

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th March, 2012

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

Mr. Deputy Speaker: Order, Mr. Mbiuki! You should at least be on this side to give a bit of a semblance to your own side of the House, that they are taking the business of the House seriously.

(Mr. Mbiuki crossed to the Government side)

QUESTIONS BY PRIVATE NOTICE

PURCHASE OF MAIZE BY NCPB IN HOLA

Ms. Karua: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that over six thousand bags of maize belonging to farmers at Hola Irrigation Scheme is in danger of contamination due to the delay and/or failure by the National Cereals and Produce Board (NCPB) to purchase the same?

(b) Is the Minister also aware that the National Irrigation Board acts as an agent for Kenya Seed Company Limited as well as the NCPB in Hola?

(c) Could the Minister consider opening an NCPB office in Hola?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of this House so that I can issue a very comprehensive answer tomorrow afternoon.

Ms. Karua: Mr. Deputy Speaker, Sir, I am disappointed because the Question was asked about one week ago, but because we need a comprehensive answer, I am agreeable and I would seek your indulgence that he answers tomorrow as he has stated.

Mr. Deputy Speaker: Fair enough! Under the circumstances, the Chair directs that this Question be listed on the Order Paper tomorrow afternoon. I hope that the Assistant Minister will be in a position to give a comprehensive answer.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Deputy Speaker, Sir, I want to assure the House that by tomorrow afternoon I will be able to give a very comprehensive answer to this Question.

(Question deferred)

Mr. Deputy Speaker: Next Question by Mr. Peter Kiilu.

CRISIS AT WOTE DISTRICT HOSPITAL

Mr. Kiilu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware of a go-slow by nurses and other medical staff in Wote District Hospital in Makueni County, which is causing a crisis in service delivery?

(b) Is the Minister also aware that the only amenity ward in the hospital, which serves the whole county, has closed down?

(c) What is the Government doing to avert the crisis?

Mr. Deputy Speaker: Where is the Minister for Medical Services?

I will come back to this Question on the second round.

Next Question by Mrs. Odhiambo-Mabona!

ORAL ANSWERS TO QUESTIONS

Question No.964

ENFORCEMENT OF SECTION 53 OF EMPLOYMENT ACT

Mr. Deputy Speaker: Next Question No.1019 by Mr. Kiuna.

Question No.1019

INSECURITY ALONG NAKURU-ELDOROT HIGHWAY

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

(a) whether he is aware of the increased cases of insecurity within Nakuru-Salgaa-Sachangwan and Mau-Summit areas along the Nakuru-Eldoret Highway; and,

(b) what action he is taking to improve security along the highway and to arrest the gangs that terrorize road users in the area.

Mr. Deputy Speaker: Minister of State for Provincial Administration and Internal Security! Where is the Government today?

Next Question No.1421 by Mr. Omondi Anyanga.

Question No.1421

DETAILS OF ACCIDENT AT MACALDER

Next Question No.1160 by Mr. Joseph Gitari.

Question No.1160

PAYMENT OF DEATH GRATUITY TO LYDIA GITHIGIA NJOGU

Next Question by Ms. Peris Chepchumba!

Question No.1152

EMPLOYMENT/PAYMENT OF SALARIES TO TEACHERS

Next Question No.1432 by Mr. Hassan Ali Joho.

Question No.1432

ENCROACHMENT ON ROAD RESERVE

Mr. Joho asked the Minister for Roads:-

(a) whether he is aware of the encroachment on the road reserve land at English Point in Mkomani/Allidina, Mombasa on which the Old Nyali Bridge was situated and, if so, what measures the Government has taken to reclaim the land for public use; and.

(b) whether he could confirm the details of ownership of the said parcel of land and also table ownership documents.

Mr. Deputy Speaker: Let us have the Minister for Roads.

Next Question by Mr. Chachu Ganya.

Question No.1438

FACTORS TO DETERMINE "SPARSELY POPULATED" AREAS

Next Question No.1455 by Mr. Boaz Kaino.

Question No.1455

RE-ALLOCATION OF PLOT NO.147 JABALI SFT

We will go back for the final round; the second and last round.

Question number two by Private Notice by Mr. Peter Kiilu.

QUESTION BY PRIVATE NOTICE

CRISIS AT WOTE DISTRICT HOSPITAL

Mr. Kiilu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware of a go-slow by nurses and other medical staff in Wote District Hospital in Makueni County, which is causing a crisis in service delivery?

(b) Is the Minister also aware that the only amenity ward in the hospital, which serves the whole county, has closed down?

(c) What is the Government doing to avert the crisis?

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

Mr. Deputy Speaker: Where is the Minister for Medical Services?

Mr. Ojode, what do you have to say for your colleague?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg the indulgence of the Chair to allow this Question to appear tomorrow afternoon since they were having dialogue with the nurses this morning. I sincerely apologize on behalf of my colleagues for not appearing.

Mr. Deputy Speaker: Fair enough, under those very special circumstances the Chair directs that this Question be listed on the Order Paper tomorrow afternoon.

(Question deferred)

Next Question by Mrs. Odhiambo-Mabona!

ORAL ANSWERS TO QUESTIONS

Question No.964

ENFORCEMENT OF SECTION 53 OF EMPLOYMENT ACT

Is Mrs. Odhiambo-Mabona out of the chamber this morning on any official parliamentary business outside the House?

Question is dropped! She has come from the United States of America and should be here this morning to prosecute her own Question.

(Question dropped)

Ms. Karua: Mr. Deputy Speaker, Sir, just to plead on behalf of my colleague, normally she is always here and there must be something. Is it in order to plead---

Mr. Deputy Speaker: She will explain later and on the merit of that, the Chair must reverse its decision. For now the Question is dropped!

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. There was only a small portion which the Minister was required to respond. When is he going to do the regulations? The Minister is here.

Mr. Deputy Speaker: This is Question and answer time. There is a Questioner and there is an answerer. You are not the Questioner; you cannot be the answerer! Under the circumstances, the Question is dropped.

(Mr. Mbadi stood up in his place)

Order, Mr. Mbadi! Next Question by Mr. Kiuna!

Question No.1019

INSECURITY ALONG NAKURU-ELDORET HIGHWAY

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

(a) whether he is aware of the increased cases of insecurity within Nakuru-Salgaa-Sachangwan and Mau-Summit areas along the Nakuru-Eldoret Highway; and,

(b) what action he was taking to improve security along the highway and to arrest the gangs that terrorize road users in the area.

Mr. Kiuna: Mr. Deputy Speaker, Sir, I have not received a written answer!

Mr. Deputy Speaker: Do you wish to proceed and prosecute this Question despite not having an answer, or do you wish to have an answer first?

Mr. Kiuna: Mr. Deputy Speaker, Sir, I would wish to have an answer first.

Mr. Deputy Speaker: Mr. Ojode, under the circumstances, this is an Ordinary Question-

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The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): I have already answered this Question. Learn to tell the truth.

Mr. Deputy Speaker: The Chair's memory has been jogged now to the rightful sequence of events. This was a Question that was asked on the Floor of the House when, indeed, the same Chair was in the Chair. There was only a small portion left of indicating what action---

(Mr. Ojode consulted loudly)

Order! What actions the Government has taken against those officers. Can you proceed and answer the balance of that Question?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, you are absolutely right. What was remaining was to show proof that, indeed, I took action against the officers who were found with stolen goods or found handling stolen goods. My proof is herewith tabled.

(Mr. Ojode laid the document on the Table)

I interdicted the three officers and charged them with handling stolen goods. I have copies of the interdiction letters for his perusal. I also have evidence that I managed to transfer all those officers who had been in Molo. I transferred them to various stations simply because they were not doing what they were supposed to do within Molo. I have a long list which I know the Chair will find time to go through. That is the proof which I indicated to the House that I will show and share with my colleagues.

Mr. Kiuna: Mr. Deputy Speaker, Sir, although I have not gone through that list, I would request the Assistant Minister to tell this House, once a criminal has been identified and arrested with stolen goods, is he or she supposed to be arrested and taken to court or he or she is transferred?

Mr. Ojode: Mr. Deputy Speaker, Sir, there are a number of ways of killing a cat. Once you have identified a criminal, you can take him to the International Criminal Court (ICC). Once you have identified a criminal, you can take him to court. Once you have identified a criminal, you can fire him; dismiss him completely. I have done the latter. I have fired the criminals and

taken them to court. Through these interdiction letters, as you can see, I have proved that I have interdicted them and taken them to court.

Mr. Imanyara: Mr. Deputy Speaker, Sir, normally, interdiction is for a limited purpose to enable prosecution. Could the Assistant Minister give the details of the case number and when the prosecution was started?

Mr. Ojode: Mr. Deputy Speaker, Sir, the case numbers, I think, are there. You have them there. Everything is laid on the table and I would also request those who want to ask supplementary questions to go through my papers first other than asking me directly. That is the purpose of tabling the documents.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Did you hear the Assistant Minister say that we should look at the papers he has tabled first before asking questions? He knows that part of the answer was to table the documents. So, it takes a while before the documents are available to hon. Members and so, we must be asking questions. In any case, if he purports to know what he has tabled, he should be able to answer.

(Mr. Ojode perused some documents)

You can see he is struggling to find an answer even from the documents he has tabled himself.

Mr. Ojode: Mr. Deputy Speaker, Sir, I have never struggled because I know what I am doing.

Mr. Deputy Speaker: The Assistant Minister has tabled a list of names here. He has also tabled--- Can I have the last one?

(Mr. Ojode gave out the document)

There is a list of names of officers here who have, indeed, been interdicted. There are three people who have been interdicted but, incidentally, the Chair is not in possession of any information to indicate that they have been charged in a court of law.

Mr. Ojode: Mr. Deputy Speaker, Sir, the charge sheet, apparently, is not there but, before you take them to court, you interdict them. So I can table that in the afternoon.

Mr. Deputy Speaker: But you are confirming that they have also been taken to court?

Mr. Ojode: Yes, Mr. Deputy Speaker, Sir, they have been taken to court.

Mr. Deputy Speaker: Okay!

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I asked a very specific question and the answer the Assistant Minister gave was that the case numbers are on the document that he has tabled. I have not had the privilege of seeing the document as you have, but now he is agreeing that, indeed, there is no document regarding the case numbers. Is he not out of order to mislead the House that he has tabled the case numbers when he has not done so?

Mr. Ojode: Mr. Deputy Speaker, Sir, I thought I had brought the charge sheet with me. But as I have said, I will bring it in the afternoon and table it.

(Mr. Mbadi stood up in his place)

Let the Assistant Minister finish first!

Mr. Deputy Speaker: Order, Mr. Mbadi! He is rising on a point of order!

Mr. Ojode: Mr. Deputy Speaker, Sir, I am responding to a point of order!

Mr. Deputy Speaker: Order! Proceed!

Mr. Ojode: Mr. Deputy Speaker, Sir, I will table the charge sheet in the afternoon today because I thought that I collected everything. It is a straightforward thing. I do not normally mislead my colleagues. I do not, that is not me.

(Mr. Mbadi stood up in his place)

Order, Mr. Mbadi! Can you sit down? The Chair was very categorical yesterday that you do not rise on your feet when another hon. Member is on his feet. You seek your point of order after the other hon. Member. This is a dignified House that has rules, practices and traditions that go back almost 50 years. What is your point of order?

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I see a deliberate attempt by the Assistant Minister to take for granted the time of this House. Why do I say so? This Assistant Minister, a while ago, told us that he knows what he is doing. So, he cannot now fake ignorance and say that he did not know that he did not carry a charge sheet. He either carried it or not! This is a very literate Assistant Minister who must have read the documents he presented to this House before misleading this House that he had the charge sheet and yet, he did not have it.

Mr. Ojode: Mr. Deputy Speaker, Sir, you realize that I came into the Chamber running because I got late a bit. I wanted a situation where I had to answer this Question. Nevertheless, I have accepted that I am going to bring the charge sheet and the court case number. That is all what is remaining. I will bring it this afternoon by 2.30 p.m. and table it.

Mr. Deputy Speaker: Whereas the Chair will have no problem in giving---

(Mr. Kiuna stood up in his place)

Order, Mr. Kiuna! Whereas the Chair has no problem in giving you additional time to lay on the Table of the House the charge sheet for the three officers who have been interdicted; and whereas you actually indicated that over 40 officers who, according to you - and the HANSARD is going to bear us out on that - did not do their job very well in Molo but you transferred them to other stations, why do you transfer a problem from one place to another place?

Mr. Ojode: Mr. Deputy Speaker, Sir, the Questioner requested me to make some changes within Molo because of the insecurity that was going on there. So, I allowed the request and I hope that he is a very happy man because I have done some transfers. In fact, those who have stayed there for two, three or four years, I transferred all of them

(Mr. Kiuna stood up in his place)

What do you want? You want to congratulate me?

Mr. Kiuna: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to request you to order the Assistant Minister to give me a copy of the answer? I am the Questioner yet I do not have the document which he is trying to prove. So, I seek your indulgence to defer this Question to today afternoon, so that I can peruse his answer and ask him questions satisfactorily.

Mr. Deputy Speaker: The Order Paper for this afternoon is already out. It is not possible for this Question to be listed on the Order Paper; nonetheless, I will accede to your request that this Question be listed on the Order Paper tomorrow, when the Assistant Minister will have all the facts. I repeat and underline the word "all" the facts available, including the proof of the

court charges. In the meantime, I also direct the Clerk's Department to furnish copies of these documents to the Questioner, hon. Kiuna.

Mr. Ojode: Mr. Speaker, Sir, I beg the indulgence of the Chair to allow me to bring those documents on Tuesday, because tomorrow I will have a number of Questions and three or four Ministerial Statements to deliver.

Mr. Deputy Speaker: Order, hon. Assistant Minister! The Chair appreciates that this is a hardworking Assistant Minister who is always available on the Floor of the House to answer Questions; the Chair is also conscious of the fact that this is a very serious matter. It touches on the security of the lives of Kenyans and the welfare and safety of their properties; these are the same civil servants who are supposed to uphold that. They are the law keepers. So, the Chair directs that you give this first priority over the Questions for tomorrow. Some of those Questions may be deferred to another day.

Mr. Ojode: Mr. Deputy Speaker, Sir, the Questions which are listed for me tomorrow are very sensitive and of a security nature. We are talking of this one about which I have already effected the transfers, and which does not have any negative impact. Since you just want me to show the charge sheet and the court case number, I do not think it is so sensitive.

Mr. Deputy Speaker: The charge sheet plus these transfers that the hon. Member has got.

Mr. Ojode: But Mr. Deputy Speaker, Sir, if you look at the papers here, there is a transfer list--

Mr. Deputy Speaker: Order, hon. Assistant Minister! When the Chair tells you "order", you freeze. Do not engage in exchanges with the Chair. You understand that the consequences of that can be very grave sometimes. The Chair has given a direction on this. This Question will be listed on the Order Paper tomorrow; probably you will have the balance of all the information that is required here. The Chair has also directed that copies of this information be furnished to the hon. Questioner, hon. Kiuna.

Mr. Kombo: On a point of order, Mr. Deputy Speaker, Sir. As the Assistant Minister comes to answer the Question - you asked him why he should transfer a problem - I would want him to explain to the House why the policemen are causing insecurity in one place and he transfers them. Is he not transferring a problem to another area?

Mr. Deputy Speaker: Order! You will ask that supplementary question tomorrow.

(Question deferred)

Mr. Deputy Speaker: Next Question by Mr. Anyanga.

Question No.1421

DETAILS OF ACCIDENT AT MACALDER

Mr. Deputy Speaker: Is Mr. Anyanga not here? His Question is dropped.

(Question dropped)

Next Question by Mr. Gitari!

Question No.1160

PAYMENT OF DEATH GRATUITY TO LYDIA GITHIGIA NJOGU

Mr. Gitari: Mr. Deputy Speaker, Sir, before I ask my Question, I apologise for coming late.

Mr. Gitari asked the Minister for Finance:-

(a) whether he is aware of the death of Mr. Daniel Munene Gatungo (P/No.2007152654), a former Assistant Chief of Ndimi Sub-location, which occurred in June 2010;

(b) why the Ministry has not paid death gratuity to Mrs. Lydia Gathigia Njogu, the widow of the deceased; and,

(c) what steps he is taking to ensure that the gratuity is paid without further delay.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, this Question had been answered. The only point that arose was what we, as the Ministry of Finance, had done to talk to our counterparts in the Office of the President, to see how the terminal dues of the late citizen can be paid. We have done exactly that and we have actually discovered that the main reason why the benefits have not been paid is because on 28th September 2011, the Permanent Secretary, Office of the President, in charge of Provincial Administration and Internal Security wrote to the widow, Lydia Gathigia Njogu, of P.O. Box 2 Kerugoya asking her to give consent for the Government to deduct Kshs6,143 which was a liability that had been incurred by the deceased and she has not given consent. If she were to give consent today, the amount would be paid immediately. Therefore, I would like to give hon. Gitari this letter so that he can go and talk to the wife of the deceased to give authority and then the money can be paid immediately. This was as a result of overpayment of salary. By the time they realized that he had passed away, he had been paid one month's salary.

Mr. Gitari: Mr. Deputy Speaker, Sir, I have a written answer from the Minister and to my recollection what I have is quite different from whatever he is saying. I have the same answer that I got last time and you told him last time that he was to go back and consult the relevant Ministry. So, whatever answer he is giving is not relevant. So, would I be in order---

Mr. Deputy Speaker: Which essentially means that he has addressed the area that you have not got in your answer?

Mr. Gitari: Yes, Mr. Deputy Speaker, Sir. Could I have the written answer so that I am able to---

Mr. Deputy Speaker: Order, hon. Gitari! The HANSARD is the most reliable record of the proceedings of the House. The Minister has already said that and it is reflected in the HANSARD. Can you proceed and find out when the widow will be paid?

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The point my colleague from Ndia is making is that the Minister had said that he was not aware of the death. So, when he begins to explain why the dues have not been paid without saying that he has now found out that, indeed, the chief passed away, the record is incomplete. Is it in order for him to go into an explanation on when payment will be made without correcting the position in the House and saying he is now aware of the death?

Mr. Githae: Mr. Deputy Speaker, Sir, if I recall what happened we said that we just pay the pension. Unless the individual ministries advise us and prepare all the papers, we have no

idea of what has happened; I am saying, as of now, officially we have not been informed of the death; but when the Speaker directed that we consult the Provincial Administration to find out what was the problem, this is what we discovered. The Office of the President has not yet submitted this claim because they wrote to the wife of the deceased on 28th September asking her to give consent for the Government to deduct Kshs6,143, so that they could now forward all the papers. So, officially we have not been informed of the death.

Mr. Deputy Speaker: But of course your answer shows that you are aware of the death, and the fact that the late chief's family must be paid the gratuity; you have just indicated the same.

(Mr. Ethuro stood up in his place)

Mr. Deputy Speaker: What is the issue, hon. Ethuro?

Mr. Ethuro: Mr. Deputy Speaker, Sir, the Minister may have no issue because he is very satisfied when the widows of hardworking civil servants cannot be given their dues, because as far as he is concerned, he is in charge of pension until the relevant Ministry asks him to do it. However, the fact that hon. Gitari, who comes from the same county as the Minister and the presidential candidate, hon. Karua, cannot even agree with the Minister on basic things, you can imagine how long it will take for people from Turkana County with these kind of letters to postal addresses! Can he expedite that process, so that the widow can get the dues? Her children are already out of school. Could the Minister express a bit of sympathy, especially given that he is a new Minister from the same county as Mr. Gitari? Can he wear a human face?

Mr. Githae: Mr. Deputy Speaker, Sir, this is not a Kirinyaga County issue; the issue affects the whole country. What we are saying is that before the individual ministries advise us, we have no idea. My sympathies are with the widow. I even know the late chief.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House that his Ministry is not aware, while when this particular civil servant passed on, a new one was employed and his Ministry is the one paying the new one. At what level did they know there is a new one who has been paid unless there was an official communication from the relevant Ministry to his Ministry telling him that there is a new person?

Mr. Deputy Speaker: I thought hon. C. Kilonzo you would appreciate that there is another Ministry sleeping on the job and this Minister is prepared to go out of his way to get into the records of that other Ministry to be able to facilitate this particular Ministry.

Proceed, hon. Minister as the last!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I just want to seek clarifications. The point is very simple. There is a new Assistant Chief who is being paid through his Ministry. We are furious. At what level did they start paying the new person while there was a previous one they were paying unless the relevant Ministry had actually informed him to stop paying this person? He cannot purport that his Ministry is not aware.

Mr. Githae: Mr. Deputy Speaker, Sir, I think we must be very clear that the Government deals with formalities and procedures. The issue is that even if there is a new Assistant Chief who has been employed, as the Ministry of Finance, we have no idea that he has been employed. This is in the Office of the President's docket. They are the ones to recruit, pay or fire. If they fired, we would have no idea that they have fired.

Mr. Deputy Speaker, Sir, what we are saying is this: We have now discussed it with my colleague and discovered what the problem was. The Office of the President has not officially

submitted pension documents to the Ministry of Finance and the reason was because they sought that authority from the wife. I will give this letter to the Member of Parliament for Kirinyanga Central who should go and talk to the wife who will give consent and the money will be paid. It is so clear and I do not understand.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I will make you understand.

Mr. Deputy Speaker, Sir, is it in order for the hon. Githae to persistently mislead this House. First, my colleague, hon. C. Kilonzo confirmed to him that he pays her salary. So, he knows. Two, his Ministry posts financial controllers to each line Ministry including the Office of the President. They are employees of Treasury. So, already he has an officer whose job is to ensure that the accounts are taken care of. How can you fail to know, unless the honeymoon is not yet over? We can forgive you.

(Mr. C. Kilonzo stood up in his place)

Mr. Deputy Speaker: Are you on a point of order? What is your supplementary question?

Mr. C. Kilonzo: Mr. Speaker, Sir, when the hon. Minister was campaigning for the young and new Member of Parliament, he promised the electorate of Kirinyanga Central that he would ensure that he does not come across any hurdles, and that issues from that constituency would be handled in a very efficient manner.

Mr. Deputy Speaker, Sir, this is a very evident case that he did not tell the electorates of Kirinyanga Central the truth. My question to the Minister is; can you now avail those particular documents so that the hon. Member, since that letter is not available and has not been seen, can now forward it to the wife of the late Assistant Chief?

Mr. Githae: Mr. Deputy Speaker, Sir, I really thought this was elementary. I sincerely thought this was purely elementary. It does not require any support of a Harvard Scientist---

Mr. Deputy Speaker: Order, Minister! Could you just table that letter which is not in the possession of the Member?

Mr. Githae: Mr. Deputy Speaker, Sir, the letter is here. I would like to ask the Member of Parliament to go and speak to the wife and then we pay. But until we get the documents from the Office of the President---

Mr. Deputy Speaker: You have made you point very clear. Just table the letter.

(Mr. Githae laid the document on the Table)

Hon. Gitari, could you ask the last supplementary question?

(Mr. Imanyara stood up in his place)

Mr. Imanyara: Mr. Deputy Speaker, Sir, this is really a straightforward matter. We know this was an Assistant Chief. We know the system of communication in Government; from the PS the letters go through the PC, DC and DO. Why did you post a letter to a postal address which does not even belong to the Assistant Chief's family? Is there no system within the Government which is followed to deliver letters?

Mr. Deputy Speaker, Sir, could the Minister tell us whether they confirmed that this letter was, indeed, received, rather than asking the Member to forward the letter? This is a job that ought to be done by the Ministry itself.

Mr. Githae: Mr. Deputy Speaker, Sir, the presumption of the law is that once a letter is posted it is received.

Mr. Deputy Speaker: Fair enough! Under the circumstances hon. Gitari you can ask the last question on this. But nonetheless, you would be furnished also with the copy of the letter which is self explanatory. It, indeed, requests the widow to give authorization not even to pay but to give authorization to the Ministry for this amount to be deducted. So, could you ask the last supplementary question on the same?

Mr. Gitari: Thank you, Mr. Deputy Speaker, Sir. This is one example of how Kenyans, who were civil servants suffer. Must we wait to bring issues in Parliament so that these people can be paid?

Mr. Deputy Speaker: Minister, there are many Kenyans who are suffering.

Mr. Githae: No!

Mr. Deputy Speaker: Order! Hon. Minister, no is not adequate. How do we proceed forward with the many Kenyans who are suffering?

Mr. Githae: Mr. Deputy Speaker, Sir, I thought he asked a very clear question; whether we should be waiting and I said we should not be waiting.

Mr. Deputy Speaker, Sir, I think it is important that I say that the Ministry of Finance just pays the pension. It is really the concern of the line Ministries because they are the ones who have the employment records. We do not have employment records. We have no idea when they are deceased. Let me take this opportunity to ask my colleagues in other line Ministries to please take this issue of pensions seriously.

Mr. Deputy Speaker: Order! You do not use the Floor of the House to communicate to your fellow Members in the same Government that you serve. You have collective responsibility as a Government. Give an undertaking to the House that you will iron out this lacuna internally between yourselves as members of the same Government.

Mr. Githae: Mr. Deputy Speaker, Sir, we shall do that.

Mr. Deputy Speaker: Fair enough! Next Question, hon. Chepchumba Peris!

Question No. 1152

EMPLOYMENT/PAYMENT
OF SALARIES TO TEACHERS

Mr. Deputy Speaker: Hon. Chepchumba is not in, the Question is dropped.

(Question dropped)

Question No. 1432

ENCROACHMENT ON ROAD RESERVE

Mr. Joho asked the Minister for Roads:-

(a) whether he is aware of the encroachment on the road reserve land at English Point in Mkomani/Allidina, Mombasa on which the Old Nyali Bridge was situated and, if so, what measures the Government has taken to reclaim the land for public use, and,

(b) whether he could confirm the details of ownership of the said parcel of land and also table ownership documents.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, I beg to answer. But I also wish to pass my apology. I was not able to answer the first time the Question was asked because I had not been able to get an appropriate answer.

Mr. Deputy Speaker: You need to apologise for coming late. It is the second time the Question is being asked.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, my apology for coming late, and I beg to reply.

(a) I am aware that the road reserve at English Point in Mkomani, that is Mainland North and at Allidina, that is Mombasa Island, along the old Nyali bridge has been encroached. My Ministry has taken the following measures in order to reclaim the land for purposes of construction of a second crossing bridge:- Through the Kenya Urban Roads Authority, we have identified the encroached land. The Kenya Urban Roads Authority is preparing to issue notices to the affected people to vacate in order to pave way for the earmarked construction, and we have written to the Ministry of Lands with a view to having the titles of the affected parcels of land revoked.

(b) The hon. Member had sought that we table the ownership details of the said parcels of land, but as I have indicated, this land belongs to the Ministry and the people who are there are not the owners. They are merely encroaching. Nevertheless, the parcels of land affected are 173,176, 177, 178, and 1181. They lie on the road reserve corridor. I will table the ownership documents at the appropriate time although, really, these are not the owners; they are just encroachers. Thank you.

Mr. Joho: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for the candid answer, you will realize that the old Nyali Bridge was built in 1931 and it was the only floating pontoon bridge at that time. Given the historical nature of that bridge and the traffic that we encounter every time we cross it - it is only Nyali Bridge that links the Mainland North to the Island - I heard you say that you are in the process of giving a notice. When will that notice be published in the *Kenyan Gazette* or given to the owners? The owners are known. We all know the owners. Probably all of us know the owners. Could the Assistant Minister table the names of the owners?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I want to agree with the hon. Member that the old Nyali Bridge is, indeed, part of the history of Mombasa, and there is need to ensure that we conserve that history. Nevertheless, as I have indicated, the land belongs to the Ministry of Roads and it has at no time been allocated or sold to private individuals. The people who have occupied or encroached on the land--- I have already indicated the purported numbers. The hotel located near the bridge is Tamarind Hotel Village. It is part of the people who have encroached. I want to assure the hon. Member that whenever we want to construct any road or by-pass for that particular matter, and there is any private individual involved, irrespective of his status in the society, we bring them down. So, the fate that has befallen the other individuals who have encroached will, indeed, be applied on them.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to allow encroachers to continue enjoying being on a parcel of land that is meant for a

road reserve? The words of the Assistant Minister are; “whenever the Government will want” which means that, as far as the Government does not want, they will continue enjoying being on that encroached land.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, it is not possible to police all our corridors on a daily basis. Indeed, if you recall the by-passes we are constructing in Nairobi, some of them were planned in the early 1970s. The land was bought from the owners at that particular time. However, the Government did not have money to construct the by-passes then. Therefore, other Kenyans went ahead and constructed. Therefore, when you talk about encroachment, it is not just on roads; it is also on road reserves. If you look at the roads, you will also see *kiosks* being put up every day. So, I agree that it may not be right to wait until Kenyans have built so that we can bring them down. But nevertheless, you will agree that we do not have enough money to police all our roads on a daily basis.

Mr. Ethuro: Mr. Deputy Speaker, Sir, while I appreciate the Assistant Minister’s concern for encroachers, the Government needs to be consistent. We have demolitions going on around the airport. We have demolitions of houses that were built along the by-passes. This Government allowed the case of Mombasa, despite a number of Permanent Secretaries talking about the road to the airport. When will the Government make a consistent policy statement and act on it so that, at any one time, these issues are sorted out once and for all, especially if Tamarind is part of the encroaching group? That is why you are watching them encroach because they are big names.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, whenever the Government acquires land, even if it is private land, for the purposes of constructing a road, it does that through the Ministry of Lands. Therefore, the custodian of all Government land is, indeed, the Ministry of Lands. We are currently working very closely with them to ensure that land which is earmarked for road construction, whether currently or in future is, indeed, not reallocated to other individuals.

Mr. Imanyara: Thank you Mr. Deputy Speaker, Sir. Mr. Assistant Minister, could you tell us; who are those people who have encroached? Can we name them?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, as I have indicated, it is mainly the Tamarind Hotel Village that has erected structures on the road corridor. The other encroachers, as I have indicated, we only have their parcel numbers but not their details. However, our interest is not who the encroachers are. The best way to look at it is that, irrespective of who is there, they will all be brought down. That is what we are trying to say.

Mr. Deputy Speaker: Have you tabled the information you have now?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I do not have the name of the encroachers, but we have written to the Ministry of Lands with the aim of getting who the purported occupants are. However, our physical check on the ground indicated Tamarind and other people who did not have major constructions. Nevertheless, we will demolish them irrespective of who the persons are.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, it is always very sad to hear the Government say that it cannot police areas which are supposed to be for public utility. We know that Tamarind has been in that area for over ten years and there is a law on adverse possession. That is when you have been there for a certain period of time. Which law will you apply as Government because they have been there? If they cite that law and say that they have lawful ownership and yet, that land has been encroached when the Government was looking the other side, what will you do? Could you tell us with candidness what the Government will do because we know that there is law on adverse possession?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I am not sure what law the hon. Member is quoting, but the adverse possession he is quoting may relate to a situation where the owner of the land gives you consent to occupy. However, in this case, at no time did the Government allow those people to be there. As far as we are concerned, they are encroachers.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this honourable House that the owner has to give you consent to stay on land for more than eight years for you to own it and yet, we know that the Tamarind Group has title deeds which it has received from the same Government? Is he in order to mislead this honourable House?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, the hon. Member is aware that adverse possession does not apply to Government land. It only applies to private property. Thank you.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! The hon. Member has told you that there are title deeds to the same piece of land issued by the same Government. How would you like to go about that?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, as I have already indicated, we have already written to the Ministry of Lands. That is because title deeds are issued by that Ministry. So, as far as the Ministry is concerned, at no time did we give up that land for any other usage, and I am sure that will be dealt with at the Ministry of Lands.

Mr. Gunda: Mr. Deputy Speaker, Sir, as the Assistant Minister may be aware, the only connection between the Island and the North Coast is the Nyali Bridge. At the moment, it is congested with many vehicles. What plans does the Ministry have to do another connection, for example, from Tudor to connect to the North Coast?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, we are conscious of that challenge and we are also aware that in case of any blockage at the Nyali Bridge, we would indeed, be in major problems in terms of traffic flow. For that reason, we have plans at very advanced level, supported by Japan International Co-operation Agency (JICA) and other development partners to ensure that we have an alternative corridor that can supplement the Nyali Bridge.

Mr. Joho: Mr. Deputy Speaker, Sir, I would like to, once again, thank the Assistant Minister for the issues that his Ministry is considering and working on with developing partners. We are glad that they will do another crossing in Mombasa. I, therefore, would like him to come out very clearly and inform this House when he will demolish those structures, so that we can save and also prepare for that second crossing?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, as I have indicated, we have written to the Ministry of Lands so that they can actually degazette the said titles. I wish to undertake that within 90 days, we expect that to have been done by the Ministry of Lands. But the actual Ministry to degazette is not the Ministry of Roads but the Ministry of Lands. That is why I am giving the undertaking on behalf of my colleagues in the Ministry of Lands.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. It appears that there are two sets of laws for people who live in upcountry, like in Nairobi and those who live in Mombasa. When there were demolitions in Syokimau, Eastleigh and other parts of Nairobi, the same Government never went through the court process. But when it comes to the Coast Province where the owners of these particular units or houses are very well connected - people in the Government - then the law applies. Could the Assistant Minister tell us which part of Coast Province belongs to Kenya?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I am sure you are aware that, that is a point of argument. But, nevertheless, as I have indicated, our policy is very clear.

Mr. Deputy Speaker: Yes, you have indicated. What is your point of order, Mr. Joho?

Mr. Joho: On a point of order, Mr. Deputy Speaker, Sir. I asked a very clear question. The Assistant Minister said: "Ninety days of the process of degazettement of the title." I want to know when the Kenya Urban Roads Authority will go on site to demolish Tamarind and the rest of the encroached pieces of land.

Mr. Deputy Speaker: Hon. Joho, you realize that even the Government works within the law. The Assistant Minister has given an undertaking which, as far as I am concerned, is the most ambitious undertaking that I have from a Minister when it involves a piece of land. So, progressively, I think you have the opportunity to stand up if 90 days down the line, those title deeds are not de-gazetted.

Next Question!

Question No.1438

FACTORS TO DETERMINE "SPARSELY POPULATED" AREAS

Mr. Chachu asked the Minister for Justice, National Cohesion and Constitutional Affairs:-

(a) what the operational factors used in determining a "sparsely populated" area within the meaning of Article 89(6) of the Constitution are; and,

(b) which the areas are currently designated as sparsely populated are.

Mr. Chachu: Mr. Deputy Speaker, Sir, I am sorry for coming late.

The Assistant for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Deputy Speaker, Sir, the answer that I have is not sufficient to address the issues raised by my colleague in this Question. I have spoken with him and with the indulgence of the Chair, request to give the answer tomorrow afternoon, so that we get the full details from the Independent Electoral and Boundaries Commission (IEBC).

Mr. Deputy Speaker: Are you comfortable with tomorrow afternoon?

Mr. Chachu: Mr. Deputy Speaker, Sir, I am comfortable, but realizing the relevance of this Question, now that we are creating 80 new constituencies, I want it to be answered as soon as possible.

Mr. Deputy Speaker: Order! Order! The Chair directs that this Question be listed on the Order Paper tomorrow afternoon.

(Question deferred)

Question No.1455

RE-ALLOCATION OF PLOT NO.147 JABALI SFT

Mr. Deputy Speaker: Is hon. Kaino not here?

(Question dropped)

Next Order!

MINISTERIAL STATEMENTS

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, again, today, I want to read one more Statement. I would like to read the one requested by hon. Mungatana.

Mr. Deputy Speaker, Sir, on Thursday 17th ---

Mr. Deputy Speaker: Order! Order! Hon. Mungatana is not in the House. Our practice has always been that Statements are read, unless it is absolutely necessary--- Is hon. Mungatana out of the House on any official parliamentary business? The Chair is going to give the benefit of doubt to hon. Mungatana. The Statement will be read when, indeed, he will be in the House.

(Ministerial Statement deferred)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I am a bit handicapped because the other one was requested by hon. Jamleck Kamau and I cannot see him also.

Mr. Deputy Speaker: Indeed, I cannot see hon. Jamleck Kamau. I think we will have to take a date of which they will both be informed.

Dr. Eseli: On a point of order, Mr. Deputy Speaker, Sir. I just wanted to congratulate the Minister that he is able to bring all these Statements that have been pending for so long. Well done, Mr. Minister!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. It is good for Dr. Eseli to congratulate the Minister. But you will remember that it is after sanctions had been imposed on him that he has brought the Statements. So, he had no choice.

Mr. Deputy Speaker: Order! Order! The efficiency of the hon. Minister is not a matter for debate on the Floor of the House this morning. Dr. Eseli expressed his own opinion and clearly, there seems to be a lot of excitement about that.

Next Order!

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O.38

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, the business appearing in today's Order Paper as orders No. 9 and 10 be exempted from the provisions of Standing Order 38(2) being a Wednesday Morning, a day allocated for Private Members' business.

Mr. Deputy Speaker, Sir, the reason for this Procedural Motion is to enable us to finalize as many Motions as possible. The two urgent ones are the one by the Constituencies Fund Committee and also the Motion on the Report of the Select Committee on the decline of the Kenya Shilling.

Mr. Deputy Speaker, Sir, I move and ask hon. Ojode to second.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) seconded.

(Question proposed)

Mr. Mbadi: Mr. Deputy Speaker, Sir, I want to support this Motion. I do agree that we need to discuss the appointment of the Constituencies Development Fund (CDF) Board. But the other reason that is given is that there is another very important Report to be passed. That Report, to me, is now a shell and a waste of taxpayers' money. The Report of the Committee that investigated this has been mutilated and has no value. So, if that was the only reason, I would not have supported this Procedural Motion but because there is some very important Order before us, I will support it.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, you heard the hon. Member say that in view of the fact that we deleted the name of Governor Ndung'u, the Report is useless and has no value. There were other very important recommendations by the Committee. Those are the ones that we want to deal with, unless the only reason he has interest in the Motion---

Mr. Deputy Speaker: Order! Order! Steer clear at any given time of discussing the conduct, personal or otherwise, of your own colleagues on the Floor of the House. Maintain your debate always on the principle and matter at hand. Right now, the matter we have is whether we should have this Procedural Motion, and that is it.

Hon. Members, I will now put the Question.

(Question put and agreed to)

Mr. Speaker: Next Order.

MOTIONS

(Mr. Ethuro and Mr. C. Kilonzo stood up in their places)

(Laughter)

Mr. Deputy Speaker: Order! What is the problem? Who is the Chairman of the Committee?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am also wondering. Chairpersons of Committees are approved by this House. I do not know where my colleague has come from.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. You have seen the two hon. Members stand at the same time. I thought one should be the Chairman and the other one the Vice-Chairman. So, could we know who is supposed to move the Motion? Is it the Vice-Chairman or the Chairman?

Mr. Deputy Speaker: The Chairman is hon. Ekwe Ethuro, Member for Turkana Central. Please, proceed.

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir. I hope that the Assistant Minister recognises that you called my name, and not the name of the other hon. Member.

MOTIONS

ADOPTION OF REPORT ON NOMINATION OF BONIFACE
LOKAALE KOROBÉ AS MEMBER OF CDFB

Mr. Ethuro: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Constituencies Fund Committee on the approval of Mr. Boniface Lokaale Korobe as a member of the Constituencies Development Fund Board laid on the Table of the House on Tuesday, 13th March, 2012.

Mr. Deputy Speaker, Sir, this House actually contributed to the substantive Motion on appointment of the directors of the Board on 8th September, 2011. At that time, the Minister had given us 10 names, which we vetted, as a Committee, and approved eight and declined approval of two. Subsequently, the Minister brought the two names again. We have been able to approve one and decline to approve the other one.

The matter here is to ensure that the Board is fully constituted, so that it can offer the services that hon. Members keep on enjoying. I do not want to talk much. I just want to acknowledge the fact that the Board is going to work even extra hard this year to ensure that the money for the CDF is released. I want to congratulate the Acting Minister for Finance because he has given an undertaking that he is going to obey the law, and he has already obeyed the law by ensuring that we have money released as per the requirement of the law, which requires a release at the beginning of every quarter of the year.

With those remarks, I beg to move and ask hon. Martha Karua to second the Motion.

Ms. Karua: Mr. Deputy Speaker, Sir, I beg to second the Motion and say that as a Committee, we have discharged our responsibility of vetting the names and call upon the relevant Minister, when presenting names to the Committee to be conscious of the requirements of the law, and also of the task at hand, so that he gives nominees who comply with the law.

With those few remarks, I beg to second.

(Question proposed)

Mr. Kioni: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity. I wish to support the appointment of the new Board member, Mr. Boniface Korobe, and also thank the Committee for the work they have continued to do.

The CDF is one of the institutions that have been very useful in this country. We know that there are challenges that the CDF is going to face with the new constitutional provisions, but we believe that these new Board members will help to ensure that the continued support of development by the CDF in the country does not come to an end just because we are bringing on board a new way of managing our country.

Mr. Deputy Speaker, Sir, the fact that we are going to have county governments and devolution through the county governments should not be used to phase out the CDF. The gains that we have made from the CDF are such that we can only continue and make it better. If that was not the case, delegations from Malawi, Zambia and elsewhere would not be in our country physically to learn the good things that the CDF is doing, and why we have been able to make strides in terms of development across the country. It is for that reason that I believe Boniface will add to the value of this Board and ensure that the CDF continues after we are through with devolution.

In addition, I would urge that the Board ensures that speedy disbursement of funds to the constituencies takes place. On top of that, the Authority to Incur Expenditure (AIE) should also follow because money is now in the accounts, but we cannot access it because AIEs have not yet

gotten to the constituencies. So, it is important that this Board ensures that they work very hard. I want to thank the Minister and the Committee that is dealing with this matter. I also want to thank the Board for what it has done and also urge that Members of Parliament remain awake to the reality that there are people outside this House who would want the CDF done away with. The CDF is something that, as a country, we should guard with all the seriousness and jealousy that is required.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I rise to support the Motion on the appointment of Mr. Boniface Lokaale Korobe as a member of the CDF Board. I would like to give assurance to this House that the CDF will be there even after the county governments come into place. The CDF was established by an Act of Parliament. It can only be abolished by another Act of Parliament.

Mr. Deputy Speaker, Sir, I am also aware that the CDF Fund Committee is working on some amendments to bring the CDF Act in line with the new Constitution. I would like to ask them to provide for some place for a Member of Parliament. The Member of Parliament may not be involved in the implementation of projects but, at least, in the selection of projects, it is important that Members of Parliament are involved, so that after the projects are selected, they can be given to the governor for implementation.

Secondly, I would like to assure this House that I have instructed the Treasury that they must remit the money due to the CDF on the due date. I will not accept that we have a shortfall in revenue collection. In my view, the CDF should get priority number one.

(Applause)

Mr. Deputy Speaker, what this country has achieved in the last ten years, following the establishment of the CDF, is quite a lot. If the CDF had been established in 1963, when we attained Independence, we would be talking of a totally different country.

With those few remarks, I beg to support.

Mr. Keynan: Mr. Deputy Speaker, Sir, I also want to join my colleagues in supporting the Motion.

Mr. Deputy Speaker, Sir, in the areas where you and me come from, in all the successive regimes, starting with the colonial government, the Kenyatta Government, the Moi regime, the Kibaki regime and currently, the Kibaki/Raila regime; what the CDF has done far much outweighs what all the successive regimes combined have done. Therefore, I will be one of the Members who will be vouching for the continuity of the CDF even under the current Constitution.

We are yet to experiment on how the governors are likely to behave. We are not sure whether we will go the Nigerian way or we are going to succeed. Therefore, that identity is critical - and I am glad that the Minister for Finance is here. One of the things that I personally, as a Member of Parliament will be looking at, is to make sure that we look at the Constituencies Development Fund (CDF) Act and ensure that it is in tandem with the current Constitution, so that CDF continues as an independent entity from the funds that are likely to be given to the governors or the counties.

Mr. Deputy Speaker, Sir, as we look at the Bills on devolution and the Financial Management Bill which is before us, there are a number of provisions which have been purely put there to negate the continuity of CDF. Therefore, let us look at that Bill with a toothcomb and ensure that it complies with what we envisaged.

With those remarks, I support.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you, Mr. Deputy Speaker. I also want to support this Motion and congratulate the new Board member for his new appointment. As my colleagues have said about the CDF, there is no doubt that the 2.5 percent of the revenue that goes to the constituencies is the only visible development on the ground. One would wonder about the 97.5 percent. If that percentage to the constituencies was increased, there would be enough devolution rather than going into the structures of the counties.

In support of what my colleagues have said with respect to the continuity of CDF, I would like to propose that when the time comes--- Now that the CDF Committee is looking into the possibility of bringing amendments to the Act, the 2.5 percent or the CDF structure should actually remain as a national service, rather than taking it to the county level. That is because even at the county level, there will be a lot of marginalization. So, as much as we are talking of further devolution within the county and taking constituencies as sub-counties, I would like to propose to the Chairman of the CDF Committee that the 2.5 percent should be taken as a national service through the National Assembly. Let the Governor at the county level also initiate other development projects using the 15 percent that will be allocated.

Mr. Deputy Speaker, Sir, for the time being, my proposal to the national Board is to fast-track the release of funds to the constituencies. With the assurance of the Minister for Finance that he is going to be timely, I have no doubt that it will happen. I also propose that they should not introduce bureaucracy before they release the CDF monies. We thought that we were devolving and making things simple with regard to the service to *wananchi*. But there are still many attempts to introduce a lot of bureaucracy within the management of CDF. A good case in mind is the reallocation of funds at the constituency level. Once a project has been proposed at the constituency level and there is need to reallocate the money to another project within that constituency, we see a lot of bureaucracy. I would like the Chairman of the CDF Committee to hear this: We are always being asked to reallocate funds and get approval from the would-be beneficiaries, so that they can give consent that the money is being taken away from them to a new project. The Committee of this House should stamp its authority in terms of monitoring and oversight of the CDF money.

I beg to support the Motion.

Mr. Nguni: Mr. Deputy Speaker, Sir, I stand to support the Committee in appointing Boniface as a member of the Constituency Development Fund Board. I would like to say this: Committees do a lot of work. Time and again, they have delved into details and examined people. When they bring the report here, we, sometimes, do not support them. I think it is only fair that when committees have done so much work that we support them.

I wish to state that the CDF is one of the special funds provided for under the Public Finance Bill which is now before the House. The CDF is a tool that has developed this country beyond any reasonable measure. It is a tool that should continue. Even when I become a Governor, I will still want Members of Parliament to have their CDF because the functions that are left to the county government are different from those of the national Government. If you look at the CDF, you will realize that it has helped in building schools, police posts and so on. Those are also the functions of the national Government. So, if the CDF continues to exist, then as a Governor I will not have to worry about building of schools, police posts and so on. That is because the Member of Parliament will take care of those functions while I, as the Governor, will

take care of agriculture, animal husbandry, licencing of dogs and all the other functions of the county government.

(Laughter)

As far as bureaucracy is concerned, it is always good to have checks and balances. However, they must not hinder development or disbursement of funds. So, the Board should balance the checks and determine what would hinder the use of those funds.

Mr. Deputy Speaker, Sir, with those few remarks, I support.

Mr. Njuguna: Thank you, Mr. Deputy Speaker, Sir. I will also be very brief on this. Let me start by thanking the Committee for doing a very commendable job. I also want to thank Kenyans who came forward to seek this job. I extend the same appreciation to the nominating organizations that presented candidates for this very important assignment.

Boniface Lokaale is a very qualified and experienced candidate. I note that he has worked in various capacities in the country. He has the necessary qualifications and leadership skills which are vital in the running of the CDF. I note that a qualified and suitable Kenyan has been appointed to serve in this Board.

Mr. Deputy Speaker, Sir, let me also note the very deserving comment by the Minister for Finance who has assured the House and the country that the CDF will continue. The CDF monies have already transformed the lives of Kenyans and it is important that, that commitment and engagement by the Government will become a reality.

With those few remarks, I fully support the appointment.

Mr. Chepkitony: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion and the appointment of Boniface Lokaale Korobe as a member of the CDF Board. We know that the CDF has really played a very important role in the development of this country. Wherever you go, you feel the effect and impact of the CDF. Were it not for the CDF, we would not have built several schools and even provided various facilities such as electricity and water to the communities. It has done a great job and we need to support it in order to bring development in this country. I am happy to note that the Minister for Finance has assured us that the CDF will continue.

We would like the CDF to continue and operate with minimal bureaucracy. Of late, there have been bureaucratic systems which have been introduced by the current Board. I would like to appeal to them to make the administration of the CDF very simple, effective, and fast, so that we can implement programmes without a lot of delays as it is happening at the moment. Getting funds from the Board nowadays is very difficult. We used to get funds in August and September but, nowadays, they delay until January before we get the first tranche.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support.

Mr. Langat: Mr. Deputy Speaker, Sir, I beg to support this Motion and congratulate the gentleman who has been appointed. I want to congratulate the Committee for proposing a very young man to the Constituencies Development Fund (CDF) Board. He was born in 1975. I also want to congratulate the Board because the CDF has continued to grow. I want to join my colleagues in saying that the CDF should continue and must continue. I believe that the only practical solution that this House has given to the country is the CDF. There are a few people who say that the county government should take over the CDF. We want to say; “no”. The CDF must remain as a unit. This is a fund that supports very important projects within our country. Where I come from and where many of this Members come from, there is no single school which

has been started by the central Government in the last 20 years. All the schools that have been started of late in the last ten or twenty years are CDF projects right from procurement of land to construction. Therefore, the CDF should be made a constitutional fund so that it is protected because this is a fund that reaches everywhere in this country. There is no constituency that the CDF does not reach. Therefore, I recommend that it should be a constitutional fund so that it is protected and it reaches everywhere in the country.

Mr. Deputy Speaker, Sir, a colleague has mentioned something about bureaucracy. I want to say that this fund was created due to the bureaucracies of the Central Government system but I am afraid that this fund is slowly attracting unnecessary bureaucracy. It is very unfortunate that the CDF Board can ask for a bill of quantities for a project that is being implemented in my constituency. I think the Committee of Parliament and the Board should agree that the CDF should not attract unnecessary bureaucracies and waste time. Therefore, we need a very flexible CDF the way it used to be so that projects can be implemented in good time.

I want to ask the Minister for Finance that in this Financial Year which begins in July, it should include CDF allocation in the Budget so that all the projects that have been started can be completed. I hope the Minister has taken note. We shall start by checking whether the CDF is there or not.

Mr. Deputy Speaker: The Chair notices that there is a lot of repetition of what has already been said. So, the Chair is going to give two more chances to two hon. Members then we put the Question.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to support this Motion. I support the appointment of Mr. Lukaale as a Board member of the CDF. I am sure he is going to bring a wealth of experience in this very important Board. I want to echo the sentiments of my colleagues that the CDF must continue in the new dispensation because it has really transformed this country in terms of development. The Minister for Finance has confirmed to me that he is going to push legislation which will ensure that the CDF will continue in the new dispensation. CDF has really transformed the development of our nation. There are certain regions where, were it not for the CDF, they would not have seen any light of development. Therefore, the continuity of the CDF is paramount and significant. Therefore, I would like to support that the current members of the Board should look at the poverty index of the nation as a whole so that the Government funds are disbursed, not just on the basis of population but also the rate of under-development. The main reason why the CDF is there is to ensure that the country development level is brought to equality.

With those very many remarks, I support the appointment.

Dr. Eseli: Mr. Deputy Speaker, Sir, thank you for giving me this chance to support the Motion on the appointment of Mr. Lokaale to the CDF Board. First of all, we need to note that apart from being young, Mr. Lokaale also comes from the minority community which has been marginalized in this country for a long time. This is a positive move and I believe that the youthfulness of Mr. Lokaale will be brought to the board with positive results.

Mr. Deputy Speaker, Sir, things have been said about the CDF and the integrity of Members of Parliament. People should be assured that the CDF actually makes Members of Parliament accountable in the sense that well managed CDF committees have resulted in the Members of Parliament being more recognized by the people than anything else. So, any Member of Parliament who mishandles CDF cannot expect to get away from it from the public. The issue of people coming to say that CDF should be removed just because somebody does not

like Members of Parliament handling it should not arise. I think that is a misconceived idea. In this country, we come up with plans which we fail to implement and other countries copy them and implement them. For once, we came up with something which we implemented ourselves and countries are now coming to see how we have implemented it.

Mr. Deputy Speaker, Sir, CDF work is visible. When you go to the districts out there, you will find that the line Ministry in a financial year receives much more money than what the CDF receives yet the work that is seen on the ground is done by CDF. The work done by line Ministries can hardly be seen. That is the reason why, we had to get the CDF involved in the Ministry of Roads. Right now, you can see some changes in the construction of roads in the constituencies.

Mr. Deputy Speaker, Sir, the CDF is unique in the sense that on the CDF Committee we have councillors there because the law says that it should be so. But no Member of Parliament sits on any Local Authorities Transfer Fund (LATF) committee. That is why you find that CDF is more successful than the LATF. However, all this will be endangered if we allow the bureaucracy that many hon. Members have spoken about to come in. They require that when you are buying land, you should get a valuation and so on. Land is always appreciating so by the time the board approves, they purchase and bring it back to the constituency, land has appreciated and you have to request them again for more money to complete the purchase. So, that bureaucracy is bringing down the functions of CDF.

With those few remarks, I beg to report.

Mr. Deputy Speaker: The Chair notices that there are two hon. Members who want to contribute. Therefore, the Chair will use its discretion to allow them to also put in their word. Please, take no more than two minutes each.

Mr. Lessonet: Thank you, Mr. Deputy Speaker, Sir. I stand to support the appointment to the board of Mr. Boniface Lokaale. As I do that, I want to appreciate the impact of the Constituencies Development Fund (CDF), especially in Eldama Ravine Constituency. Through the CDF in Eldama Ravine Constituency this year, every home in that constituency is going to be supplied with water.

Mr. Deputy Speaker, Sir, through the CDF in Eldama Ravine Constituency, we have succeeded to roll out ten new secondary schools and, therefore, increased the number of those who are transiting from Standard Eight to Form I to about 85 per cent in Eldama Ravine Constituency.

Mr. Deputy Speaker, Sir, as we approve this nominee, we want to, of course, insist that the CDF should continue being there; despite the county governments. We want it to continue; not even as the Minister was saying “under the implementation of the governor.” We want the CDF to be implemented at the constituency level.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support.

Mr. Mwadeghu: Mhe Naibu Spika, natoa shukrani kwa kunipatia muda pia kutoa maoni yangu kwa mjadala huu. Maadamu umeamua kuwa unaufunga, naomba niseme mawili au matatu kwa heshima yako.

Naunga mkono uteuzi wa huyu kijana, Boniface Korobe, ili aweko katika halmashauri hii ya maeneo ya uwakilishi bungeni, ili naye apate kutumia taaluma yake ile Mungu amemjaalia na aweze kupeana huduma.

Mhe Naibu Spika, CDF imefaidi maeneo mengi sana ya ubunge katika nchi yote nzima; ukiangalia miradi mingi iliyotekelezwa, imetekelezwa na CDF. Hii ni *fund* ambayo, kusema kweli, imeeneza maendeleo nchi nzima. Shida amayo tunaiona hivi sasa ni kuwa hawa ndugu

zetu ambao tunawachagua, ama tuwanapatia mamlaka ya kuweza kutuhudumia wameanza kuzembea kazi. Tunaomba kuwa huu uzembe ukome kwa sababu unafanya ombi lako la fedha lisitekelezwe mara moja; wakitaka stakabadhi hizi, unazipeleka; mara zimepotea; huzipati na miradi mingi katika maeneo mengi ya ubunge inakwama kwa sababu ya uzembe wa hawa maafisa. Naomba kwamba huu uzembe uishe ama upungue.

La mwisho, Mhe Naibu Spika, ni kuwa wengi wametoa maoni kuwa tukienda katika ugatuzi, *fund* hii ipelekwe kwa magavana. Maoni yangu ni tofauti; naomba *fund* hii ibaki pale ilipo ili Wabunge wapate kuishughulikia na wakamilishe miradi ambayo tunaihitaji hapa nchini.

Kwa haya mengi, Mhe Naibu Spika, naomba niiunge mkono Hoja hii.

Mr. Deputy Speaker: Bw. Naibu Spika anamtambua mhe Midiwo kuwa wa mwisho pia kuchangia Hoja hii. Ukiongea kwa Kiswahili, nafikiri Wabunge watafurahi.

(Laughter)

Mr. Midiwo: Thank you, Mr. Deputy Speaker, Sir. I am a Luo from Gem, and I speak that way when I have to.

Mr. Deputy Speaker, Sir, I am good in English; remember I said yesterday that the authors of those documents need to consult us, because even a Class Six or Class Five fellow can do a better job. I did very well in Kiswahili.

Hon. Members: Maranda High School!

Mr. Midiwo: Yes, but that is the Kiswahili in text books.

(Laughter)

Mr. Deputy Speaker, Sir, I rise to support this Motion; I wanted to talk or just add my voice to this issue of the existence of the CDF. There is this deliberate attempt by some people to try to kill the CDF as we know it and the spirit of it. The CDF is the only way in which this country is registering any economic growth. It is the most positive thing for economic activity.

Mr. Deputy Speaker, Sir, the Constitution says that the existing devolved funds shall continue to exist, and unless somebody changes the Constitution, this House must do everything within its powers to maintain the CDF. I would be very shocked if you took my kitty from Gem to Siaya, and I would get it back.

Mr. Deputy Speaker, Sir, the reason why we created the CDF was to avoid bureaucracy in Government. It is the best shortcut to investments. In other words, what is in the Constitution did not go far enough; we should have devolved resources up to the constituency level.

So, Mr. Deputy Speaker, Sir, the point I am trying to make is by way of warning the Revenue Allocation Commission. I know there are Commissioners there who are using every power they have and colluding with some mandarins at Treasury to try and kill the CDF. We will do everything within our power to make sure the only working investment strategy in this country is left where it is. You can change the role of politicians, but our input must be taken into account. We can go the way of India; we can go the way of any working formula, but we keep the CDF.

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

Mr. Deputy Speaker: The Mover?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I really want to thank all the contributors who have supported this Motion. I, especially, want to acknowledge the support that this House has

persistently and consistently given to the Committee and the CDF, because they know better than anybody else the impact of the CDF in the country.

Mr. Deputy Speaker, Sir, the appointment of this young man will bring a wealth of experience, youthfulness, excitement. As an appointee by the Minister for Planning, National Development and Vision 2030 he is supposed to take care of the regional balance when the other nominating bodies have not factored in that kind of representation.

Mr. Deputy Speaker, Sir, on that score, I want to, again, acknowledge the support by the Minister for Planning, hon. Oparanya, and the Minister for Finance, hon. Githae, for their continued support to the CDF kitty.

Mr. Deputy Speaker, Sir, I also want to assure hon. Members who have raised the issues of bureaucracy that they can take this one home, that at the Constituencies Fund Committee (CFC), we have directed the Board not to reintroduce bureaucracy through the back door!

(Applause)

We want things to be simple; we want things to be expedited and we do not want to go back to where we came from! The CDF was kept away from bureaucracy; they cannot take us back! That is the requirement by the Committee and you can trust this Committee and your Chairman to effect such issues. We have said no circulars should be issued by the Board without us vetting them; the Board is an implementing body of this Committee and they cannot purport to behave like some Treasury mandarins, whom I know my good friend, hon. Githae, is trying to work with.

Finally, Mr. Deputy Speaker, Sir, I want to assure hon. Members that we have already done a draft Bill on how to align the CDF with the new constitutional order. We may have to make some small changes here and there, but the most important thing is that the CDF will be there to serve the constituency.

(Applause)

The only thing we want to do is basically what the hon. Midiwo has said; what role can the MP play?

Mr. Deputy Speaker, Sir, I want to go on record; if an MP was not playing a role in the CDF, the CDF would have been as dead as a dodo many years ago! We have seen them!

We know of the Poverty Eradication Commission; what does it do? All the 15 devolved funds, what is their impact? Even researchers have confirmed that the CDF is a well known fund and the fund with the greatest impact in the country. Devolution cannot wish that away. The Constitution itself has anticipated that there can be more devolved units beyond the county. So, the constituency is one such devolved unit which the CDF will have to play its rightful role in.

I beg to move.

(Question put and agreed to)

Mr. Deputy Speaker: Next order!

ADOPTION OF REPORT ON DECLINE OF KENYA SHILLING

THAT, this House adopts the Report of the Parliamentary Select Committee on Decline of the Kenya Shilling against Foreign Currencies laid on the Table of the House on Tuesday 14th February 2012 subject to the deletion of the recommendations on paragraphs 3.1.1.(i) on page xiv and 7.3.2.(i) on page 70 of the report.

(Mr. Keynan on 1.3.2012)

(Resumption of debate interrupted on 8.3.2012)

Mr. Deputy Speaker: The last person who was on the Floor was Mr. Jakoyo Midiwo who had five additional minutes to contribute on this.

Please, proceed!

Mr. Midiwo: Mr. Deputy Speaker, Sir, I will be very brief. My views on this are known. I think last week we went through this and a bit of friction. However, now that we had saved one of our own, let us go back to the real meat because one of our own is not in the picture. The real issue here is that the financial sector in Kenya is a mess. We all want to take this opportunity to right the wrongs.

Mr. Deputy Speaker, Sir, if you read what the experts told us, they said something ought to be done. They said that banks took advantage of the inaction of the Central Bank of Kenya (CBK). These are experts of high integrity; the best we have, Dr. David Ndiu said that the banks were taking advantage of inaction or non-activity of the CBK to make a killing.

Let me just say that we are going to begin to do something with interest rates which was a result of that. Tomorrow, we will be tackling the Finance Bill. I want to appeal to my colleagues that Kenyans will be watching what will happen here tomorrow. Will we, again, protect the greed of banks or will we give Kenyans a relief from the greedy banks? The banks are unanimous that they have to make money. In fact, even some of our colleagues have said that banks are there to make money. I disagree. Banks are supposed to facilitate business.

Mr. Deputy Speaker, Sir, even the worst economy on earth today is the Greek economy but even there, the interest rate is only 6.5 per cent. Some of the worst performing ones like the Great Britain economy has an interest rate of 0.5 per cent. Why would ours be 32 per cent? The time is now and the hour to reckon is this hour. We want to support the Chairman. I want to encourage the Chairman that tomorrow as we do the Finance Bill, make sure that by today evening all the recommendations we made in that document come to the Finance Bill tomorrow so that we can reform the finance sector for the betterment of our people once and for all.

I thank you and support.

Ms. Karua: Mr. Deputy Speaker, Sir, I rise to support the Motion. I want to commend the Committee for a job very well done.

It is quite clear from the findings of the Committee that the Central Bank of Kenya (CBK) as a regulator failed miserably and also that intervention by the Government came a little too late. It is, therefore, also clear that both the regulator and the Ministry of Finance knew they had a responsibility to intervene but deliberately waited for the banks to make a kill before intervening. What we need to know is that when inflation goes high, those who suffer are the poor and vulnerable. Therefore, we are allowing the greed of institutions to overburden the poor. It is greed that caused the collapse of the world economy. Since the year 2007/2008 the whole world has experienced financial turbulence which is still being felt by the US and the Euro zone.

We have continued with the same practices that triggered the collapse of the monetary systems there.

Mr. Deputy Speaker, Sir, although this Report has been mutilated, it still contains very crucial recommendations about what should be done and how we should move from here. I, therefore, want to support that we pass the Report. The Report is not so much about individuals but about the policy direction the country should take, the actions that the Government and regulator should take to ensure that we have an effective monetary policy committee, to ensure that we have appropriate fiscal and monetary policy and the regulators play their roles. I want to join colleagues who have pointed out that in the developed world interest rates are never let to run amock.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Ethuro) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, although in many countries there are no laws capping the interest rates, the effective regulations ensure that interest rates stay in manageable digs.

I therefore say that this Report is a wakeup call to the Government. Let us pass it and then pull for the implementation of recommendations. I will not go on to read the recommendations. I am sure the mover of the Motion did that.

I want to once again commend the Committee and call on us, as the House, to pass this Report.

I beg to support.

Ms. A. Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. The arguments on both sides are being repeated. Would I be in order to ask the mover to respond?

The Temporary Deputy Speaker (Mr. Ethuro): As you can see, Ms. Amina, the interest is quite high.

Mr. Jeremiah Kioni, please, proceed!

Mr. Kioni: Thank you Mr. Temporary Deputy Speaker, Sir, for the opportunity to speak to this Report. I want to start where Ms. Martha left; that it is actually a wakeup call to the Government.

To me, this is also a wakeup call to the Committee on Finance, Planning and Trade because the Committee is the one that is charged with oversight to the banking industry. We want them to be more robust than in the past because if they had been as robust as this Committee, then perhaps we would not have been where we are, where the interest rates seem to have gone through the roof. I want to commend the select committee led by the chairman, Mr. Adan Keynan; one, for the boldness with which they took up this assignment and two, for the foresight that they had. It is because of what they did that the decline of the Kenya Shilling and the high interest rates have started coming down.

Mr. Temporary Deputy Speaker, Sir, I want to thank them and also ask that the Committee on Finance, Planning and Trade takes up this exercise from where the select committee stops so that we do not see this going back. In my opinion, this report has not been mutilated it was just a question of amendment. It was important that we remove the focus from

an individual and address the policy issues that have affected the banking or financial sector. These are contained in this Report.

As others have said before, it is important that we do not lose those recommendations because they will help the financial sector in stabilizing and also in ensuring that we, as a country, benefit from it as opposed from them just reaping huge profits from us.

Mr. Temporary Deputy Speaker, Sir, this Report has also generated some interests and some controversy here and there. It started with allegation that some core pages of the Report had been plucked out by the Clerk's office; an allegation that was proved wrong and false. There was also allegation that the tallying had been doctored; again, an allegation that was proved to have been false.

I think it is important to be clear in our contribution so that we do not personalize issues. We should debate them as they come to the Floor.

Mr. Temporary Deputy Speaker, Sir, if those banks are not talked to, reined in and the oversight Committee fails to do what it should do, then we will see the construction industry suffering because of those high interest rates. Many of the construction companies may fold up. That will affect employment. Even investments in our country will be affected. I think the Departmental Committee on Finance needs to pay attention as to whether the banking sector is, by and large, supporting investments in the country. Are the profits being re-invested or ploughed back to our economy or are they being shipped out of this country? If that is not addressed, then we will continue having a banking sector or industry that continues feeding into the colonial systems that were there before, as opposed to helping us to develop the country. In doing this report, it is important that we also ensure that we do not cause panic in the industry. Many of the statements that have been issued have some very harsh words against the bankers. They have been called "looters" and such other terms that are not useful, when we want the industry to move. I think when we have differences with other players in the other sectors, the best way to deal with it is to sit across the table and chart the way forward. But to call those who have no opportunity to defend themselves "looters" or "greedy" does not help. The industry does not help this country in any way.

I think it is also important that we encourage the banks to make monies from other transactions. Equity Bank was a leader in that front, where you make your profit from transactions as opposed to making profits from just charging interest rates. That is because in my opinion, when you just rely on interest rates to make money, it is evident that the bank is lazy in terms of formulation or thinking. The country has been engaged, by and large, with salaries of Members of Parliament. It is important that we also think about the salaries that are paid to CEOs. The money that CEOs are taking home in terms of payments and benefits must be contributing to the cost of money in this country. Even as we address the high salaries that may have been assigned to Members of Parliament as the public has been made to believe, it is also important to look at the salaries that are paid to those CEOs. Fine, it is in the private sector but those salaries are supported by the cost of transaction in the bank. I believe that also makes the cost of money in our country heavy, if you have to continue paying the salaries that they have awarded themselves.

It is also important to pay attention to the fact that we have had many banks in this country, but the percentage of those who have continued to bank in this country only increased when Equity Bank came into place and, more so, when Mpesa was introduced. So, it is crucial that we ask ourselves even as we do the overseeing; what role have those banks played? I see there are quite some harsh recommendations on Equity as contained in 318 and 319. There was also an attempt

to zero down on that particular bank when you look at the recommendations, but I think it is important that we look at all of them objectively and also encourage those banks that are there and available for Kenyans; banks that have taken banking to Kenyans there before like Equity--- Equity has even opened branches outside this country. It is important that even as we engage in it, we encourage them. Where they have gone wrong, we need to correct them. But we should not bring any bank to its knees because in so doing, we will not have helped in any way.

The Departmental Committee on Finance, once again, needs to up, up their performance, so that banks are encouraged to ensure that the inflation and interest rates are such that they are not punitive. We may have to debate as to whether we should legislate on interest rates. We want to hear those who are schooled in that area informing us without unnecessary arguments, so that we also do not bring legislation to the Floor that will end up ensuring that only the corporate world continues enjoying the loan facilities, and those Kenyans from Ndaragua and elsewhere cannot access the money because their risks are higher. We need to know what the benefits are, and what the advantages and disadvantages of legislating on interest rates are. That is because we want the ordinary Kenyans to continue being able to access that money. The money must also be affordable because it hurts when you go back to the constituencies and you find women who borrowed through the Kenya Women Finance Trust (KWFT) or other such facilities losing *mabatis*, blankets and such other household items just because they borrowed, but cannot repay because of the very high interest rates.

With those few remarks, I beg to support the recommendations in this Report as amended and again, call upon the Departmental Committee on Finance to do what is expected of them by this House, so that we do not find ourselves where we are. The banks need to be given oversight regularly, properly and professionally.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Temporary Deputy Speaker, Sir, thank you for giving me a chance to contribute to this debate. I would like to say the following: Let us not condemn banks on the issue of interest rates. If we have a proper monetary policy, if there are proper---

Mr. Chanzu: On a point of order, Mr. Temporary Deputy Speaker, Sir. My brother had contributed. He made a very good contribution and I do not know whether he has forgotten it. He had contributed last week!

The Temporary Deputy Speaker (Mr. Ethuro): But was it before the amendment or after?

Hon. Members: Before!

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Temporary Deputy Speaker, Sir, I spoke before the amendment and I am in order to continue with the Motion right now.

The Temporary Deputy Speaker (Mr. Ethuro): That is correct!

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Temporary Deputy Speaker, Sir, I am perfectly in order!

The Temporary Deputy Speaker (Mr. Ethuro): This is the amended Motion!

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Temporary Deputy Speaker, Sir, yes, it is not the original Motion which I had contributed to.

So, I want to say that we have talked much about interest rates in this House, but the biggest issue we have is the monetary policies of the Central Bank of Kenya (CBK) and the fiscal policies of the Ministry of Finance. If they are properly handled; if the monetary policy takes place effectively without doing management functions in the market as they did last year,

we will not experience high interest rates. So, it is upon us in this House to know that the biggest problem we have when interest rates go up; when banks start charging us high interest rates, it is because the monetary policy of this nation - through the Governor of CBK - has failed to regulate the monetary policies. What happened last year? I see that banks have made a lot of money this time. I have seen the results of Standard Chartered Bank. They have stated that they have made a lot of monies from forex. Clearly, they made money through forex when the Kenya Shilling depreciated. In this case, CBK takes the blame and responsibility. But for Standard Chartered Bank which has made the money and has declared it today in their books, it is obviously a lopsided policy by the Government which allowed a few banks and individuals to make money.

The main purpose of the banking sector is not to make money. It is to stimulate economic growth. It is to create an enabling environment for the people and industries to do business; for people who are manufacturing to expand their factories; for people in transport to increase their business. That is done by lending out money. However, the people who get the money must be able to make some profit. Can they make profit at the interest rates the banks are charging today? The answer is no! The interest rates are very high; they are punitive and, therefore, when we say that the interest rates should be regulated, it is because of the high interest rates the banks are charging. If the economic and fiscal policies are wrong, the banks will always increase their interest rates. So, it is upon the Ministry of Finance to take care and come up with good policies. It is upon the Governor of the CBK to come up with better monetary policies so that interest rates charged by banks can come down. Unless that is done by the Governor of the Central Bank of Kenya (CBK) and the committee, we will always have a problem in this country. We will always have high interest rates which will not help this nation to move forward.

Mr. Temporary Deputy Speaker, Sir, finally, once we pass this Motion, I hope the Acting Minister for Finance will incorporate the recommendations into the Finance Bill, so that it can be effective and assist the Governor of the CBK. It can assist the banks to do their business properly by not overcharging us, by not bringing high interest rates and by not making sure that at the end of the day, the economic activities of Kenyan banks do not hurt anybody. They are not going to benefit a few banks which always increase interest rates to get more money.

With those few remarks, I support the Motion as it is; but more importantly, I hope the Minister for Finance will take note of the recommendations we have made under this Motion, so that they can be part of the Finance Bill which we will debate in the House.

With those few remarks I support the Motion.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to debate this Motion as amended. I just want to reiterate that I was a member of this committee, and it did a marvelous job. The recommendations of the committee make a lot of sense, even if you take into account issues to do with the reforms that we need to be undertaking in the finance sector.

Mr. Temporary Deputy Speaker, Sir, it is very clear that there was some manipulation by the CBK. Kenyans actually expect protection from us as leaders; I think that is the reason why the shilling depreciated in a very short time from October to November; it went down from Kshs82 to the Dollar to Kshs107 to Dollar. I know some of my colleagues have talked about the high import costs, high costs of construction, high costs of machinery, oil and so on. All of us remember very well that from 2003, this Government embarked on major projects and the question arises: Why then do we have this sharp increase just in one month when we have been doing these projects from 2003 up to now? Those are the kind of questions that need to be

answered particularly in the process of implementing the recommendations that were made by this committee.

Mr. Temporary Deputy Speaker, Sir, it is well known that banks in this country are out to compete on how to make profits, and not how to render service; they have now started publishing their financial reports in the Press and every time the announcement is just on that. I think this is where the Minister needs to find a way because the Government is represented in most of these banks. We should be able to look at it and see how much the banks can give back to the citizens.

Mr. Temporary Deputy Sir, as I make this contribution I also do not want to fail to congratulate some of our local banks, which have made tremendous growth within a very short time; an example is the Co-operative Bank of Kenya, which has achieved tremendous growth within a very short time. As much as we talk of the issue of conflict of interests in some aspects, there is diversification that the Equity Bank has introduced and they are trying to assist the local *mwananchi*. These are some of the aspects that we have to commend our local banks for.

Mr. Temporary Deputy Speaker, Sir, the high cost of the Dollar had a lot of serious effects. It was not only to the poor people but even to us, Members of Parliament, particularly those who are very much in touch with the electorate; the dependency rate in this country is very high. Any slight increase in costs sometimes affects even the Members of Parliament. So, we should all appreciate that and make sure that we implement the recommendations of the committee the way they have been stipulated in the report.

With those few remarks, I beg to support.

The Assistant Minister for Industrialisation (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, I thank you as I rise to support. I am pleased that the House found it possible to amend this Motion. Most of the recommendations in this report - I think every speaker before me has said it - are excellent and we should implement them.

Mr. Temporary Deputy Speaker, Sir, it seemed, of course for a moment, that the findings did not support one particular recommendation. In particular, I want to point out that in the course of that crisis, the CBK did in fact issue in excess of 13 circulars seeking to guide the way the market was performing. Could they have done better? I think most people accept that we could have done better, but to say that nothing was done is also not correct.

Mr. Temporary Deputy Speaker, Sir, it is also true what hon. Members have said, that there are some actions that we should have taken on the fiscal side to ease Government expenditure; the key issue was managing inflation on one hand and managing exchange rate on the other. The whole idea of higher rates was to slow down credit and, therefore, slow down inflation; this could also have been achieved by setting activities on the fiscal side that could have involved a bit of belt tightening.

Mr. Temporary Deputy Speaker, Sir, I want to correct one misperception that exists in this country, which is that banks make abnormal profits. I want to explain very clearly that when a bank says it has posted Kshs10 billion or Kshs15 billion in net profit, one must look at what were the assets deployed in order to make these profits. What you will find is that these banks, in fact, their return on assets and investments is nowhere beyond 5 per cent as compared to other industries like the Telecommunications industry, where return on assets and turnover is in excess of 40 or 45 per cent. But that is not to say that the difference between what an ordinary saver is getting for their money and what they are borrowing at is not significant. It is significant and big. That is the point of reform.

Mr. Temporary Deputy Speaker, Sir, the reform of the financial sector is not just about how to reduce that spread between what depositors are being paid and what they are paying by way of interest rates. What we really require is full reform; reform that makes the capital market function so that Kenyans in productive sectors have other sources of capital and they do not only have the banks from which to borrow money to engage in economic activities.

Mr. Temporary Deputy Speaker, Sir, these reforms must surely include strengthening the Capital Markets Authority. It must include deepening and extending the instruments available in the capital markets, making it easier for small business to access long-term capital. These reforms must be comprehensive.

Mr. Temporary Deputy Speaker, Sir, until recently, with the advent of mobile money with M-Pesa and other brands in the mobile money transfer business, only less than two million Kenyans were accessing financial services. We cannot claim---

Ms. A. Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have listened very carefully since this debate began and there is no new argument coming forth. May we, please, ask the Mover to respond with your permission.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! I think the Member has been persistent and I think we have allowed sufficient ventilation.

I would request the hon. Member for Laikipia to wind up. In any case, hon. James Maina Kamau, you have already spoken to this Motion. So, I will allow the hon. Member on the Floor to finish, and then we conclude with the hon. Member for Lari.

Mr. James Maina Kamau: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think I only contributed during the initial Motion. But on this one, I have not contributed.

The Temporary Deputy Speaker (Mr. Ethuro): But given the mood of the House, whether you spoke or not, it is basically the same Motion.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, I would just finalize. I was saying that what is needed is comprehensive reforms of the financial sector in order to provide Kenyans with an alternative. Today, if you are looking for capital you must go to banks. What we need is to ensure that the capital markets provide a real alternative for Kenyans to be able to raise capital for productive activities.

Mr. Temporary Deputy Speaker, Sir, I want to also say that I believe the banks can do better. The banks can do better because we know that on average, their cost of capital is in the average of 5 per cent. There is no reason why it would charge 25 to 30 per cent on the lending side. We look forward to these reforms of the financial sector. We look forward to extending proper and well structured capital to small business particularly in this country so that we can create jobs because that where it matters.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Member for Lari and then the hon. Okemo. Hon. Okemo will conclude, given the interest on the Finance Committee.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, in support of the amended Motion, I would start by saying that the Committee did a commendable job.

The Committee was able to generate very prudent recommendations that are geared to stabilizing the Kenya shilling. I would also note that the Committee had 27 sittings within 90 working days. This is really commendable.

Mr. Temporary Deputy Speaker, Sir, inflation in this country has affected the entire country. About 40 million people were affected and the cost of living was really bad. The price of kerosene, petrol and maize flour was very high. Even our secondary schools were not able to

buy maize meal for the students. It is, therefore, important that the Government must take very decisive action to address some of these problems. We also note there was the issue of hoarding of foreign currency. This should be discouraged entirely.

We note that the Committee has recommended some penalties on this financial crime. I would think that the best penalty should be about Kshs5 million as a deterrent. We also note that the banks were able to make skyrocketing profits. We have seen this and it was evident when the banks were declaring their end of year results. It is, therefore, important that the banks concerned must plough back something to their customers who are now being faced with very high interest rates.

Mr. Temporary Deputy Speaker, Sir, on the discount window facility, this is a constitutional legal entity. Nobody in this country should be allowed to abuse this facility. It is clearly spelt out by the Committee how certain institutions messed up with this window. This should not be allowed to happen in future.

Mr. Temporary Deputy Speaker, Sir, on the banks that benefited from this window, we note that some of them have really done good work in this country. We have banks such as Equity Bank and Kenya Commercial Bank that have already expanded their network branches within the country and outside. For instance, KCB is in Southern Sudan, Rwanda and elsewhere. This is creating employment for Kenyan youth. We should encourage this expansion.

We have seen the National Bank of Kenya which was a collapsing bank being revived by Mr. Marambii. This is really commendable to that leadership. We have also seen the Co-operative Bank doing a very good job.

With regard to Equity Bank, I am excited that this bank has been able to support the poor in the society on educational programmes. For instance, in my constituency, they were able to give bursaries to very needy students. Therefore, these banks are doing a good job and they should be able to plough back some of the huge profits to *wananchi*.

Mr. Temporary Deputy Speaker, Sir, finally, let me congratulate the newly appointed Minister for starting functions at the Treasury in a very committed manner. I hope that he will be able to make sure that the lives of Kenyans are really improved.

With those few remarks, I beg to support the amended Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! I would like to move the debate on the closure, but before I do so, since I had allowed hon. Okemo to contribute, I want just want to confirm to him that he had spoken to the original Motion. You can only be allowed to speak to the amendment; an amendment that was already determined. You cannot speak again to the Motion. Those are our rules, and I think my job is just to faithfully follow them.

(The Question, that the Mover be now called upon to reply, put and agreed to)

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, from the onset, I would like to thank my colleagues.

The essence of parliamentary democracy is to do oversight, legislate and represent the electorate. We have all read the definition of Parliament; the fourth role is parliamentary diplomacy, which hitherto was the preserve of the Executive. It is something that the developed nations are making proper use of.

Mr. Temporary Deputy Speaker, Sir, having said that, I would also want to say that this report was meant to act as a wake-up call and as a deterrent. The use of interest regime in any country whether developing, under-developed or undeveloped is a tool for the Executive to protect the public interest. That is why today, the changing dynamics of interest regimes in developed countries and in particular, big economies like the USA is determined almost on a monthly basis. Therefore, this is a fundamental economic issue that if we have to excel, develop and prosper as a country, as enshrined in Vision 2030, socially, politically and economically, we cannot do that with high interest rates.

I want to refer hon. Members to one of the pillars of Vision 2030 which is economic development. The key fundamental role in the economic development under the macro-economics is low interest rates. With interest rates as high as 30 per cent, you can imagine the predicament of the farmers, middle income Kenyans, business community, the general Kenyan public and, by extension, that of the entire East African Community (EAC) citizens. That is because the Kenyan economy constitutes 67 per cent of the Gross Domestic Product (GDP) of the combined EAC. That is why I always say that Kenya is a premier nation. This premier nation must be protected, projected and promoted at all levels, including at our level as Members of Parliament. Having said that, there are a number of issues I want to highlight.

In the Report, we mentioned five fundamental issues. One of them was how to bring the interest rates down to a manageable level. I also acknowledge that this is a liberalized economy and, therefore, that does not take away their responsibility. If there was no need for oversight or regulatory functions, we would not have had a Minister for Finance. We would have said that you can manage yourselves. We would not have had the Banking Act and the Central Bank (CBK) Act. That, therefore, means that the planners or designers of the rule of law in their own wisdom knew that as much as you give with one hand, you must have somebody else to regulate. That is why I want to commend the Minister for Finance. I think he has started doing his job ably. We look forward to doing more because this is the time that this country requires a person who will be around and take into account all the emerging issues, so that we can take this country through the transitional period constitutionally and election-wise. I do not want to bore my colleagues with the issues I raised when I moved this Motion. However, I want the Minister to reflect on the recommendations on the monetary policy, the recommendations that we have put in the fiscal policy, the recommendations on the oversight role of the CBK on financial institutions and on the raft of amendments we have suggested on the CBK Act, the Banking Act and the Financial Services Act. If all that is done--- I want the Minister to look at the contents of Section 44 of the Banking Act which brought about the application of the In Duplum Rule. This was a product and again, because the Minister is serving in the Government of none other than President Mwai Kibaki, I want him to refer him to what the President said during his contribution when he was the Leader of Official Opposition in 1999 on the Donda Bill, and how the issue of application and legislation on the In Duplum Rule came about. We want this rule to apply to both performing and non-performing loans so that ordinary *wananchi* are protected from the ever increasing interest rates.

With those few remarks, I beg to move that this Report be adopted.

(Question put and agreed to)

Resolved accordingly:

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, subject to the deletion of the Recommendations on Paragraphs 3.1.1 (i) on page xiv and 7.3.2 (i) on page 70 of the Report.
Next Order!

BILLS

Second Reading

THE PUBLICATION OF ELECTORAL OPINION POLLS BILL

(Dr. Khalwale on 7.3.2012)

(Resumption of Debate interrupted on 7.3.2012)

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kioni, you have 11 minutes to conclude your contributions.

Mr. Kioni: Thank you Mr. Temporary Deputy Speaker, Sir. I had made my contribution and, in essence, I was seconding the Motion. In seconding, we were making it clear that the Bill is seeking to regulate the manner in which opinion polls are being done in the country, so that there is more objectivity in it. We also wanted to avoid the misuse of this very important tool by mainly politicians because this was evident in 2007 or around that time. Kenyans were misled to believe that a given outcome was a guarantee, but it was a way of influencing the voting pattern. I did not want to say many other things. I second the Bill.

Although we have provisions in the Constitution, Article 34 and Article 35--- Article 34 talks about the Freedom of the Media and the issue of Freedom of Information just as Article 35. But it is important that we ensure that the basis which informs opinion polls in terms of questions, the area that has been sampled and the sampling methods are also known to us or to Kenyans, so that we can be able to deal with the outcome. Those kinds of questions should also help the people who would want to use the data thereafter. That way, data meant for one thing is not used for another and that has been used in the past. For that reason, it is important that this legislation is supported by Members of Parliament and I beg to second.

(Question proposed)

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. It is important that issues to do with public information and those that have the potential to hugely influence public perceptions and decision-making are interrogated. There should be disclosures of the processes and the dynamics behind such important matters.

The Constitution has permitted instruments of State, public organs, the civil society and community at large to engage in disclosures. Matters of public interest can be petitioned by an individual citizen. This morning, before this House, a Motion was passed to include an individual in an important committee, and that is in the context of inclusiveness and diversity. In

the Constitution and the organs created by the Constitution, you cannot ignore any religion, ethnicity, generation or race. Since this very important instrument of decision making--- By the way, the opinion polls in Kenya seem to be hugely tilted towards political issues and not other consumer interest matters. It is significantly on politics. That should, in itself, if not for any other reason, invite us to interrogate what should be done to ensure that there is improvement of accountability, transparency and due diligence. This is because you cannot explain how in one week two proclaimed dominant organizations can carry the same theme on an opinion poll and produce significantly very different results. It means that we need benchmarking. Perceptions are very important. We cannot outlaw opinion polling. In fact, they should be encouraged to deal with other important issues. For instance, there is the report that was launched recently about the sad situation in public universities on issues of tribalism and ethnicity where campuses are being created as bastions of certain ethnic groups and regions. These are some of the issues that pollsters should be focusing on.

Mr. Temporary Deputy Speaker, Sir, there are issues that are coming now of dissatisfaction within various sectors. For instance, there was the issue of the main broadcaster, the Kenya Broadcasting Corporation (KBC). Was there no way even internally an opinion poll could have been commissioned to show the perceptions of the satisfaction levels of employees within this main State broadcaster? It is important to continue interrogating to understand the situations; customer satisfaction and perceptions within institutions. Is it not sad that while we are polling the popularity or otherwise of those who are rated to be serious presidential candidates in an election that has not been announced and likely to be a year away, we have not conducted satisfaction levels of workers within the health sector to the extent that today we are at crossroads.

Mr. Temporary Deputy Speaker, Sir, opinion polls have the capacity for negative influence. They also have the capacity for positive influence. Let us acknowledge and appreciate that polling in the last eight or nine years is part of the new dispensation that came with the collapse of the ruling party, KANU, in 2002. This is because before then, there was no opinion polling about the popularity or otherwise of the former regime. It is something that is new. So, taking it in tandem and placing a mechanism that produces good governance among pollsters is a good way to go.

Mr. Temporary Deputy Speaker, Sir, we are now complaining of the monies being shipped overseas. We have just concluded the Motion on the decline of the Kenya shilling. One of the issues and spirit of that Motion that I believe have been captured is the need to reform the Capital Markets Authority (CMA), so that it is elevated to compete with commercial banks, co-operatives and SACCOs. We are not yet interrogating what is happening in the financial sector in a way that will prevent an abuse of the financial sector. We have not solidified the status of the CMA to enable that institution to rein in rogue brokers and other forces that could actually be stealing resources from Kenya. We need to understand who pays opinion pollsters. Today, every office of the Government is obliged to show how they have profiled or enumerated all the employees. They are actually obliged by the Constitution to ensure that there is diversity; that every region, community and generation is included in their profiles.

*[The Temporary Deputy Speaker
(Mr. Ethuro) left the Chair]*

[The Temporary Deputy Speaker

(Mrs. Shebesh) took the Chair]

Madam Temporary Deputy Speaker, we are also entitled to understand where the money borrowed for and on behalf of the people of the Republic of Kenya is used and its source. Today, one of the issues that have not been focused on is who finances the civil society. I think the culture of secrecy even in the civil society and Non-Governmental Organizations (NGOs)--- I have worked for many years in that sector, but I can tell you that even when I served as a senior officer in some of those institutions, as employees, we could rarely be shown the source of financing. Because of the hopelessness and joblessness, we felt that it was like an invitation to tokenism to be given a job in a certain NGO. We did not oblige the management boards of those NGOs to show who had given the money, because whoever pays the piper also calls the tune. We are not saying that by identifying a certain international corporation or a certain embassy or development agency, as the stakeholder in a certain communication firm that is doing opinion polling, it will reprimand or that there will be punitive measures put in place to prevent such a relationship. But Kenya has also grown. This culture of exclusiveness and secrecy needs to be dismantled the way it has been dismantled in the Government. In Parliament, we are interrogating simple matters on the Floor of this House. Ministers are made to account for decisions made, including employment of junior officers. We must move as one nation in tandem; that is, the civil society, religious sector, public sector and private sector, so that we do not dismantle impunity of one category and produce impunity of another category.

Madam Temporary Deputy Speaker, I fully support this Motion. I know that originally, there were feelings that if such a Bill was brought before House, it could have been seen to be intended to punish opinion polling. We cannot do without opinion polls. Let us do opinion polling on consumer satisfaction of commodities produced. Let us also do opinion polling on the work of the CMA instead of producing what we are now seeing in the CMC, where the barons who were proclaiming to be good leaders – “the very European” – in this country have shipped shareholders’ dividends to their overseas accounts.

Madam Temporary Deputy Speaker, even within the church – and I know that many people do not want to touch this – a Motion should come to also compel even religious organizations to show the source of their funding. This is because as a political candidate, you cannot be financed by an overseas friend or foreigner. We know that the corporate world determines politics. They finance presidential candidates and political parties. They are going to finance Governors and Senators. So, the interest to make full disclosures is basically to ensure that we stop the culture of impunity and produce the best results.

Madam Temporary Deputy Speaker, I conclude by saying that it is important to know even the shareholding in some important institutions. It is not just a matter of who pays the piper. It is important to even know who the directors of these institutions are, as carried in the spirit of this Bill. This will ensure that a pollster organization is not owned just by one family coming from one village and decides to also employ village mates and classmates and, then conduct an opinion poll with the likelihood that a friend from the same village is a contender with another friend 5,000 kilometres away from that village. The prejudice can easily be produced.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Onyancha: Madam Temporary Deputy Speaker, I rise to support this Motion, and as I do so, I have a few comments to make.

The first one is on Clause 7, on the 48-hours period required during which opinion polls should not be published before an election. I feel that this period is too short. It should be extended to 72 hours as a minimum.

Secondly, I would like to comment on Clause 8 on penalties. In my own opinion, Kshs500,000 is too little for people who may go against this proposed legislation. This clause also provides for one year imprisonment in default. I would prefer a fine of Kshs1 million and two years of imprisonment for infringement.

Madam Temporary Deputy Speaker, Sir, I notice that this Bill requires information. For instance, who should be a pollster? It is important that we have qualified people conducting opinion polls. This qualification should be determined by relevant authorities whom we have in the Government. We should then have a central depository, maybe, in the Ministry of Information and Communications, which determines the licensing issues with regard to pollsters.

The admitting Ministry is the Ministry that will receive data on the methodology and also the sampling method of the pollsters that this Bill requires to be deposited without stating into which place that depository should be.

Madam Temporary Deputy Speaker, the Bill has also failed to cover private polling. Private polling is a private affair, which should be excluded completely so long as the results of that private polling are not published.

I want to conclude by saying that the bandwagon effect is very important when it comes to polls. It is for that reason that we should have proper qualifications for pollsters, a proper registration system, a proper licensing and more importantly, we should have a central depository for that information.

With those few words, I beg to support.

Mr. Ethuro: Madam Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute to this Motion.

First, I want to thank hon. Khalwale for addressing this very important issue of opinion polling. This is an issue that has obvious implications in terms of our political contests. It is an issue that if it is left unregulated, we run the real risk that an individual can use it as an opportunity to influence public opinion in the manner that particular individual wants the opinion to be.

Madam Temporary Deputy Speaker, it also introduces the issue of scientific sampling but in doing so, the Bill is still shallow because it must determine the size. In scientific inquiry, we say “N” must be greater than 30”, so that the hypothesis that you are testing can be determined to be correct. So, there should be a sample size of the information to be given but that sample size must be critical enough for you to be able to say “this is actually the opinion of the people of Kenya”, especially for electoral purposes.

Therefore, I would want to go further and suggest that there must be a particular percentage. We could say 40 per cent of the people to be sampled, so that we know that the outcome of the poll is correct. There is also the article in terms of “if applicable”. The margin of error must be provided. In every question, you must factor in a term error. So, the information that will be brought by the pollsters cannot be “if applicable”. They must always give the term error because the term error is what you use to discount what is being provided for. If you do not discount, then you are not sure of the results you are going to get.

Madam Temporary Deputy Speaker, Sir, you will remember, especially in our situation in the last general elections. When the opinion poll results were favourable to a particular candidate, he ascribed them to the beauty of the person. We want to run away from such a

situation. When the polls were applicable to that particular individual who described the other one in terms of the beauty, all over a sudden, beauty was not a factor in the polling. So, this Bill is trying to bring in very rigorous scientific instruments that will not be subjective to the way we feel or look at people.

With those remarks, I want to support the Bill. I want all of us to make sure that we do this in a very scientific manner. I want to echo the words of hon. Onyancha – that we are providing for information but we are not saying where. Maybe, the Communication Commission of Kenya (CCK), for instance, should be the depository of that information.

Secondly, the issue of qualifications of the pollsters themselves should be considered. This cannot just be left for every Tom, Dick and Harry or Kamau and Ensokon and such Kenyans to one day decide that they want to give an opinion on Ekwe Ethuro because he is running for a particular seat in the county or in the nation. Hon. Members will agree with me that we are getting some proposals such as “we can do this, we can do that”. If I am interested, I could also be relying on the services of those fellows but I want to go to a specialised agency that can tell me: “This is a good organisation you can use for your own small things.”

Madam Temporary Deputy Speaker, finally, on exit polling, in developed democracies, people will always be sitting somewhere and waiting for people to vote and then they determine who you voted for. Given our history of post-election violence, we really need to look at these kinds of things and determine whether we really need them or not. The 48-hour period that has been proposed in this Bill is too short. In fact, I will go beyond the 72-hour period suggested by hon. Onyancha. Those are only three days. I will demand a whole week, so that we do not influence the way people make decisions.

Part of the reason that informed the Parliamentary Select Committee in Naivasha to ensure that the six positions that are being contested in all the elections are all conducted in one day and at the same time is so that the presidential election does not influence the parliamentary election. So, that must also be maintained when we give the period within which those results must be published.

With those remarks, I beg to support.

Mr. Ruteere: I thank you, Madam Temporary Deputy Speaker. I also stand here to support the Motion. I want to thank hon. Khalwale for bringing this Bill, which is overdue. We know that opinion polls can cause chaos in a country, if they are not properly conducted.

As we move close to the elections, there are very many people who are trying to say that they are conducting polls either at FM radio stations or at certain television stations. We have seen that in some cases, like in the FM radio stations, the presenters will take the opinion polls to favour the candidate or the people they want to be seen as popular. It is time that opinion polls were professionally conducted by bodies that have no interest, or which will have no prejudice over the way the people determine who is popular and who is not popular or who is getting what percentage or who is dropping and who is not dropping in terms of rating.

Madam Temporary Deputy Speaker, we know that there are people in the countryside who will always move with the opinions of the majority. If opinion polls are not professionally conducted, they can lead to the wrong people getting elected to public office. That is why it is very important that this Bill is passed with the necessary provisions. We should know who the owners of the polling bodies are, who are financing them and what their interest in the opinion polls they are conducting is, so that we know that at the end of the day, the opinion polls reflect the wishes of the people. They are not there to propel the popularity of certain candidates.

Madam Temporary Deputy Speaker, I support.

Mr. Mututho: Madam Temporary Deputy Speaker, the cardinal thing in this particular Bill is to disclose totally who is financing the opinion poll. The science behind it is well founded in current software in computers and other areas. Accuracy also would not be an issue. But who is sponsoring and for what reason is a really serious issue. The British Broadcasting Corporation (BBC), having found that there is a big lacuna in the opinion polls, decided to do their own regulations. So, it is so critical to them and the media at large. It affects the public to the extent that the BBC today, would not carry out any opinion polls unless they follow certain guidelines. I support what hon. Ekwee said; no pollsters will report anything a whole one week before the elections. That way, there is no likelihood of influencing certain results.

The other aspect of it is that we should have hefty fines for people who decide to work from their bedroom, come and falsify results and then the following morning, they call a big Press conference. The media should be informed that we are not talking about gagging it. The media will continue reporting as accurately as possible as per the pollsters. But the pollsters themselves must be bound by regulations, so that they are accurate. They must disclose the size of the sample, who the financier of the polls is, and his or her intents.

I support.

Mr. Namwamba: Madam Temporary Deputy Speaker, I want to support this Bill. When you talk about transparency and accountability, especially at this time as we rebuild the foundations of the Kenyan State based on our new constitutional dispensation, nobody should be left out of the net of accountability, transparency, and openness. I recall that as the winds of change swept across Eastern Europe at the beginning of the 1990s, the Russians under Mikhail Gorbachev coined the phrase “glasnost and perestroika” which basically spoke to the need for openness, transparency and accountability in all affairs touching on the public.

The science of opinion polling has serious implications not just in terms of influencing trends, but also in shaping perceptions and, ultimately it could, if not well managed, be a risk to the very practice of democracy. Therefore, this Bill should be viewed in the light of what we call in law “enjoying rights responsibly”. There can be no rights without responsibility. Actually, society is only guaranteed stability when we are all responsible in the manner in which we exercise and enjoy our God-given and constitutionally guaranteed liberties and rights.

Although it is important that pollsters in this country--- We do support polling and empirical data that can help the public to make decisions that can assist in the maturation of our democracy. However, we want that to be done responsibly. We want those rights enjoyed responsibly. We want to support a vibrant media, but we also want the media to be responsible. We have had scenarios across the world, including the sad situation in Rwanda, where the media was put on the cross for having been part of the problem. They were part of whipping up negative public emotions and public sentiments that virtually tore apart our East African sister State of Rwanda.

*[The Temporary Deputy Speaker
(Mrs. Shebesh) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Ethuro) took the Chair]*

I do take note of the gender transformation on the Chair.

I, therefore, hope that this House will appreciate that we are exercising our responsibility as a law making institution to ensure that those who want to practice the science and business of opinion polling do so responsibly and that, while we appreciate their right to engage in that science or business, they also owe Kenyans and should exercise that right responsibly. In particular, is the question of disclosing who is financing a particular opinion poll, who has an interest in an opinion poll and the empirical methodology used and so on. All those disclosures can only make this practice better and serve our democracy in the best interest of a democracy.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the Whole House tomorrow)

Second Reading

THE NATIONAL DRUG CONTROL AUTHORITY BILL

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, I beg to move that this House enacts the National Drug Control Authority Bill. The objective of the Bill is to establish an institutional framework for the co-ordination of efforts intended to reduce demand for alcohol, narcotic drugs and substances that can cause addiction. The Bill seeks to set up the National Drug Control Authority as a successor to the National Campaign Against Drug Abuse Authority (NACADA).

*[The Temporary Deputy Speaker
(Mr. Ethuro) left the Chair]*

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, NACADA was established in March, 2001 by former President Moi with the aim of preventing, controlling, and mitigating abuse within the Kenyan society. This House, in 2007, approved a Motion proposed by myself that NACADA should be anchored in law. In June, 2007, His Excellency the President through Gazette No.140 established NACADA as a State corporation. The effect of the Gazette Notice by His Excellency the President was to add the name “Authority” into NACADA’s title, and to include the management and regulation of rehabilitation centres into NACADA’s mandate.

Having done that, NACADA has thus been working in the past five years in the format of the gazette notice. However, despite the fact that NACADA has been successfully able to create awareness about the problem, the problem of drug and substance abuse seems to be expanding rather than shrinking.

Mr. Temporary Deputy Speaker, Sir, the fight against drug abuse in Kenya seems to be linked to the person heading NACADA at any one given time. It was most active when Mr. Kaguthi was the head. It was also active during the time of Mrs. Kimani. It is now active on

producing standards under Mr. Busienei. The problem of drug abuse is being dealt with by 13 different institutions and without having a coordinating mechanism as the saying goes “too many cooks do spoil the broth”. It is our intention, through this Bill, to ensure that the new NACADA coordinates the activities of all agencies that are dealing with reducing demand for narcotics, alcohol and any other addictive substance and be able to communicate, plan and act with those who were working in reducing supply activities. Supply activities are dealt with by agencies such as the anti-narcotics police, the weight and measures department which influences how alcohol is measured and the rest. Therefore, demand drives supply and the only way to ensure that we eradicate and deal with this problem concisely and comprehensively is for us to develop an institution that is anchored in law. In the current situation, any day a gazette notice can be published and declare that NACADA no longer exists. But if we have an Act of Parliament, the procedure of killing NACADA with an Act of Parliament is much more difficult. The work of NACADA in creating awareness is a curative job. You only reduce demand when there is already a demand, and you only set up rehabilitation centres when there are addicts to rehabilitate. Therefore, my approach and the approach of this Bill is that NACADA looks at this matter more comprehensively. It looks at preventative elements of ensuring that demand is not created. If we are able to do that, NACADA would be able to do something that they have been totally unable to do.

Mr. Temporary Deputy Speaker, Sir, Mr. Mututho brought a Bill in this House on alcohol. That is a job that NACADA could have done on their own, but it is not in their mandate. It is not their strength. They could only give Mr. Mututho back-up support.

The Bill to anchor NACADA into law has been in a draft form at NACADA since 2004. I took the initiative to bring that Motion in 2006 and we passed it in 2007. We again passed it in 2008 and when we did so, the Ministry of State for Provincial Administration and Internal Security told us that NACADA has a draft Bill that they would bring to the House. From 2008 until today, we have been waiting for NACADA to do that. I do not blame them for not doing it because it is not in their mandate and in their strength. So, I want us, as a House, to give them the powers to deal with issues and look at national policies and laws that can assist in fighting the demand, alcohol, narcotics and any other addictive substances.

Mr. Temporary Deputy Speaker, Sir, just to give you an example, in 2006 when we had a major crisis of students in schools drinking alcohol in sachets, the Ministry of Trade developed a regulation that stated that no alcohol can be sold in a collapsible bottle or sachets. That made a big difference in the amount of alcohol that was being drunk in schools. So, if we give NACADA that mandate to deal with the issue of ensuring that we are dealing with the laws, it will go a long way in dealing with that.

The fight against drug and alcohol addiction is a two front issue; that is, supply and demand. Until the agencies that are dealing with the two ends of that business come together and talk to each other, we will not be able to have a more co-ordinative measure. The next thing that we are adding into NACADA’s mandate is that we are asking them to be the agencies to call those co-ordination meetings and deal with the co-ordinative component. We are also adding the task in developing and maintaining proactive co-operation with regional and international institutions so that we do not continue fighting alcohol in sachets when maybe there is another way that our kids are getting addicted.

Mr. Temporary Deputy Speaker, Sir, we have spoken a lot about this problem. We know how serious the problem of drugs and alcohol addiction is in the country. Our job is to ensure that there is an institution that deals with it. I would want to say that those persons benefitting

from the profits of alcohol and drugs are serious lobbyists. In fact, we are more scared of the ones who are into narcotics because they hide. You only hear it in whispers but the alcohol and cigarette lobby is an open lobby that is allowed to work even within the civilized society. So, I would like to urge my colleagues to pass this Bill so that we leave this country with an agency that is going to deal with this matter in a comprehensive manner.

With those few remarks, I would like to ask Mr. Mututho to second the Bill.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, at the onset, I want to congratulate Ms. A. Abdallah for this very crucial Bill. It is common knowledge that we are hard hit with drugs now. It is common knowledge that we do not have a mechanism that can be able to enforce control and abuse of drugs and alcohol. It is true what Ms. A. Abdallah says that alcohol is actually more dangerous than hard drugs. That issue has been reported by the United Kingdom (UK) and the European Commission that whereas their focus was mainly on drugs, we must now look at alcohol in entirety. In some countries, people still believe that alcohol is part of life. They have taken that advantage and destroyed many people. I do not want to go to the details of that but while seconding this Bill, it is important to note that when Mrs. Kimani was the Director of NACADA but because of lack of proper of legal framework, the Provincial Administration just sent her a text and that was the end of her career. We need to have somebody who is well protected and is answerable to this House because the matters touching on drugs and alcohol abuse are so serious that you cannot just let it be the way it is. We cannot live in a world where people trade freely and nobody puts checks and balances within the legal framework to control this. We could talk here for three days non-stop giving you statistics and even people can come here and confess how members of their own families do certain things. People can say anything they want to say but ultimately, as a Parliament, we should go into history as a Parliament that introduced two important Bills; that of alcohol management and this one of NACADA.

With those few remarks, I beg to second.

(Question proposed)

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. This is an excellent Bill that Ms. A. Abdallah has presented today. We have had a very serious problem of drug abuse in this country. We have too many institutions which are unconnected although they try to control drug abuse. For that reason, this legislation is going to go very far in ameliorating the situation and ensuring that there is a large measure of control. It is very worrying that drug abuse has been on the increase in our schools and many of our institutions of higher learning. It is also a very well known fact that drug abuse is not well defined among people's minds. Drug abuse does not just involve the issue of narcotics and hard drugs but also about ordinary drugs like alcohol and cigarette smoking. Tobacco has its own risks which is a big issue for our Government hospitals to handle. We need to reduce this by trying to educate our people on how these narcotics should be used, if at all.

Mr. Temporary Deputy Speaker, Sir, on alcohol control, the issue about the Mututho rules, which have now, in a sense, been suspended, needs to be revisited. We have seen many cases of abuse at homes, especially these days in Central Kenya, because of drug abuse. Families have broken up as people have failed to take responsibility for their family's welfare and upkeep, all because of lack of control of these drugs. So, it would be very nice to have a country that is, in a sense, able to find its way forward by the non use of hard drugs and also by responsible use of alcohol.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, hon. C. Onyancha.

Hon. Ruteere!

Mr. Ruteere: Thank you, Mr. Temporary Deputy Speaker, Sir. I support this Bill and sincerely thank hon. Amina, because our concerns, especially about the youth, are very genuine. We will lose a society if we do not pass this Bill.

I do also wish to echo hon. Mututho because his Bill that we passed is the law that is helping this country. We know that alcoholism is now very much reduced. Even where it is rampant, it is because the law enforcement officers are not doing their work as they are supposed to do. Otherwise, where they are working as is expected of them, there is a lot of improvement and many of those who had been affected are now a sober group. We do not have issues of wife battering by men because the husbands are not getting home on time and are not responsible for their families.

Mr. Temporary Deputy Speaker, Sir, this Bill is very necessary; we need to give NACADA the teeth with which to bite. We need to see that much more is done to the drug traffickers, because they are interested in enriching themselves while not caring for the youth of this country. We have seen the effects of drugs and substance abuse, how it has transformed human beings into cabbages; we want this law passed soon and effected immediately.

Mr. Temporary Deputy Speaker, Sir, NACADA is a body that has tried to do all it could do without the necessary mandate being given to it. This Bill addresses the issue of giving it the mandate it requires so that it can be effective.

Mr. Temporary Deputy Speaker, Sir, because we need to pass this Bill quickly, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Naomi Shaban.

The Minister for Gender, Children and Social Development (Dr. Shaban): Thank you, Mr. Temporary Deputy Speaker, Sir. I just wanted to join the other hon. Members in congratulating hon. Amina Abdallah for bringing about this very important Bill, which seeks to control drug abuse in our country.

Mr. Temporary Deputy Speaker, Sir, the problem of drugs has been very big and has been with us for a long time. Of course, it has been getting worse over the years, despite the fact that NACADA has been trying to do its best.

Mr. Temporary Deputy Speaker, Sir, there is really a lot of interference in the way NACADA is run, simply because NACADA was founded on just a legal notice and not on an Act of Parliament. So, the proposed authority needs to have a firm foundation where as people work, they know that they have the full mandate to be able to work and carry out very difficult tasks.

Mr. Temporary Deputy Speaker, Sir, I just want to point out that the youth in this country are actually being destroyed. If you looked at figures and the prevalence of the use of drugs in this country, it is actually worse in the Coast Province. Of course, it affects quite a number of provinces in this country, but it is very bad in the Coast Province.

Mr. Temporary Deputy Speaker, Sir, our youth are getting children now with genetic malformations, simply because we have young ladies and young men who are partaking of drugs very seriously. The youth are being wasted because even after they have done their O-level course, they find themselves desperate and without anything to do, they end up getting involved in taking drugs. Most of the youth are reacting this way and behaving this way because of peer pressure. Our youth, who happen to be quite desperate because of unemployment, find

themselves hanging around with people who partake of drugs, and they eventually find themselves taking drugs. The problem is very serious; it has become malignant. It is like a cancer which is going to destroy our society. It is time that we created an authority which can put a stop to all these.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Sheikh Dor.

Mr. Yakub: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to support this Bill, and take this opportunity to thank hon. Amina. This Bill will assist both NACADA and even the anti-narcotic force. They have been doing quite a good job, but I think this Bill will assist them more in what they are doing on the issue of drugs.

Mr. Temporary Deputy Speaker, Sir, to give our opinion, at the Coast, we have been suffering a lot from the issue of drugs. We used to talk about students who had finished universities; we were talking about dropouts of “O” Level. But right now, we are talking about primary pupils, boys and girls, who have involved themselves in the taking of narcotic drugs.

Mr. Temporary Deputy Speaker, Sir, I hope that this Bill will save many lives of the future leaders of this country. We should also consider the issue of alcohol and cigarettes. These are two items about which we should be very careful. We should also involve ourselves, as leaders, in educating the youth.

Lastly, Mr. Temporary Deputy Speaker, Sir, I am proud to read Clause 26 on the issue of penalty. It very clearly imposes a fine not exceeding Kshs2 million, or a term not exceeding 12 years or both. It is high time that those who are dealing in drugs of whichever type should be fined according to Clause 26 of this Bill.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, Sheikh Dor.

Yes, hon. Maj. Sugow!

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. I would like to take this opportunity to congratulate my sister, hon. Amina, for bringing this very important Bill. I think it is very clear and known to everyone in this country that drug trafficking or the drug problem is actually, in a way, the wheel that drives corruption in this country to a higher level. Our children and the future of this country are at stake with regard to drugs in this country. Therefore, to give authority or teeth to NACADA, it is a very critical action that this country needs to take as quickly as possible. This is long overdue and I think for those of us who know what is happening to our children in all parts of this country, the upheavals that we see in our institutions are all hinged to the use of drugs.

Mr. Temporary Deputy Speaker, Sir, in some parts of this country, we produce certain substances that can be classified as drugs according to the way a drug is described, that is *miraa*. Some parts of this country consume that while others produce it. I think with the introduction of this Bill, we will come up with a mechanism to still continue to benefit economically the areas that are producing it and try and mitigate the harmful effects on areas that are utilizing it. What is happening is that those using miraa these days even add other drugs in order to increase the level of intoxication because they are not achieving the level that they want. After using miraa for a while, the person does not feel it is strong enough and, therefore, they add other drugs.

This Bill is overdue and I do not want to take a lot of time talking about it. I support.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I want to support this Bill and thank Ms. Amina Abdalla for this Bill. As Maj. Sugow has said, it is overdue.

Towards the end of last year, some 19 young people died in the neighborhood of my constituency because of having consumed some illicit brews. When we were going through the burial ceremony, we were informed and even charge sheets were read to us. To date, I do not think anything has happened. Things have gone back to where they were; the consumption is as it were, if it has not increased. Talking to NACADA, they really have very little they can do beyond liaising with individuals who are not giving them the support that they need. This Bill creates an authority and gives them an avenue and the necessary legal support to ensure that follow-up of such cases and even the people who distributed the brews. The manufacturer located within somewhere in Kinangop closed for one week but after that, he is back in full business. It is just a matter of time before we go and bury another heap of people.

Mr. Temporary Deputy Speaker, Sir, the other thing which I think is crucial and why it is important that this Bill is supported by Members of Parliament is, at my request a survey was done within Ndaragwa Constituency and all the bars, without exception have all violated the so-called Mututho Laws. None of the bars is outside 300 meters of a school. They are still operating. That record is with the Ministry but we need an authority that can follow up these issues so that we can achieve it. The issue of people making money from alcohol and making money at the expense of others being alive is something that is real. Businessmen will continue making money. I want to thank Ms. Abdalla for this.

I support this Bill and ask Members of Parliament to do the necessary amendments during the Third Reading so that we can make it stronger.

The Temporary Deputy Speaker (Prof. Kaloki): I will now call Ms. Amina Abdalla, the mover of the Bill, to reply.

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, I would like to thank all the Members for their contribution. I want to assure them that the Committee on Administration and National Security and all the stakeholders have reviewed the Bill and we will be bringing up amendments that will strengthen it. I would like to thank and congratulate Parliament because if we did not have the legislative drafting department, we would not be talking about this Bill today.

With those few remarks, I beg to move.

(Question put and agreed to)

*(The Bill was read a Second Time and Committed
to a Committee of the whole
House tomorrow)*

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until today, Wednesday, 14th March, 2012, at 2.30 p.m.

The House rose at 12.25 p.m.