where we could do one class for Kshs500,000, we are now spending Kshs700, 000. This is because of one man who is the Governor of Central Bank who is allowing a few banks to enjoy overnight borrowing.

Mr. Gaichuhie: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this Member to keep on misleading Kenyans that overnight lending is just misused by the banks while we know that for a bank to be allowed to access overnight borrowing, they have to have Treasury Bills and Bonds? So, the Member is misleading Kenyans that overnight lending is misused. It is not misused because the banks have to have Treasury Bills and Bonds to secure that.

The Assistant Minister for Trade (Mr. Oyongo-Nyamweya): Mr. Deputy Speaker, Sir, I can explain that. When you go for overnight borrowing, it means that your deposits cannot balance your books. So, it means that at that moment, you do not have cash. That is why you go there.

Mr. Gaichuhie: On a point of order, Mr. Deputy Speaker, Sir. Treasury Bills---

The Assistant Minister for Trade (Mr. Oyongo-Nyamweya): Mr. Deputy Speaker, Sir, the Member has not been given a chance to speak. He is interrupting my time.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, I have been given by the Chair. It is the Chair who directs the House and not Members.

Mr. Deputy Speaker: Order, hon. Gaichuhie!

Mr. M.M. Ali: On a point of information, Mr. Deputy Speaker, Sir. Thank you for giving me this opportunity to contribute to this important subject.

The Assistant Minister for Trade (Mr. Oyongo-Nyamweya): Mr. Deputy Speaker, Sir, the Member is out of order because he wants to contribute and I am on the Floor.

Mr. M.M. Ali: Yes, I thought your time is over. The Chair knows what he is doing.

Mr. Deputy Speaker: Order, hon. Nyamweya, you ran out of time. You support the Report. Proceed, hon. M.M. Ali.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, what is before us is a very important matter. We are here to prosecute the Select Committee's Report on reasons why the Kenya Shilling declined. This has had a lot of effects. We know too well that our economy has a lot of problems and we need to address them very seriously. As such, we cannot handle this matter. Personally, I read the Report quite well, I have acquainted myself with the Report properly and I agree with it to a large extent. However, I have a big problem when it comes to recommendations of the Committee. When we are talking about reasons why the Kenya Shilling declined and we have documented it properly, then we reduce it to an individual, I have a problem with that.

Market forces regulate exchange rates and not individuals. These market forces are guided by demand and supply in the market. The important supply and demand aspects that we consider are exports and imports of a particular country. When you import more than you export, then you know that the currency of that particular country is in a problem.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. When the Member rose to speak, he said that the problem he has is because the recommendations of the Committee have been narrowed down to an individual. Is he in order to mislead this House that---

Mr. Deputy Speaker: It is an opinion! Allow him to proceed!

Mr. Mbadi: Mr. Deputy Speaker, Sir, allow me to make my point.

Mr. Deputy Speaker: Order, hon. Mbadi! Order! You will have your moment, hon. Mbadi! It is an opinion. Proceed!

Mr. M.M. Ali: Thank you, Mr. Deputy Speaker, Sir. I have noted that there are serious effects by---

Mr. Deputy Speaker: Order! Proceed and maintain your relevance on the matter.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I was saying that imports and exports of a particular country dictate the strength of that currency. We know it too well that our imports well outweigh our exports and that has a bearing on the Kenyan currency. For example, in November last year during the Euro crisis, we know too well that many other currencies other than the Kenyan currency were affected. The countries which were affected had the same problems. The export that we did was only US\$760 million while our imports stood at US\$1.453 billion. This gave us a deficit of US\$693 million. That means that we imported to the tune of US\$693 million worth of goods. This has a bearing on the shilling.

The prices of oil had gone up drastically. During the same period, the cost of fuel imports rose from 19 per cent of the total imports in January, 2011 to a peak of 31 per cent in October the same year. This is because of the increase in prices of fuel. This directly had a bearing on the weakening of the Kenya Shilling. During the same period, and it is in public domain, the Euro crisis contributed greatly to major currencies being affected.

It affected the whole Continent. It included the South African Rand, which is a stronger currency than the Kenya Shilling. At that time, the Kenya Shilling depreciated by 19.7 per cent while the South African Rand depreciated by 20.6 per cent. The Uganda Shilling depreciated by 20.3 per cent. It also affected the Indian Rupee and so was the Nigerian Naira. I have not heard those countries discussing their governors. They have not reduced the debate to say that the governors are responsible for those depreciations.

(Applause)

Mr. Deputy Speaker, Sir, this is a global phenomenon. We should not allow ourselves to target---

Mr. Ochieng: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House? The Uganda Shilling is still depreciating up to today, while the Kenya Shilling is appreciating? Is he in order to mislead the House?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, actually, I said at that time. I gave comparisons between the Kenya Shilling and other currencies which were equally affected. That is common knowledge to everybody. We should say that we must commend our Governor because the Shilling now is appreciating. So, in as far as the recommendations of the Committee are concerned, they target an individual. We must

stop this business. Kenyans have started thinking very seriously about every committee in this House. Whenever a Committee---

Mr. Keynan: On a point of order Mr. Deputy Speaker, Sir. I have heard the hon. Member repeatedly say that the recommendations target an individual. For purposes of clarity, I want him to refer to – so that we know what we are talking about – page 71. The Committee made five recommendations. The first one, so that the hon. Member really understands the import of what he is saying, is monetary policy. I want him to interrogate and familiarize himself with what monetary policy means. The second one is legal amendments. The third one is supervisory oversight of the institution. The fourth one is fiscal policy. So, it is wrong and erroneous for the hon. Member to keep on saying that the Committee recommended on the Governor. Those are the recommendations!

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I am well aware of those many other recommendations which I have no problem with. I agree that we need sound policies to defend our economy. I agree but, in as far as we zero in on an individual, that is where I have a problem and the Governor is not responsible.

(Applause)

Hon. Members: Ah, he is not responsible?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, the Governor is not responsible. That is what I am saying!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I think it is wrong to allow the hon. Member to continue misleading this House that we are zeroing in on the Governor yet, the report is bulky, it has so many recommendations and he has even been referred to some of them and, unless he had a brief to come and protect the Governor--- Unless he had been briefed to come and protect the Governor, he should not insinuate that this House has been discussing the Governor. We are discussing the Report of the Committee which has a number of recommendations. If he has refused to see other recommendations, let him sit down.

Mr. Muthama: On a point of order, Mr. Deputy Speaker, Sir. It is very clear that those who are debating in support of this Report are supporting what is written here. Those who are opposing are out to challenge what is written here. So, there is no point to rise on a point of order seeking justification all the time. Would I be in order to say that they should sit down and listen to what we are going to challenge here? You did not write this Report to bring it here and then we accept it!

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, one of the recommendations of the Committee is that the Governor should step aside and that is what I am challenging. That is one of them! I was saying - before I was interrupted - that every other time we form a committee, Kenyans are getting worried as to who will sink with the report. Yes, committees are there to interrogate and bring prudent reports to this House, so that we can save the face of the country. We are here to support any reasonable recommendations. But when we say individuals must go, we must oppose.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am really surprised this afternoon. I thought the only professionals who normally find it difficult to converge in their thinking are lawyers. But, today, you have seen it yourself that renowned economists like Messrs. Okemo, Nyamweya and others are confusing us beyond what this Report was intended

for. I want to also submit that I am at a loss of only one thing. If the economists are unable, then who am I, a mere doctor of medicine, to understand the complexity of this matter? This matter is so complex that I have taken trouble to read the Report carefully, and I want to support this Report based on what I have read. That support is conditional! It is conditional that we must eventually pass it in support, but with relevant amendments which I want to point out. That is because it is not perfect.

(Applause)

Kenya is so big that even if you become emotional and try to put it on your head, you cannot carry it even for a quarter of a second. We want to accommodate the following recommendations: I will go straight to recommendations on pages 70 to 75 of the book. The first recommendation is monetary policy, legal amendment and fiscal policy. The easiest to deal with is the issue of legal amendments. I look at them and I see no problems. It is important that we rise to the need for us to put the House in order so that, what Kenya is going through should never be justified merely by the fact that, it is also happening elsewhere in the world. We want that if the worst happens to the world, the best happens to Kenya.

Mr. Deputy Speaker, Sir, there is a recommendation on supervisory and oversight of financial institutions, and I see no problem with it. This House should consider passing and adopting this recommendation. There is 7.3.5 on fiscal policy. This House, again, should realize that in the process of debating this Report, not only the Chair of the Committee but even hon. Members who have contributed, have completely closed their eyes on the contribution that was made by the fiscal policy for which, by the way, the players at Central Bank of Kenya (CBK) have nothing to do with it. The difficult one, which is bringing all these emotions, is the monetary policy and I want to debate as follows: I propose that we find an agreeable amendment that will cause this Report to go through.

(Applause)

Yes, I agree that the situation in Kenya was no peculiar to us. It obtained in Uganda, Nigeria, Tanzania, South Africa and even countries in the European Union. In this Report, you have given us a graph showing as much. For this reason, we cannot take the entire period of the House, three days, converting such a noble Motion into a Motion for discussing one, Prof. Ndung'u.

(Applause)

I can authoritatively say that my position on Prof. Ndung'u is known. I pronounced it over three years ago and we were supported by the Cockar Commission Report, which found that he was not fit to hold office.

(Applause)

That being the case, and because of Prof. Ndung'u, I am about to propose an amendment that might be perceived to giving him an escape window. I want to put it to the good Professor that him and I and others in this House, we have gone to school properly. He should now live with his conscience and ask himself what he really wants to do. That is because, maybe, even if we pass a Motion that says he goes, the same forces that protected them, I am sure they are still there.

So, should we fight Members of Parliament from both sides of the House to the extent that we kill this good Report because we are aiming at an individual? I beg that maybe that should not be the business of this House.

In this Report I see no evidence that the Governor withheld money; US Dollars, from the market. If the Professor had withheld foreign exchange from the market, then you would have said that he has a charge to answer. That would have been backed by evidence.

Number two, there is no evidence in this Report which shows what our National Reserve in Dollars was; whether it was enough to meet Kenya's obligations internationally. As the Chairman of the Public Accounts Committee, I know that we are still meeting our obligations in terms of KenRen, Anglo Leasing and very many other things. So, if there is no evidence showing that the Professor had enough funds to meet those obligations internationally, should we blame him or we blame the fiscal policy? I beg my brothers and sisters, the hon. Members in this House that the Governor, in my view, in this Report does not seem to have control over Government spending. Let me give you two examples. The first one, we were given an example by the hon. Minister for Finance on what happened in Rwanda. In Rwanda the shilling remained stable and he gave the reasons for the controlled exchange rates. There is another reason which I would like to refer to.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): On a point of order, Mr. Deputy Speaker, Sir.

Dr. Khalwale: I Never interrupt you!

Mr. Deputy Speaker: Are you sure it is a serious point of order?

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Yes, Mr. Deputy Speaker, Sir. The balance of forex held is available in the table in the Report tabled. That is what I wanted to inform the Member. The information he is saying is not there is there.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I thank him very much for his information. Allow me to continue debating. I was just giving the two examples. The hon. Minister for Finance told us about the case of Rwanda. The other thing he forgot---

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

Dr. Khalwale: Yes, I would like to be informed, Mr. Deputy Speaker, Sir.

Mr. Duale: Mr. Deputy Speaker, Sir, I want to inform hon. Manson Nyamweya that it is not a crime to--- I want to inform *Mheshimiwa*.

Mr. Deputy Speaker: Order! You have been in this House long enough to understand that you can only inform the Member who is contributing on the Floor of the House!

Dr. Khalwale: Mr. Deputy Speaker, Sir, it is my time. This issue of fiscal policy is one that we have to think about because who is responsible? Responsible people are not the people at the Central Bank of Kenya (CBK). So, we should not fail to apportion blame to the extent that we forget the amount of opulence by way of spending that is

being practised by the Government. For example, at the just ended Heads of State Meeting of the Commonwealth Countries, Rwanda took nine representatives including the President but Kenya took 88. By the way, the money that the 88 people were carrying was forex. It was in US Dollars.

(Applause)

So, the person on trial here should be the person who controls spending. The example of mass import of second hand *mitumba* cars and second hand *mitumba* clothes which we do not need has been raised in this House. The contribution by this poor fiscal policy should not be the reason why as an honourable House, we should be making judgment against the Governor of the CBK.

Fiscal policy depends purely on us, on the side of the Government by way of Cabinet Ministers and Permanent Secretaries. I want to simplistically look at the Governor of the CBK as a manager of a bank the way hon. Farah Mohammed goes to Kenya Commercial Bank to transact on his account. I want to believe that when you walk into the manager's office, the manager of your bank cannot dictate to you how much to draw or whether you should not draw at all. He usually leaves it at your own discretion. I want to believe that the Governor of the CBK is in charge of the CBK where banks have accounts and that unless in a case where fraud has been detected, he cannot direct a bank in respect of its account.

I beg for only one minute.

Mr. Deputy Speaker: You have half a minute.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I wanted to make conclusions. We have the issue of the law. We are attempting without realizing it to amend the Constitution of Kenya to direct the Governor of the CBK. He is cushioned by Article 231 of the Constitution and Cap. 491.

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

Mr. Deputy Speaker: Let him conclude and then you raise your point of order!

Dr. Khalwale: Mr. Deputy Speaker, Sir, let me conclude. Cap. 491 recognizes that insulation and it has created a window through which you can attempt to direct the CBK. That window does not include parliamentary action. It provides that it is the Minister who can, for a period of six months, direct the CBK to behave in a particular manner.

Finally---

Mr. Deputy Speaker: Order, you had your half a minute.

Mr. Keynan: On a point of information, Mr. Deputy Speaker, Sir. I wanted to refer Dr. Khalwale to Article 1 of the Constitution. I want to read it and this is what it says, so that these issues go clearly on the record. It says:-

“(1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.”

The input of that is that Parliamentarians have an unfettered role to oversight on any institution in the Republic of Kenya. For that matter, I want to, again, refer hon. Dr. Khalwale to Article 232(2) which lists CBK as a State corporation. The Governor under

Article 43 is a State officer and I will not read what is expected of a State officer. This is the new Constitution. We are not operating under the old Constitution.

Mr. Mwadeghu: Mr. Deputy Speaker, Sir, let me declare my interest in this matter. I am a former employee of Central Bank of Kenya (CBK) and worked there for four years.

Mr. Deputy Speaker, Sir, what is at stake here is not whether or not there have been effects on the Euro markets. The issue at hand is: Who was supposed to intervene? As far as I am concerned, banks go for inter-bank borrowing to correct their liquidity ratios. If their ratios are not proper, they will not be allowed in the clearing house. So, they go to borrow from each other. In this case, we had a discount window which was opened by CBK for commercial banks to borrow. Was there a crisis or liquidity problem? There was none. So, why was this window opened for those banks to borrow? So, they borrowed. What did they do with those funds? They ended up making colossal profits. As far as I am concerned, those were immoral profits.

Mr. Deputy Speaker, Sir, let me move to the second point. For those who are conversant with the accounting principles, let us look at what is going to happen to those banks at the end of the year. Because of the interest rates, most of the borrowers will be unable to service their loans, resulting in banks making substantial provisions in their accounts. Irrespective of the fact that they have made massive profits from that trading, the fact remains that they are going to make provisions in their accounts. The ordinary *mwananchi*, saw miller or farmer out there, who has to buy inputs, has got to pay almost twice as much because of the interest rates and prices. Is this the same person that we are protecting?

Mr. Deputy Speaker, Sir, let us look at the staff of CBK. We have had staff changes and it could be the Governor, at this particular point, missed somebody to assist him. But the truth remains that so many problems of exchange rates, interest rates and inflation are there. The CBK Governor, being an intelligent man, has intervened. But at what point did he intervene? He intervened when this Committee was set up. He should have intervened earlier and this problem would have been solved. To me, somebody has to take responsibility. He did not intervene on time and that is why he has got to own up. The problem could be that we want him to own up alone. But there are other chief executives of commercial banks who should equally be held accountable.

Mr. Deputy Speaker, Sir, finally, I wonder whether I am wrong in suggesting that one of my constituents, Mrs. Mwatela, was sacked from the CBK because of that problem. She would not have allowed it. I rest my case.

Mr. Deputy Speaker, Sir, I support the Report.

Mr. Gitari: Mr. Deputy Speaker, Sir, I would like to start my contribution by proposing an amendment to this Motion. I beg to move that the Motion be amended as follows:-

By deleting the full stop at the end thereof and inserting the following words “subject to the deletion of the recommendations in paragraphs 3.1.1(i) on page xiv and 7.3.2(i) on page 70 of the Report.

Mr. Deputy Speaker, Sir, my colleague, Dr. Khalwale, has said that we cannot demonize the whole Report. This is because the Select Committee which was working on this Report, to a certain extent, did quite a good job. But I do not agree with the fact that we tried to demonize one person in the Report. I believe that the whole House will agree

with this amendment. That is because we have reduced this Report to Prof. Ndung'u. With this amendment, I believe that we will be able to pass this Report and it will go into record. I know that all of us are interested parties because most of us have bank loans. Therefore, the Select Committee has done a very good job by proposing that the interest rates should come down.

Mr. Deputy Speaker, Sir, I beg to move and call upon my colleague, Ms. Chepchumba, to second this amendment.

Ms. Chepchumba: Mr. Deputy Speaker, Sir, I rise to second this amendment.

Mr. Deputy Speaker, Sir, there have been allegations in the Report that CBK did not react in good time. But CBK reacted in good time because there were policy measures. For instance, in March, 2011, there are some policy measures--- I will refer to page 9 of the Report. It highlights policy measures adopted by the bank to tighten liquidity and address the speculative tendencies. Other policy measures included increasing the CBR on 23rd March, 2011, from 5.75 per cent to 6 per cent, among other measures. That contradicts those allegations.

Mr. Deputy Speaker, Sir, also, there was no poor working relationship between CBK and other commercial banks. That is not the case because Kenya Bankers Association represents all the commercial banks. The decision maker is the Chief Executive Officer of the same commercial bank. I rest my case.

Mr. Deputy Speaker, Sir, I beg to second.

*(Question, that the words to be inserted
be inserted, proposed)*

Mr. Mbadi: Mr. Deputy Speaker, Sir, I rise to oppose this amendment. With this now, I get an opportunity to address some of the issues which Dr. Khalwale brought, which have led to this amendment. If you look at this Report, it talks about fiscal policies which we all agree that the Governor has no control over. But they are monetary policies. That is the primary responsibility of CBK. If you study the Report clearly, you will realize that the drastic fall in the value of the Shilling was mostly attributable to monetary policies. You cannot exonerate the Governor on that. The Governor is solely responsible for monetary policy in this country and I would want to be challenged on that.

Mr. Deputy Speaker, Sir, my concluding remark is this: The main reason why the Shilling depreciated last year was because of the conduct of the Governor. The Governor sent mixed signals to the economy by first telling Kenyans and the whole world that he could not do anything. He later changed and said that some banks were hoarding money. He later changed and said: "Now, I can do something." If you send signals like that in the financial market, you ruin it and, therefore, this Governor is incompetent and we cannot entertain him anymore.

Mr. Wambugu: Mr. Deputy Speaker, Sir, I rise to support the amendment.

Mr. Deputy Speaker, Sir, I have been listening very keenly to the debate since yesterday. Actually, from the point that the Mover started to the time he was closing, there was a very sad statement that was made. There was a debate at one time about the Donde Bill in this House and those hon. Members who never supported it were thrown out of the House. Those were the words of the Mover; that whoever was not going to support the Report, was going to be thrown out.

Mr. Deputy Speaker, Sir, first and foremost, before we even do anything else, we need to ask ourselves about the position of the Governor.

Did he act according to the law? This House is trying to do something that is against the law. Article 231(3) of the Constitution clearly reads:-

“231(3) The Central Bank of Kenya shall not be under the direction or control of any person or authority in exercise of its powers or in the performance of its functions.”

Mr. Deputy Speaker, Sir, what are we trying to do in this House? We are only trying to intimidate the Governor, who has the sole authority of performing its work.

As I support the amendment, I would like to point out that the Committee that was doing the investigations was also supposed to look into the depreciation of the shilling. When I went through this Report, I found issues that are totally irrelevant and unrelated to the shilling. There are members of various banks who, because of their positions in those institutions, could have been in a position to manipulate matters. I do not see anywhere in this Report where Equity Bank or the Chairman of the Board of the National Oil Corporation was involved.

Mr. Deputy Speaker: Order! Order, Mr. Wambugu! You just need to support the amendment, and you have done so.

Mr. Wambugu: Thank you, Mr. Deputy Speaker, Sir. I support the amendment.

Mr. Deputy Speaker: I will take two more hon. Members.

Yes, hon. Jakoyo Midiwo!

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise to oppose the amendment. I will be very quick.

Mr. Deputy Speaker, Sir, we are making a big issue out of a very small and direct issue. I see that some of my colleagues have managed to turn this whole debate into a debate about Governor Ndung'u. It is not. Let me just plead with the supporters of this Report. Please, rest assured, Governor Njuguna Ndung'u was condemned over the issue of the sale of the Grand Regency Hotel and should not be holding a public office.

As hon. Bonny Khalwale said, whether you get rid of him now or another time, he is already condemned. Those who feel that we need to keep him there should read the Report of the Departmental Committee on Finance, Planning and Trade or the Cocker Report. He is condemned. It is direct. All Kenyans know it. That is not a big issue.

Mr. Deputy Speaker, Sir, on the issue of stepping aside, if some Kenyans cannot step aside when they are found culpable, and it is the feeling of a big chunk of this House that he should remain in office, so be it. Let me tell you. Hon. Henry Kosgey has stepped aside for a very simplistic investigation to take place. I want to thank hon. Kosgey.

Hon. Moses Wetangula stepped aside for investigations to be carried out by our own very Chair. Hon. Kimunya, hon. Murungaru and hon. Mwiraria previously stepped aside to pave way for investigations to be carried out. What could be so special about one person who has driven our people into begging? All these Members of Parliament have some *boda boda* riders and *mama mboga* who borrowed money from commercial banks but are not able to repay the loans today.

It is a very embarrassing thing that a whole Member of Parliament, who is a representative of the people, cannot see that interest rates are killing our people and that somebody should take responsibility for this embarrassing situation. The Governor of the Central Bank has gotten our country---

With those remarks, I oppose.

(Several hon. Members, including Mr. Baiya, stood up in their places)

Mr. Deputy Speaker: Hon. Baiya, do you wish to contribute to the amendment or you want to raise a point of order?

Mr. Baiya: It is a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay, proceed.

Mr. Baiya: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order. Considering that I sat here yesterday and the whole of this afternoon waiting to contribute to this Motion, is it in order considering the constitutional provisions against discrimination, for the Chair to notice a Member twice before another Member has spoken?

Mr. Deputy Speaker: You have to understand that this is an amendment. The amendment is different from the Motion. Ordinarily, for imputing improper motive on the dignity of the Chair which in all circumstances has to be respected, I would have sent you, Mr. Baiya, out of the House. However, I want to be convinced that you are very slow in understanding your own practice here in the House and I will not punish you for your ignorance.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, you do agree with me that the whole of yesterday during the afternoon session we discussed this matter and today. Even this amendment is just in line with the original debate. Would I be in order to ask you to put the Question, so that this matter is decided; either we move on with the amended Motion or we revert back to the original Motion.

Mr. Deputy Speaker: Order! Ordinarily, amendments are supposed to take a very short time. That is the practice of the House and they have to be disposed of. Two hon. Members is actually the absolute maximum. But nonetheless for us to be able to dispose of, I will put the Question.

(Question, that the words to be inserted be inserted, put and negatived)

Hon. Members: Division! Division!

Mr. Deputy Speaker: Fair enough! The number justifies Division. I direct that the Division Bell be rang.

(The Division Bell was rung)

Mr. Deputy Speaker: Order! Order! Tellers for the Ayes are Messrs. Wambugu and Sirat. Noes are Messrs. Muturi Mwangi and Shakeel Shabir.

DIVISION

(Question put and the House divided)

(Question carried by 46 votes to 37)

AYES: Messrs. Affey, M.M. Ali, Baiya, Baya, Chachu, Ms. Chepchumba, Messrs. Gabbow, Gaichuhie, George Nyamweya, Gitari, Githae, Haji, Hassan, Prof. Kaloki, Messrs. Jamleck Kamau, James Maina Kamau, Kambi, Dr. Khalwale, Messrs. Kiilu, Kioni, Kiuna, Kiunjuri, Lesrima, Mbuvi, ole Metito, Mututho, Munya, Dr. Munyaka, Messrs. D.M. Muoki, Muthama, Mwakwere, Mwangi, Mwathi, Njuguna, Nguyai, Nyambati, Okemo, Ombui, Prof. Ongeru, Messrs. Otieno, Rai, Ruteere, Prof. Saitoti, Messrs. Sirat, Waititu and Wambugu.

Tellers of Ayes: Messrs. Wambugu and Sirat.

NOES: Messrs. Anyanga, M.H. Ali, Chanzu, Chepkitony, Gunda, Kathuri, Keynan, Kigen, Kiptanui, Konchella, Kosgey, Lagat, ole Lankas, Langat, Lessonet, Letimalo, Magerer, Magwanga, Midiwo, M.M. Mahamud, Mbadi, Dr. Monda, Messrs. Mwadeghu, Nanok, , Ojaamong, Ogindo, Ogari, Olago, Prof. Olweny, Dr. Otichilo, Messrs. Outa, Oyongo Nyamweya, Sambu, Shekeel, Washiali, Yinda and Zonga.

Tellers of Noes: Messrs. Shakeel and Mwangi.

ABSENTION: Nil.

Mr. Mbadi: Mr. Deputy Speaker, I rise on a point of order on two things. First, if you look at the number that is in this House, you will find that we cannot be 83. It is very obvious that there is a problem. The rules of this House demand that one person should be somebody supporting “No” and another supporting “Yes”. However, both the tellers for Ayes were supporting “Yes”.

Mr. Deputy Speaker: Order! Order! Hon. Members, the tellers are normally selected by the Whips and that is their work. But, nonetheless, you have raised a very serious issue; a matter of the integrity of the House. The Chair is not going to take it kindly; both ways. If, indeed, the numbers tally and hon. Mbadi, you have raised an issue of the integrity of your fellow colleagues here, the Chair will take very serious sanctions against you. If, on the other hand, it turns out that there was a number that was inflated or deflated, then the Chair will equally take a very serious view and make the right---

I want every hon. Member to freeze where he or she is, and ask the Clerks to move out and count now.

(Mr. Deputy Speaker consulted with the Clerk-at-the-Table)

Order! Order, hon. Members! The other option is that I am going to call out the names of every hon. Member who has voted.

Hon. Members: Yes!

Mr. Deputy Speaker: Order! Order! This is not a decision that is going to be reached by the rest of you. It is the responsibility of the Chair. As I call out your name, you will stand up and say “present.”

(Mr. Deputy Speaker called out the names of hon. Members as per the Division List)

Mr. Deputy Speaker: I will proceed to confirm the same numbers again.

(Mr. Deputy Speaker physically)

counted the numbers)

Indeed, the Chair does confirm that this is 37. Consequently, the claims made by Mr. Mbadi were wrong, out of order and not in line with the traditions of this House unless he has irrefutable absolute evidence. Under such circumstances, Mr. Mbadi, MP for Gwassi, you will stay out of this House for the remainder of tomorrow. You will only come back on Tuesday, if Parliament will still be in session.

Under the circumstances, I will order, in line with the traditions, that Bar will be opened only for you to be sent out of the House for the remainder of the day and the whole of tomorrow. The MP for Gwassi, you are a stranger in the House now.

Hon. Members: Shame! Shame!

(Mr. Mbadi withdrew from the Chamber)

Hon. Members: Put the Question.

Mr. Deputy Speaker: Order! You do not put the Question. This is now the Motion that you will debate when the House comes back. It is the tradition that when a Motion is amended, the Chair says: "I put the Question" but he will not ask for the "Ayes" or the "Noes." By now, you should know it. You have been here for many years.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, the House stands adjourned until tomorrow, Thursday, 8th March, 2012 at 2.30 p.m.

The House rose at 7.10 p.m.