

**REPUBLIC OF KENYA**



**BOMET COUNTY ASSEMBLY**

**ASSEMBLY DEBATES**

**(OFFICIAL REPORT)**

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**DAILY HANSARD**

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**Thursday, February 12, 2015**

**PLENARY**

**COUNTY ASSEMBLY  
OFFICIAL REPORT  
Thursday, February 12, 2015  
The House met at 2.55 p.m.  
[The Speaker (Hon. G.K. Korir) on the Chair]  
PRAYERS**

**Hon. Speaker:** What is it honourable members, what is it honourable Joyce?

**COMMUNICATION FROM THE CHAIR**

**Hon. Speaker:** What is it honourable members? Honourable Joyce what is it? So first order

I think honourable members since yesterday honourable Serbai was not there, I had made a request that we still extend until next week so that I can be able to give out a ruling which I was to give yesterday in the afternoon but by the time I was making the communication you were not within the chambers. So I still request that since the same thing is still generating heat across the country and there has never been a precedence set we will be the first people to give precedence on the same issue. And that is why we really need to do a research; our legal team as well as our friends at the National Assembly have never been faced with such a challenge. Therefore, I do request that you give me until next week so that by then we hope we would have been able to come up with a clear way forward on the same. So I do beg that you actually indulge with me until next week. Secondly, as said before the honourable Senator will be visiting this County Assembly and will be able to deliver a speech according to our Standing Orders and we need to know before then how because I think he is among the few people who can come here. So we need to know how to engage not only the Senator and Governor but also other people who will come here. Because we will be having a meeting with our insurance Britam, on Tuesday at 10 after the meeting we will have a discussion on the way forward and what happens when such an important guest visit the Assembly because I think we really need to learn that aspect of the County Assembly Standing Orders. Are we supposed to debate on his speech or not? So these are some of the issues which we really need to learn before the day comes. Thirdly, we need to have a Speaker's Kamukunji after this session to deliberate on some of the issues and so I think members let's take our cool and engage ourselves in an orderly manner; when I came in there was a lot of noise and we are an honourable House and we should conduct ourselves in an honourable manner, and despite our differences in opinion we should be able to control ourselves so that we may not leave this House with a very dishonourable image. In case of any issue, you are rest assured that the Office of the Speaker will be able to discharge all issues without fear or

favour and without favouritism to any side. As the Speaker, I am a neutral party and we do not mind whether you belong to which side and I think in case there any problem you can at least consult me. Thank you very much.

## STATEMENTS

- ❖ **THAT THE ISSUES WHICH WERE IN THE LAST SESSION SHOULD BEGIN A FRESH**

**Hon. Speaker:** Honourable Serbai

**Hon. R. Serbai:** Thank you honourable Speaker. I had presented my statement through the right procedure but up to now I have not been given an okay. This is a new statement, Mr. Speaker, not the one for last week.

**Hon. Speaker:** We were trying to go through the Standing Orders and we realise the issues which were in the last session should begin a fresh and I think even the statement which you had asked before. After a thorough consultation we might request you to ask again. This includes even motions, for example honourable Taplelei and honourable Samson we had requested the legal team to be able to redraft. For the new one you are talking about, I have not received it. Is it a very urgent statement or it can wait until Tuesday next week?

**Hon. R. Serbai:** I do not object for my statement to wait until next week but if actually that is the case it means there is weakness in this office, Mr. Speaker. Because I presented and signed it and I just went there to check and it was still lying on the table and it means therefore that the ones concerned are sleeping on their job. Because if the delay is by the staff and we were discussing yesterday that we are supposed to be generating business for this House. How can we generate business when the staffs are actually sleeping on their job? Thank you.

**Hon. Speaker:** I think honourable Serbai I will deal with that matter personally. So kindly persevere but after this session come to my office so that we can see where the problem is; so kindly come to my office after the session. Next order!

## MOTION

- ❖ **THAT PURSUANT TO SECTION 14 (1) (B) OF THE COUNTY GOVERNMENT ACT, THE COUNTY ASSEMBLY ADOPTS THE REPORT OF THE COMMITTEE ESTABLISHED TO INVESTIGATE INTO THE CIRCUMSTANCES THAT LED INTO THE ACQUIRING AN OVERDRAFT FACILITY BY THE BOMET COUNTY TREASURY WITHOUT THE APPROVAL BY THE ASSEMBLY AND THE UNNECESSARY COSTS INCURRED**

**Hon. Speaker:** Honourable Samson Towett the Chair of the adhoc committee. Before you start honourable Samson I had received a proposed amendment; they wanted to amend some section. Honourable members are talking. I had received a proposed amendment from the Leader of the Majority wanting that we expunge the third recommendation by the committee but in my own opinion he is referring to a proposal that we wait until the report of the Auditor General is out. I have indicated that not unless he knows something that is in the Auditor General's report that we have not received that will alter everything. So I found the amendment to be inadmissible at this juncture. To tell you the truth we are quite a wearied County Assembly. Just to say the least. Honourable Samson.

**Hon. S. Towett:** Thank you very much honourable Speaker for giving me this opportunity to move the motion that pursuant to section 14 (1) (b) of the County Government Act, this County Assembly adopts the report of the adhoc committee established to investigate into the circumstances that led into the acquiring the overdraft facilities by the Bomet County Treasury without the approval by the Assembly and the unnecessary cost incurred. Honourable Speaker following the persistent overdrafts that have been reported severally even by the Controller of Budget the House at certain point in time did sit and formed a committee which is adhoc and honourable Speaker this was moved in November last year by honourable Rueben Langat and he urged that the House forms a committee to look into the issues that has been raised severally by Controller of Budget and even commended on by the Budget and Appropriation Committee. In his motion he gave us three points that is in two terms of reference; that he wanted us to investigate the securing of the overdraft and also the unnecessary costs and interest incurred as a result of the overdraft. After the motion was approved we were constituted with ten members and me being the Chair. After it was set up it had a number of sittings and there were a total of twelve committee sittings where we invited three respondents to appear and shed light. The objective was to get an answer on the issues. Among the respondents was CEC Finance, Coordinator of Controller of Budget and the bank where the facility was acquired. Among the twelve sittings that I have stated six were used to interrogate the respondents and another three were used to arrange for the hearing and for putting up the information to come up with the report. The representative of the Controller of Budget appeared on the 16<sup>th</sup> of December at 10 a.m. and had a productive meeting with the committee. Mr. Speaker, the committee resolved to invite the representative of Cooperative Bank as per the provision of article 195 of Constitution which states that the Assembly has power to summon anybody for the purpose of providing information or evidence. The Committee was unable to hold meeting with the representative of the bank on issues regarding the overdraft which included the exact date which the overdraft was taken and the interest it incurred and the issues which were to be raised by the committee. Honourable Speaker, the representative did not turn up but despite that we decided to continue since as per the rules of the Committee we had to amend the proceedings of the Committee after

learning that all the information that we wanted from the bank was with the CEC because what he was going to tell us was the exact date and the bank statement and the agreement entered by the treasury and the bank. So if the CEC came and presented the documents we wanted could have answered all the questions. We thought we were going to get all the documents and answers on the said question. As I have said the committee resolved that we will continue without the bank representative. Honourable Speaker the committee would also wish to thank the house for the assistance it gave us during the whole process. Mr. Speaker, I want to also say that at certain point in time we invited the County Controller of Budget who appeared and provided valuable insights on the issues raised. In the annex Mr. Speaker you realise issues that the office of the Controller of Budget showed this committee as part of what they have done. When they came they gave us a number of things that they have raised. As indicated in their reports the bank overdraft was acquired without following the due process that the authority of the Assembly was not sought, there was not approval from the Assembly, they also reiterated the fact that when the facility was sought there were still enough funds within the County Revenue Account. So honourable Speaker, and even after this money was acquired it was not used in a responsible and prudent manner. They also told us it attracted an interest which was paid for through a vote in the budget which is referred to as a bank charges. Once you take an overdraft, and the money is in the account it will be deducted immediately. When we asked for the bank statement they told us it was only the signatory of the account that was in a position to issue the statement to the committee and that person is nobody else but the CEC Finance. Honourable Speaker, in their submission, they told us there was not a genuine reason given by the executive as to why they had to look for the overdraft. Honourable Speaker, the representative of the Controller gave us a lot of insights which can be checked on and it explains most of these things. We also wanted to understand when the CEC came, we were debating whether an overdraft is a loan and the CEC denied, saying you just go for it and pay when there is money and the committee understood as a loan since you are given the money you did not have but the CEC stood his ground that it was not a loan but he did admit that it was a short term borrowing. And when we went to the PFM Act it allows the County Government to acquire short term borrowing but it has to go through the Assembly. When we met the Controller of Budget they did confirm an overdraft is a loan even if it's for a second it attracts interest. Honourable Speaker, when the CEC came we discussed a lot and we even asked him to table minutes that allowed him to source for an overdraft. He told us that he did not come with the minutes but he indicated the minutes were there and we adjourned to allow him go for the minutes so that the committee could go through it and confirm who allowed through the minutes the sourcing of the overdraft either by the Assembly or which quarter but he told us it was the executive arm that gave him the green light. We waited but the letter did not come but when the day he was to reappear came he told us he had submitted the minutes to the Office of the Clerk and when we sent one of our clerks to check

whether the letter was there, unfortunately there were no minutes. After we had sent him away so that we could resolve on the recommendation it is only that a letter was brought to us which was submitted that day but that letter only had the names of the Executive and there was no signature in it to indicate what was the name for and nothing was indicating any connection with the overdraft. And then we knew the CEC was taking the committee and by extension the House for a ride. We had given him enough time. We gave him another opportunity to submit the minutes to help the committee understand the circumstances which led to the acquisition of the overdraft and the powers it used to go for it. At the time we were going to finalise the report there were no documents submitted by the CEC. Mr. Speaker, we also looked at other things. We went back and asked ourselves and found that the Committee on Budget and Appropriation at some point had discussed the issues on overdraft and they had made some recommendations and some of them included that the CEC should stick to the PFM Act especially 142 and article 212 of the Constitution. They made those recommendations several times but when the Controller of Budget's reports came the same mistakes appeared. It tells us that there was no heed to the recommendations that at the committee had arrived at. Honourable Speaker, even the Controller of Budget had made the recommendation to the CEC that the law was supposed to be followed. But nobody in the Treasury did listen to the said recommendation; the Controller of Budget is still complaining that on what letters the CEC used to acquire these facilities. But if you look at the annexure he is telling us he is still waiting to be given letters that the CEC used and the approval of the Assembly.

The Budget and Appropriation Committee has also gone round the same way since they were not able to acquire any proof. The Controller of Budget has gone the same way and they cannot acquire any documentation to prove that procedures were followed.

The Adhoc Committee was also put in place and they also have the same powers and they have moved round and round but the CEC is adamant, he cannot produce those documents. We have given him enough time by extending time but he did not. What was wrong for the CEC to openly say that they did not comply with the procedure and there was no approval that was sought neither were there minutes that the Executive Committee sat and discussed and agreed that we have to go for this overdraft. What was wrong with saying the truth and the House could have seen that he had told us the truth and maybe we could have considered better recommendations to assist this County to move forward all along after the first quarter, after the second quarter and even the third quarter report.

We left the bank because the committee decided that we were to get all the information from the CEC. Even the Controller of Budget was telling that all these documents that we were asking for are with the County Treasury.

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I know may be they decided not to give the Budget and Appropriation Committee any of this information, they were not going to give Controller of Budget's office documents and I believe they may have again decided not to give the same documents to the Adhoc Committee so that the Adhoc committee cannot give this House a definite direction on these issues of overdraft but it is evident that there was no approval made by this House neither was there an approval made by the Executive Committee and if it is there we are asking the CEC that he can still resubmit them to this House so that we know the procedures were followed. For him to keep the record straight he can still resubmit those documents so that these questions can be answered.

On the issues of interest, there is no way one can lend you money and when you are paying back, he/she doesn't expect an interest or a profit on top of it. I have given you my money and you have carried out your activities or you have settled your businesses and you are now paying me back, there must be an added value on top of it.

Automatically this County lost some money and the only thing that we cannot ascertain is to know the exact amount and the reason is because we could not access this information.

I had quoted a section 185 of the Constitution that gives powers. When this committee was set up we relied on the powers of the committee to summon anybody to appear before the committee to produce documents or for the purpose of testifying on an issue.

When one is summoned and failed there are other options that can be followed and the next option is to go to a court of law but when the committee sat and looked at the number of days that we were given and also looking at the tedious process that we were to follow the committee decided that they can still proceed and arrived at an answer without following these other long processes because of the time constraints. I don't want at a certain point for somebody to ask why you didn't go to court so that this person can be compelled to produce these documents. We were looking at the time we were given to ensure that we produce these results and the committee moved hoping that the CEC, as I said earlier on, was going to supply us with all these documents that we had asked for.

It is worth noting that borrowing by the County is provided for, as I said, under article 212 of the Constitution and I said section 58 of the PFM Act and section 142 of the Public Finance Management Act.

I must say the County must have lost some money if only we had accessed the bank statement we could have told you the percentage at which this overdraft was charged at but like I said because the CEC decided not furnish us with this information it really leaves a lot to be desired. A lot of questions are being asked which we cannot get answers and for how long will this House continue asking questions without answers, for how long will this House continue looking for documents from the CECs and they are not willing to comply and give us those documents to

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assist us in executing our oversight role as is expected by the electorate or by the residents of this County. If we continue the way we are continuing at the end of the day the County Assembly will carry the blame for having failed to perform its oversight role effectively. What is it that we can do, we need to stand up together, work as a team and defend this House.

After all this discussion honourable Speaker there is a lot that has been covered here which I don't want to touch on, and I know my honourable colleagues have read through it, I would want to go through observations and then eventually I will take you through the recommendations of the committee.

Before we look at the recommendations, I beg we look at the response from the CEC and from the Controller of Budget. The CEC was invited to appear and he made the following response; that on the bank statement relating to the month of June, the CEC was expected to come with all these things. If he was expected to come with the bank statement for the month of June to September 2013 and the request letter; those are some of the requirements that the CEC was supposed to come with; the letter from the Executive Committee citing the relevant sections of the law requesting for the bank overdraft. When we asked the CEC, he said he relied on section 119 (4) of the Public Finance Management Act which gives powers to the head of a department to overdraw an account, and if you want to understand the head of a department you will go to section 148 of the PFM Act which explains who the Chief Officer is and it is not the CEC but the Chief Officer of a department which could be the Chief Officer of Agriculture or the Chief Officer of Education. That person is allowed to overdraw an account which is within that department but not the account of a County Government. There is no provision in law in the PFM Act which allows the account of the County Government to be overdrawn by anybody. This overdraft borrowing can only be acquired through the formal procedure. Those are some of the requirements.

Number three were the Executive Committee minutes that led to the approval of the entire overdraft facilities secured by the County Treasury. This again the CEC told us they were there but when we asked him to give us he did not and there was no response. At certain times we had even asked him but on the material day he told us he was attending another meeting and that showed us that he was not taking these issues seriously, and like I told you earlier on, he is taking this House for a ride.

The other thing that we had asked him was the letter to the bank requesting for the overdraft or the other supporting documents which we did not get. That is what the CEC was asked to come with but he did not.

I would want to go to the response from the CEC Finance on issues regarding the overdraft on 10<sup>th</sup> December, 2014, that the overdraft attracts an interest and that there was no standing

procedure for the payment of interest because the County operates only one account. That is what he was telling us. We were asking him, was there any standing Order that you gave to the bank such that when the Treasury releases the money to the County Revenue Account, is there any Standing Order which states how much is supposed to be deducted and for how long and he said there was no such Standing Order. The agreement was that as soon as the money was forwarded to the account, the overdraft amount would be deducted automatically; that the overdraft amount would be deducted automatically and that the overdraft mentioned in the first and the second quarter controller of budgets' report was deal with appropriately. Those are his responses.

The Bomet County Government has been receiving funds monthly since inception of the County. Those are his responses.

The issues of overdraft, he said, came up as a result of bouncing cheques. This was caused by destabilisation of the County Government at the beginning as at now IFMIS and G-Pay systems have been installed as a remedy. He was saying some of the overdraft issues that arose were as a result of, at a certain point, there were some cheques which were supposed to have been issued but on reaching the bank there was no money and this resulted in an overdraft because I believe this money was obtained when the balance in the account was not enough to service the account and we asked them that how can a bank advance you money without a proper agreement that you entered into. He could not really prove that again. He could not give us any document to testify to that effect. Honourable Speaker, I don't want to take long. I want to go to the observations that were made by the members on page 17. Honourable Speaker in the cause of investigation it was evident to the committee that the CEC Finance had acted in complete violation of, and to speak up, not only the laws and procedures but also the legal regime governing borrowing by the County Government; it was as if these laws and procedures did not exist, the committee was concerned that there was unnecessary borrowing even where funds were lying idle in the Revenue Account and that generally matters relating to finances were not satisfactory while the CEC Finance, a person with advanced knowledge and experience in finance matters did not act accordingly, one would imagine this would be an ideal county where laws and procedures would be adhered to. Did the CEC Finance seek the professional advice from the executive legal department, did he apply the advice? This is questions that will remain unanswered but of great concern to the committee, the committee observed that the County Assembly must remain extremely vigilant in its oversight mandate, there must be honesty and serious scrutiny in any request for borrowing including overdrafts. This will enable the Executive to effectively and transparently undertake its work, the committee observed that the Budget and Appropriation Committee in its first quarter report from the Controller of Budget's report and subsequent reports had recommended that the County Treasury should strictly observe the provisions of the Constitution, Public Finance Act and all other relevant legislation; specifically the Budget and

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Appropriation Committee in the same report had consistently recommended that the borrowing by the County Government must be approved by the County Assembly as required by law. However, the County Treasury continued to disregard this recommendation as much as committee has done its work and made its recommendation and nobody is listening to them. I don't know now which other committee can now do all this work. The committee observed that the CEC Finance was reluctant to avail the documents and for information regarding overdrafts taken by the County Government; this therefore amounts to violation of Act 201 of the Constitution. If you read this article it gives one access to any information that you want. So when you deny a resident of this county access to information you are violating this article. What about now a situation where a committee which is expected to play an oversight role is denied access to crucial information. I think these amounts to gross violation of this article. Honourable Speaker, I don't want to go further than these recommendations of the committee. The committee exhaustively deliberated on the above issues as per its mandate and made the following raft of recommendations for adoption by the House. Honourable Speaker, the first recommendation was that all future county borrowing must comply with the provisions of the law; in particular Article 201 and 212 of the Constitution and sections (58) (140) (141) and section 142 of the PFM Act where applicable. It is emphasized for clarity purposes that the County Assembly's approval **MUST** be sought and obtained before any borrowing and overdrafts included; that is the first recommendation and for us to ensure that laws are being followed this recommendation is necessary to be in place. So that the Assembly does its work and the executive follows the procedure as it is done and we do our work in a smooth way. Recommendation number two was that all parties involved in the County borrowing, including money lending institutions should adhere to the requirements of the law; namely the constitution and the PFM Acts and any other relevant laws before advancing any money borrowed by the County Treasury. There is no way a banking institution can just advance money to a County Government and without ensuring that the procedure has been adhered to the letter and we know that nobody in this country who is a banking and lending institution is not aware of the provisions of the PFM Act and is not expected to do. So we are expecting that in future they must seek confirmation of the Assembly before they advance any borrowing to the county government.

Number three is that in view of persistent failure by the CEC to observe or adhere to the recommendations of the Budget and Appropriation Committee to strictly adhere to the provisions of the Constitution and the PFM Act as regards the issues of access of overdraft facilities by the County Government, the House considers initiating the process of the removal from office of the CEC finance. Why did the committee arrive at the said recommendation? Honourable Speaker and honourable members, when we looked at the recommendations of the members and those that had been made by the Office of the Controller of Budget, we looked at the recommendations

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because we were able to access all the recommendations that were made by the committee on Budget and Appropriation Committee, they are the same recommendation that we saw and have been made in recommendation number one and two. The procedures must be followed. The Committee was also asking for documents to be given and the CEC was adamantly refusing to submit these documents or even to give a definite answer whether these documents are there or not; what other option can this House use so that in future the information can be availed without unnecessary complication, play and frictions. The committee deliberated at length and discussed on various recommendations but we saw again they had been arrived at by the other committees dealing with the same issues. The only option that we were left with as a Committee is to act and we ask this House to do justice for this County Assembly, and for this County Assembly to be respected for having done its work to its expectation is only by initiation of the process of removal. I don't want to discuss about that and I know another committee may be put up to look at these issues. Honourable members, honourable Speaker, I don't want to take long because we have discussed at length the contents of this report, and I humbly request that honourable members we can reclaim our respect as an Assembly only if we do the right thing. If you do what you think is right or what your heart is telling you are right, I will expect that you do it. I do request you as honourable members that we adopt this report as the committee has recommended so that we can do corrections in this department. The department can be streamlined, the issues may not be only the CEC, there could be other branches under him who may not be doing the right work but he is the overall man. I have also said the committee also discussed at length and they took more than one hour deliberating on these recommendations. We discussed at length and the only option that can save this County, and that can streamline many things that we are facing is only by initiating this process. I would want to request these honourable members that together we fight for this report, by adopting with its recommendation entirely and we wait for the process to start so that we cross the bridge when we reach there. With those few remarks, I believe we fight for it. We request honourable Langat to second this motion and after honourable Langat, I request a number of committee members to contribute towards this report to ventilate on it further before other members of the August House can ventilate further on the same. With those few remarks, I want to say thank you and invite honourable Langat to second.

**Hon. Speaker:** Yes honourable Langat.

**Hon. R. Langat:** Thank you very much Mr Speaker I want to pray that sobriety rules in this House today, that Mr speaker, the Adhoc Committee that was formed diligently looked at all the circumstances that surrounded the issue of overdraft. The committee was very objective and they did not have preconceived conclusion and Mr. Speaker, we allowed everything to take its own course and when we allowed this, we stumbled over certain issues that we thought we were not going to get into. In the process of trying to unearth what continued or went on surrounding the overdraft, we found out that it was impossible for the committee to get certain information.

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When we called the CoB Man (Controller of Budget) he did not come on the first day but he gave us an excuse that was excusable. When he later on came he told us that all that we were asking for were in the office of the CEC finance. If you require any information you ask from the CEC finance. When we further asked if we could get from bank, the rule is it is only the signatory of the bank that is supposed to supply that information and that person is the CEC finance and when the committee could not get that information it was one of the stumbling blocks that we got. So Mr Speaker, because of these circumstances, if we got that information these circumstances of overdraft would have been over for us, but we could not make that conclusion because we did not have the facts. What could we depend on, Mr Speaker, even if it were you? We were forced to make certain recommendations because everything cannot move the way it should be. The committee said 'I wish someone could say I have made a mistake here and please I humbly request for you pardon'. But someone is not pleading guilty; Mr. Speaker what can we do? If you ask for this paper and no one provides for the paper, then it forces you to say he has refused. Mr Speaker, I don't want to take long, I just stood to second this report and say we adopt this report and allow this process to continue. If one would say, 'I have made a mistake' there is nothing wrong about saying so 'and please do not crucify me'. Nobody in this world cannot make mistakes; but please admit and say please forgive me. Because we were looking at the circumstance, not the person surrounding all this and we wanted some clarifications on certain issues. To go to the recommendations, why didn't someone bring us the report and said actually we were starting this county and the situation is this. We would still have said we were starting this county. It is just lack of this information that forced the committee to recommend some of these things that this is the position. Otherwise, there is no one who is interested in sending someone home. What we are interested in are the rules, and there is no one who will clash with someone. So Mr. Speaker, I plead to this House that please allow the water to flow the way they want because if you block the water, it turns backs and someone will suffer. It is not my interest to make someone suffer but if these facts are provided and one seeks for forgiveness you are forgiven and we say, let us forge ahead, what surely is the problem. We are human beings and one can be pardoned 777 times 7 times. I want to remember what the preacher said that we are building a financial foundation and we are building something for this county. If we are going to be remembered let us be remembered for doing something good and for having saved this county. Let's be remembered for having not made others look like they were not supposed to be there. So Mr Speaker, I stand to support that we adopt this report the way it is. It is not the interest of anyone, the committee was very objective and if he had provided this information there was a way of dealing with this but when you refuse what do we do even if it were you. If you are not given the facts, and one acknowledges and says please we know this mistake but because of the following reasons... because we wanted the process, was the process right? Did you consult the other CECs? The bank also needs to follow the procedures because

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when we say the banking institutions are also governed by the rule of law they were supposed to read this and ask did the County Assembly approve. We are not only blaming the CEC alone we are also blaming the Bank because they are not above the laws of Kenya. They are within the law, they were supposed to know and read that the County Assembly has not approved and know how they were going to circumvent around it. What do we do? There would have been a way. As I have said the committee was not interested in anyone, we allowed things to move the way they were supposed to. Those stumbling blocks are the recommendations that we are asking for some way through this. Thank you, Mr Speaker.

**Hon. Speaker:** Thank you honourable Samson and Langat. It's now my turn to propose the question, that pursuant to section (14)(1)(b) of the County Government Act 2012, this County Assembly adopts the report of the Adhoc committee established to investigate into the circumstances that surrounded the securing of the bank overdraft facilities by the Bomet County Treasury without the County Assembly's approval and the unnecessary cost incurred as a result . It's now open for a debate. Honourable Serbai.

**Hon. R. Serbai:** Thank you honourable Speaker for giving me this chance so as to contribute towards this particular motion of the Adhoc committee. First and foremost, I support the adoption for this particular report because it actually touches so much on our people; it touches so much on matters touching the money and when we talks about money it touches the life of our people. As read out by the chairperson of the adhoc committee it shows that there were quite a number of irregularities pertaining to these transactions. Also, before I quote some sections of the PFM Acts, the refusal to produce documents by the CEC is also an issue contravening the constitution. Article (35) of the constitution provides for the access to information. And if the Ad hoc committee was asking for information of what they were actually investigating and were denied that is one factor that the CEC has actually violated. I will not be talking about the CEC alone I will also be talking about the bank. Any borrowing which is done by any County Government in this country must be approved by the County Assembly. If the bank itself was actually able to proceed by advancing this particular borrowing to the county executive member without the merits or any document that shows the County Assembly has actually approved the borrowing. So it means therefore the bank violated the same, it is also in record in the report that this money was borrowed while the County Government had the money in their account. Honourable Speaker, I really want to say it was shocking that the same money which was actually borrowed was actually spent at the source without even bringing that money to the revenue account, which is also another violation. If I can quote some sections here we can read section (104), it talks about ensuring proper management and control of and accounting for the finances of the county government and its entities and all that promotes efficiency and effective use of the county budgetary resources. If this CEC was actually unable to do this, it means therefore this CEC is no longer a competent person and on the kind of borrowing, Mr Speaker,

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that kind of borrowing that is supposed to be done as per the PFM ACT should be at least five per cent of the most recently audited accounts. If you can look at the period that these funds were borrowed and the money was actually there and may be they were actually intending to control the fiscal flow of the financial management it shows actually what kind of fiscal flow they were trying to control while there money was there in the accounts. Article 183 (3) of the constitution of Kenya provides that the County Executive Member shall provide a regular report to the County Assembly pertaining to the county functions, honourable speaker this same CEC has not actually provided any report to that effect. As I continue honourable Speaker, if you go to the PFM act section 107 (2)(d) it says ‘over the medium term the government borrowing shall be used only for the purposes of financing development expenditure and not for recurrent expenditure’. The money was used at the source, without telling us if they used this money on recurrent expenditure or on development. If it were actually development it means therefore that for development that was actually being done by the government the money was actually there and it was budgeted for and I want to refer this House PFM ACT section 104 (i). Honourable Speaker, if you also go to the same 107(e) it says the County Debt shall be maintained at a sustainable level approved by County Assembly. Honourable Speaker we have incurred a debt with which the County Assembly has not approved its sustainability, I want to urge the honourable members that we are not against borrowing but it should actually go through the right procedure. If you recently remember the House debated on KES 150M that was approved. This means there was nothing sinister because it’s provided for in the constitution. If you also go to article 107(4) it says ‘the county government shall publish the report not later than fifteen days after it has been submitted to the County Assembly’. If they have actually done this they were actually supposed to submit this to the County Assembly of which they never did. As I end, because I don’t want to take long, as the report is quite clear on what actually took place, sections 122 of the PFM Act states that ‘the County Treasury shall maintain a record of all loans made to the County Government and make the record available to the County Assembly within 7 days of request’. If they did this kind of borrowing, honourable Speaker, and they failed to avail this information to the County Assembly within the stipulated time under the said section of the PFM Acts, then it means they are taking this County for granted. On section 122 (2) it says ‘the County Treasury shall include on the record under subsection (1) of the PFM Act, the following information; the principal of the loan the terms and conditions of the loan including interest and other charges payable and the terms of repayment’. We were never given anything. This county incurred quite a lot of interest accrued which was actually settled with a lot of money which was not actually approved by this County Assembly and of which the constitution is actually very clear on that we are the ones to approve and for anything to be done it must pass through this County Assembly. That is the information the County Treasury should have furnished this House with. If you also go to section (b) the amount of the loan advanced at any particular time, the

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principal amount and other payment at any particular time, the principle, the interest...let us adopt this particular report, and honourable Speaker, this House because we are debating on a very sensitive issues, the administration of the County Assembly should have invited all the pressmen to appear in this House so that whoever contravenes this is actually going against the wishes of this County. I cannot confirm if there were meetings held or exchanges of funds to defeat this report but Mr Speaker, I cannot confirm neither can I accuse anybody of any such things done. If there was any plan so as to make this report fail, we were elected by the people and before I came to this office we were sworn in by honourable Justice Waithaka so as to defend the Constitution of this country and this is the constitution not the Bible nor the Koran. I am reading the constitution that we were sworn to defend, and to say the truth; and nothing but the truth. It will be so shocking if there will be anyone who will disown this report. I don't want to add any other kind of verb to describe such a particular person, but I believe honourable members, let us defend, let us talk positive about the County and put aside our political differences and save this County. That is my humble request that we make a tangible move unlike other days when we have been forming Adhoc committees and when the report comes in we drop the report hence not making sense as to what is the purpose of the report. The Adhoc committee spent public money and come up with the report and the CEC refused to produce some evidence and that shows there was something that was actually very sinister. It's my request that we adopt it so that we can make this County very healthy and the people to feel that we are acting in the right way by representing them. The elected and nominated do their various functions of representation at different levels. And we want to see to it that everyone is represented. Honourable Speaker, I want to say God help Bomet County, and God, the honourable members so that they can really understand the impact of this report. Thank you so much.

**Hon. Speaker:** Honourable Kirui.

**Hon. L. Kirui:** Thank you honourable Speaker for giving me this chance. I want to first of all congratulate the Adhoc committee for the much work that they did. Honourable Speaker, I am one of the members of the committee and I want to assure you that we worked round the clock; we sacrificed because we a lot of issues to look at and honourable Speaker that we almost came to a standstill when we failed to get the documents from the CEC and when we failed to also have somebody representing the Bank and also when the CoB failed to come but through the prayers that were conducted throughout the session when we were discussing, it happened we were in a position to bring some information to this House, and honourable Speaker, I must congratulate this County Assembly starting from you honourable Speaker and we really got the support. Honourable Speaker, it was really hard to reach the decision, honourable Speaker, because we really wanted to finish this issue in a way that would be pleasing to everybody without causing a lot of damages, and for sure honourable Speaker, if you go through the

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Hansard we were really very reasonable in making any step, honourable Speaker. Honourable Speaker, I really want to concur with honourable Serbai; on the issue of the bank, the committee they did not spare the bank but it was really had for us to comment about the bank because we were advised by the legal team and some other expert, honourable Speaker that we could not comment because we did not have substantive reason to comment about the bank. In the real sense we didn't spare them; we said then even banks should be vigilant when advancing such. That would have been evidence that we could have had as committee to know whether the overdraft was really necessary but because we lacked the documents that could have assisted us and because also that nobody came from the bank to really defend themselves then we just decided to go to the person whom we knew to have all the powers to give us the information. Honourable Speaker we were guided by the COB and he told us clearly that all the documents are vested with the CEC. I remember a situation when our Chair almost went mad during a sitting because we were seeing a person who was hiding some information. For sure I can say we were guided by the Holy Spirit and we were a position to be sober because we wanted to bring a report that at least can be consumed by this House. We did not spare this House; especially the committees, honourable Speaker. We discussed at length because we saw that the adhoc committee that was formed was like we were wasting funds. I am saying this because honourable Speaker we were expecting that one of the committee in this County Assembly could have started interrogating this issues of overdraft before the formation of the Adhoc committee. We were also careful to make sure that we hurriedly worked under our recommendation that in our observation that honourable Speaker as the Assembly we also need to be vigilant; we should be scrutinizing our issues as early as possible so that we cannot go to dead corner so that we may do some recommendation that at least may affect the functioning of our county. So honourable Speaker, I urge this House, it is good because we are starting the third session and we had said that as we start in a high note where we would be competent enough and confident enough so that we can deal with the issues that are in our mandate. Honourable Speaker, I remember we raised it in our committee sitting that if it's possible, let us not recommend somebody to go home. It took our time when we were trying to make our minds up but I was the last person to be convinced during that time. Only when I was given the recommendations that had been given in this House by one of the committee members and it has been stated clearly that it is the budget committee. We saw a lot of recommendations, a lot of warnings and I remember I was told in the House by one of the honourable members that this warnings have been given severally and how sure are we that the warning would still work? Honourable Speaker, we also looked at a bigger picture, honourable Speaker, and we saw that we need to be very careful because it may reach a time when we will be blaming somebody who may not have done wrong. We saw that lack of enough and precise advice may lead us to different directions. We were also very careful as the committee to recommend that if it's possible the office of the CEC or The Treasury should be

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empowered more. We were expecting the CEC to say that I may not be capacitated especially when it comes to staff or other persons who are supposed to be assisting him when it comes to decision making. Hon. Speaker, though he didn't say anything but through the diligence and wisdom of this Committee, they saw it that it is in order that we recommend that the Office of the CEC should further be empowered especially with some other staff. Hon. Speaker, we made that because we realized that the advices that were being given out from that office were not up to date. We went further to say that the issue of overdraft can be necessary but we wanted them to show us how necessary was this overdraft. We also thought that may be this overdraft wasn't intentional since the systems like G-pay and IFMIS laid down earlier on weren't up to standards and operational that time. And without the utilization of that the overdraft might happened without the awareness of the CEC due to the use of cheques. Hon. Speaker, this information didn't come out clearly from the CEC and we could have excused him. Hon. Speaker, I remember we even took time to go through the dictionary to find the meaning of some terms like 'loan', 'overdraft' and 'accounting officer'. Hon. Speaker, some sections of the law were discussed, such as section 119(4) and 142 of the PFM Act. After doing all that, I myself sought the truth from God because the definitions from each one of us may be misinterpreted based on how we want it to be. I don't want to take much time Hon. Speaker but I just want to say that this is where we reached as a Committee. And because we were only 10, we know that we also have more than 25 members of the County Assembly who may be having more information, knowledge and wisdom than what we had as a Committee. We are now bringing this report to this House and we are saying that was the far we have reached and we respect whatever decision that may arise. Hon. Speaker, we need to have our County at heart when we are making any decision and forge the right direction that will be a saviour for everybody starting with me all the way to those we represent. I have all the confidence in this House including you Hon. Speaker because we didn't came here just like that. I know we were well chosen from a number of people who were there and God has seen that you have that knowledge and capability to make decisions that will be of beneficial to us. So Hon. Speaker, I beg to allow these members to make their contributions on our report, thank you.

**Hon. S. Chang'morik:** Thank you very much Mr. Speaker for this opportunity. Let me first thank the Committee for the job well done. For a Committee to sit for 12 sittings isn't an easy job and therefore, I want to thank the Committee for the recommendations and observations made. Mr. Speaker, as the Chair of PAC/PIC Committee, this will make things very straight since we have always been blamed by many people concerning the overdraft. Now it has come to an end based on the recommendations made. Mr. Speaker, I do support the report and now we are waiting for the report from the auditors on the spending of the overdraft. So, may I thank this House for going ahead in investigating this overdraft thus making this House to be honourable by ensuring that everybody should carry his/her own cross. If someone isn't competent in his or

her job let us point out since we have vetted them to assist us. Most of us haven't done any financial course even the Governor hasn't gone through any financial course, he depends on this person who is a key person in this County. When we let him to play around thinking that we know don't know what we are doing, please let me urge this House to show him the direction and the way he should work. Mr. Speaker, I think we shall look at the recommendation No. 3 when we will have received the report from the auditors. The report will give clearly how the overdrafts were spent. Mr. Speaker, let me also thank the Committee on Budget because I have seen a lot of recommendations made by the Committee and even the Controller of Budget has complained a lot on the same thing. Mr. Speaker, let me urge the House to adopt this report and the report should show these people how to work. I don't see the reason why someone ignores to honour the invitation of the County Assembly. Mr. Speaker, personally I do have the challenge in inviting them as well as getting some information. So this report will make them respect the oversight role played in the Committees. Mr. Speaker, the Committee which we have just put in place has powers, and all that research, even the way you have narrated, we honour since there is nothing much we can say because all those findings from the 12 sittings sat by the Committee cannot be achieved in a day. So I urge all the members to adopt the report and leave things to go in a straight way because we have been elected and being watched out there to make this County in a stable way. May be the Governor isn't aware of some other things. We are assisting him to make this County run in a way it should be. We must follow the law since this is an honourable House and please let us make things go the way they should be according to the law, thank you and I urge the House to support.

**Hon. B. Chebomui:** Thank you Hon. Speaker for this wonderful opportunity you have given me also to say something on the report. Hon. Speaker, I must thank the Chair and members of this Adhoc Committee because they really took their time to do investigations on the overdraft which was taken by the executive without the approval from the Assembly. Members of this Committee have talked and also the Chair took time trying to explain to the members on what transpired or why the Committee gave the recommendations. Hon. Speaker, I want to confirm to this House that the recommendations we gave were arrived at after having a second thought of each and every recommendation. In fact Hon. L. Kirui has just said that we really had to seek advice from the legal team and someone from COB. He advised us and we really discussed at length the difference between 'a loan' and of course 'an overdraft'. I want to say that the Committee has done its work. Hon. Speaker, this is the Committee that you appointed with the approval of the members. We really did the work and I can attest that it wasn't easy to give those observations and recommendations. Hon. Speaker, we came to this House with one business and we have our responsibilities that are: legislature, representation and the oversight role. It is not my duty or responsibility to just decide to impeach a CEC, that isn't our decision and we aren't here to make other people to suffer. Hon. Speaker, I want to set my record straight that after doing all this, my

hands are clean. I have done my part as the member of the Adhoc Committee. It will be upon this House to make its own decisions to adopt the report because if you don't, then there was no need for the House to establish the Adhoc Committee. Hon. Speaker, it is very clear here that the Committee's mandate was established with the following terms and reference; to investigate into the circumstances that surrounded the securing of the entire stated bank overdrafts facilities by the County Treasury, unnecessary costs and interests accrued or incurred by the County as a result of the overdraft facility. Hon. Speaker, the other day when we had the official opening of the Assembly 3<sup>rd</sup> session, remember what the pastor said that we are the first County Assembly and if we do things right or wrong history will judge us right and for that purpose I want to set my foundation clear. I am not after impeaching anybody, we have our recommendations here and in fact we all know what transpired. We also read the recommendations from the Chair of the Budget Committee and the Chair had advised the CEC Finance on what he is supposed to do before securing the overdraft from the bank. This is what is in public domain because we have the report from the Auditor General. Hon. Speaker, I want to urge the members that we go through the report from the Auditor General and also read the recommendations because if we don't, we will continue doing mistakes in this County.

*(On a point of information)*

**Hon. L. Kirui:** Thank you Hon. Speaker. My point of information is on the report of the Auditor General which isn't out, I think it should be the report from the Controller of Budget instead that we should be basing our comments on.

**Hon. B. Chebomui:** Thank you Hon. L. Kirui for the correction. You have heard that it is the report is from the Controller of Budget of which I know the report is more less the same as that of the Auditor General but let us stick to that one of Controller of Budget. Hon. Members let us set our record straight that it is very important that we adopt this report since as a member of the Ad Hoc Committee we have done the oversight on your behalf. So our hands are very clean and I can't reject a report that I am part of it. We really consulted each other at length before arriving at these recommendations and therefore I kindly urge the members to adopt it. If you are thinking of the impeachment step then that is later on but for now may we kindly adopt the report, thank you.

**Hon. C. Towett:** Thank you Hon. Speaker and the Hon. Members. I also stand here to support the report from the Ad Hoc Committee. Truly, the findings of the Committee weren't easy to be achieved. The Committee members went through a vigorous exercise by calling the CEC and at certain point he wasn't ready to give the answers that were expected of him. The Committee did their part and I cannot forget to thank them for their hard work and findings. They really didn't leave no stone unturned and especially also at certain point of time looked at the Budget and Appropriation recommendations that at one time the same CEC had been warned on the same.

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The members of the Ad Hoc Committee really did their part and their recommendations were the true findings of what they got from the Controller of Budget when she said that all the documentations were with the CEC Finance. The Adhoc Committee are really free at heart and whatever they came up with, their conscience will not judge them. So I urge the Hon. Members to adopt the report, and more so as the Hon. Speaker, give chance to the members to give their decisions, thank you Hon. Speaker.

**Hon. Julius Korir:** Thank you Hon. Speaker. As a member of this Adhoc Committee, I rise to support this report. Hon. Speaker, it was through your wisdom that you came up with the good idea that we have this committee in place. Given that we have had several reports from the Committee on Budget and from the Controller of Budget giving the information that indeed there has been persistent requests of securing overdrafts in this County Government of Bomet. Hon. Speaker, I don't want to contribute much because the Chair had exhausted on the turn of events that came up when we were doing the investigations. The most painful part was the dishonesty of the CEC member to the Committee. Hon. Speaker, he really portrayed a lot of dishonesty because most of the information we wanted weren't made available by the CEC. If you look at the report from the Controller of Budget, there have been a lot of advices that the CEC should stop the use of overdraft; unless subject to the approval of this honourable House. So Hon. Speaker, we might have been blaming the Governor because some of these CECs could be doing some things behind the scene without the consent of the Governor. When you look at section 39 of the County Government Act, it says the members of the County Executive Committee are individually and collectively accountable to the Governor with the exercise of their powers. So I have come to realize that even the Governor might not be aware of what these CECs are doing. At times we might be politically blaming our Governor yet it could be the false of these CECs. So given that we have this power, I suggest that we adopt this report to pave way for further actions to be taken. So with those few remarks, I beg that we adopt it. If some members want to bring some amendments, subject to when the report from the Auditor General is out, I think it is far much different from where we are because we are dealing with the Controller of Budget's report. The Auditor General's report has its own constitutional mandate far away from the mandate of the Controller of Budget as per the Constitution. So, Hon. Speaker I urge the members that we adopt and indeed we will have heeded the advice of the sermon we had during the opening of this 3<sup>rd</sup> session recently that this is the first County Assembly that will be judged even in 100 years to come on what we are doing. So I support the adoption of this report, thank you.

**Hon. P. Siele:** Thank you Hon. Speaker for giving me this particular chance. Actually, I stand to support the adoption of this Adhoc Committee report. I want to thank the Committee for the very good work they have done. I have gone through the document and have realized that they have had 12 sittings. Hon. Speaker, this kind of persistence of overdraft every now and again to an

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extent that the CEC is refusing to submit the relevant documents to the Committee in order to give the explanation of the money that have been requested from the bank. How can the Committee get the information yet this is the Committee that has been put in place to carry out the investigations as far as this overdraft is concerned? Also how did the bank itself give out the money without the approval of this County Assembly? This is what is in the public domain and for sure this is the time that we need to intervene. If at all anything has to go wrong, it is upon the decisions of this House. It is high time for Hon. Members of this House to intervene or put right at where there is a problem. I want to question what relevant document the CEC used to secure the overdraft that he doesn't want to submit to the relevant Committee to intervene on the same problem. Hon. Members, it is my plea that we need to stand and go the same direction because we are being expected across the county. This is a race across 47 counties and we don't want the same persistence of overdraft to occur every now and again. So I am appealing to the Hon. Members that we adopt the report the way it is, thank you.

**Hon. R. Bett:** Thank you very much Mr. Speaker. First of all, I want to thank the atmosphere of the House today, and more so the soberness, which the Hon. Members are showing towards one another. The reasoning and articulation of issues as pertaining to an issue which is on the hand. Mr. Speaker, I must also thank the pastor who gave a sermon during the opening of the 3<sup>rd</sup> session of this County Assembly. Indeed, he pleaded to us to address issues in a sober manner, without witch-hunt and according to the oath of office taken. I must therefore congratulate Hon. Members for the sobriety they have shown in this House. Mr. Speaker, I know each and every member is knowledgeable enough and we know that each and every CEC is approved by this House and there is a fundamental reason as to why a CEC should pass through this House. There are some other officers who pass through this House. There was a reason as to why it was documented in law. So Mr. Speaker, when we call a spade a spade the better. I want to congratulate the Committee for coming up with this report. The report, as per the last recommendation, didn't have any bad intention, it is a corrective recommendation, and it is not witch hunting in any way. It is based on information to be delivered to the Committee. So Mr. Speaker, it is very discouraging when the Committee requests for information, it is denied yet this is the House which should be denied any information. This recommendation must be done and this will entail starting a process of removing each and every member if indeed the conditions dictate so. Mr. Speaker, I know such a thing will have to be brought to this House and one has to defend himself. It is of no use for a reasonable member of this House to discard information without internalizing that is why the Committee is there to do something about it. So if one is sober enough, read between the lines and see the intention but for me the intention of the Committee is a corrective measure which has been persistently requested for. I want to congratulate the Committee for handing over this report time enough for Hon. Members to go through it. At times Mr. Speaker, we are given a report and expected to deliberate on it the same

day yet we are very busy people and rarely find time to do that. With those few remarks, I want to continue praying that this House shows soberness and no witch hunting so that we can move this County Government of Bomet ahead. We know who to ask what and we know who to execute what. Also, the Governor has the power to move anybody from one department to another based on the performance. If performance wasn't there, then this would not be there. So I beg to support the motion and say initiation of the process has to be started. I am very sorry for the wild behaviours shown by Hon. Members which I think they had some other intentions which some of us didn't have, thank you.

**Hon. A. Chepkirui:** Thank you much Hon. Speaker for this opportunity that you have given me to contribute to this motion. Just like my fellow Hon. Members, I would like to really support this motion. As the Chair of Budget and Appropriation Committee, I must say that today I am somehow relieved. I really want to thank the Adhoc Committee members for the work that they did. Hon. Speaker, if you look at this work and look at the way they have really explained how they did it, it is clear they did it with a lot of togetherness. It is clear that that they need good for this County. Hon. Speaker, it reminds me as the Chair of Budget and Appropriation Committee that we have really dwelt on this thing so much. We analysed the 1<sup>st</sup> quarter report from the Controller of Budget, the same thing was there and we handled it. In the 2<sup>nd</sup> quarter, it was also there. Hon. Speaker, we handled this issue objectively as the Committee. I am happy that the Adhoc Committee has done it, and has felt it that it isn't easy to access some of these documents. As the Committee of Budget, we tried our best when we were doing the 1<sup>st</sup> and the 2<sup>nd</sup> quarter reports. We did so much, I cannot even explain here, to have the report and explanation on the same to the Committee. Concerning the KES 36.9 million that was sought in the 1<sup>st</sup> round, I am surprised that the Adhoc Committee wasn't given the minutes that we were given as the Budget Committee. As the Budget Committee, we were given the minutes that allowed the requisition for that money and the CEC Finance told that that was the only overdraft sought by the executive and the rest only appeared because of the standing orders that were given to the bank so when it reaches a time when such standing orders are supposed to be paid and the money hasn't reached the account, it becomes an overdraft automatically. But I am so surprised Hon. Speaker by what the Committee has said that they have not gotten such information but the Committee of Budget got that information. Why are we not truthful? Why are not consistent with our truth? We discussed on this issue, Hon. Speaker, to an extent that we were given some financial statements. I am surprised that you don't access that as the Adhoc Committee. I like what Hon. R. Langat said that these things are easy, no one is perfect, come here we discuss; this problem has been there and seems to be persisting; then we discuss what do we do with it. Hon. Speaker, the Constitution is very clear for me; article 212 and 201 are very clear. Hon. Speaker, I am very sure that the CEC is very much conversant with the PFM Act. We cannot say he is ignorant; the PFM Act 58, 140, 141 and 142 are very clear that any borrowing should pass through this House.

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If we are saying we are new in the system and we had just started; yes it is true we are still new and this thing of devolution has just started and if we are saying that is the case, why don't we sit down and we discuss and we see the way forward? Why do we want to hide or to cheat? Honourable Speaker, the performance of the House is measured in the performance of the committees. From the two reports I have tabled in the House, I want to agree with honourable Bett, that we have conducted ourselves with decorum and objectivity and the need to understand what happened. From the two reports, I want to thank the committee for looking at the recommendations made by the Budget and Appropriation Committee and indeed they have said, 'I was discussing with the Chair and they said the same thing that yes, we really did something'.

The recommendation number one that we have given is the same recommendation we gave as the Budget and Appropriation Committee and likewise for the second and third recommendations; the only thing is that we had not only included the last part of it but as you know when you are starting something you give somebody the first and second chances but when it comes to the last chance you sit down and decide what to do. I must say that I must prove to this honourable House something as the other time when we were discussing, I must say there were a lot of differences but I must say that the Budget Committee is working, and if this was not the case they could not have come up with the recommendations they have made. I also thank you, honourable Speaker, for allowing the Adhoc Committee to be formed to look at this issue keenly and they have done it. Honourable Speaker, we don't want to subject somebody to problems as we are human, and we don't want to see someone suffering but sometimes you are fixed when presenting a report like the one on the overdrafts we approved, and I am supposed to table how it was implemented and whether it was paid but I am not going to say we have experienced any problems as so far we have gotten a written report though we are expecting him to come and explain. I was saying we are not really trying to do that to somebody but what do we do when we don't get a written response; when the committees are not respected. We know what we are doing, and it is here in the Standing Orders and the public knows that everything lies with the County Assembly and if the County fails it is the County Assembly which has failed and when everything goes wrong no one will look at the CECs or the Governor but they will look at the County Assembly and we wonder what to do; should we just sit aside and wait for history to judge us harshly. Honourable Speaker, I support this motion. Thank you.

**Hon. Speaker:** Honourable Majority; then honourable Molel.

**Hon. J. Kirui:** Thank you for the opportunity to contribute to this motion today. I don't want to repeat what the honourable members have said but I just want to say that I support the report but I want to reiterate what the Chair, Budget and Appropriation has said. I am surprised as the leader of Government Business that the documents the Adhoc Committee wanted are found here within the Assembly, and I also find it surprising that the CEC Finance finds it difficult to

explain some of the issues raised here and we normally say we don't want to throw out the baby with the birth water, and it is also not good to have preconceived notions of an individual when he wants to bring an amendment without knowing the reasons why the amendment was sought in the first place. It is also not right honourable Speaker when members throw accusations left and right on allegations that cannot be verified nor substantiated, and I would like to thank the members for their soberness and objectivity when deliberating on this report, and I want to say that I do support the Adhoc Committee as when this committee was formed. I want to say that there were serious flaws and I do support the recommendations of the committee which are very good but before we go to the third recommendation let me say that I don't want to go down in history as a person who sheds innocent blood and the issue of impeaching the CEC is an issue we need to discuss when that time comes and when we have the report of the Auditor General and it is on that basis since we rely so much on the report of the Controller of Budget, the PAC report and the report of the Adhoc Committee, and so I want to say that due to the soberness that I have witnessed in these members as they deliberated on that matter, I do not wish a situation where the process of the impeachment of the CEC Finance is done based on information not adequately supplied, and I wished the office of the Clerk could have availed the documents given to the Budget and Appropriation Committee. I also wished the CEC Finance could have explained to the members when he failed to appear instead of writing a letter saying that he was bereaved at that particular time and he could have sent one of the senior most members in the Treasury to come and explain to the committee but I sympathised with the CEC when he showed me a letter that he had signed that he had lost a very close relative, and as such he was explaining that he could not come to the Committee and I am quite surprised that the letter did not come to the Committee, and still, I am a human being in as much as we want to say we want to adhere to the law. The reasons why I wanted us to have the Auditor General's report is for us to verify or ascertain if after the first overdraft that was not approved by this House, if the CEC Finance went back for another overdraft apart from the one approved by the House, and that is why I was saying that we need to have the report of the Auditor General to verify this, and having said that I also want to say enough is enough and this House needs to be taken seriously by any CEC regardless of whether somebody is bereaved and it can be proved that somebody is bereaved and it is unfortunate when we have a predetermined notion that there must be other forces behind. Honourable Speaker, we have our way of judging and that is why we said we have to read the report and see the issues in that report, and when we went through it we realised the report was very nice but somehow as the Leader of Government Business I beg for leniency for the CEC of Finance so that before the impeachment process is initiated he should be given an opportunity to provide the documents from the Controller of Budget to prove that there has not been another overdraft other than the one the CECs in a meeting approved and avail the documents.

Otherwise, with those few remarks, I want to say I support the report and I want to thank the members for their sobriety. Thank you.

**Hon. Speaker:** Thank you. But what I find strange is, despite that fact, how could the CEC not provide the reports, since despite the absence of the reports from the Auditor General, how much did the County incur as unnecessary costs; even if the report from the Auditor General is there. We need to see these issues holistically. Honourable Molel one minute.

**Hon. J. Molel:** Thank you. I stand to support the adoption of the report. I also thank the Adhoc Committee for the work done. I want to oppose the Majority Leader for what he said. It is not this time that we are requesting for the documents; that one is overtaken by events. The direction we are going to take is a different direction, and I want to thank these members for they have shown a better direction and we came to this House because the electorate thought we were better and it is today when we have shown that betterment and I wish the electorate could know that. Mr. Speaker, when the members protested before the start of the sessions it shows that they are tired of being taken round the clock, and I pity the members of the Adhoc Committee for being taken round and by someone whom we think is inexperienced in his docket and what has come out of the Committee has made me regret why we vetted this kind of person and it is also a blow of the whistle for those who are going to go through this House. Also, I am urging members to be vigilant and even if it means asking for a recommendation letter from where somebody was before coming here; we may have to go to that direction so that we remove doubt that when a mistake is done we rule that somebody is doing it intentionally, and I also want to agree with the saying that when you injure a snake and you fail to kill it you will be bitten and you will die. The sword had missed that person previously and let me urge the members to be united and as the preacher who was here said we need to build a strong foundation and I was very happy when I heard him talk of it and the members were there and heard that we need to build a strong Assembly who can actually do oversight, and I want to say that let this person be a lesson to the rest who think the Assembly is so little and they cannot adhere to its summons. Thank you.

**Hon. Speaker:** Honourable Kirui, then honourable Ng'eno and honourable Chelule then the mover. One minute!

**Hon. S. Kirui:** Thank you for this opportunity. Let me thank the adhoc committee members for work well done and if your name is in this report, count yourself as a strong pillar of this Assembly because of work done. I know the challenges faced by Adhoc Committees as I had headed an adhoc committee, but because of strong spirit and unity of that committee, I have seen that they have not disowned the report, and let me also thank you, honourable Speaker, for your wisdom as you sit in in the Chair as you ruled that there should not be any amendments in the report, especially on the third recommendation because this is a process we are starting and we

want to show we are serious in what we are doing. The Chair of the Budget and Appropriation Committee said we have been facing problems with the CECs and we have even failed to account for the expenditure in the Assembly as we cannot explain how the KES 70 million was spent. Even the report we have does not show this and we know how difficult it is to deal with someone who doesn't want to give you information and this is someone taking us for a ride and it is time we show that we have powers to play oversight over him and we could be blaming other for the failures of an individual and yet that is not supposed to be the case. This report is an eye opener to all of us and it is a bad name we give to a dog when we want to hang it. So this report is that bad name we will give to this person who misled the committee and does not follow procedures. I will not go on but I support the report and urge the members that we support the implementation instead of us recommending and we don't implement what is in the report and if we follow the law, we follow the law, and if we start the process of impeaching then we do so and I wish there was a sharp person to draft the impeachment motion so that we sign as we debate the motion and the whole process is complete. I support the motion.

**Hon. Speaker:** Honourable Ngeno, one minute. Then honourable Chelule and then honourable Samson. The problem with you honourable Ngetich is that you put up one hand and one down and it seems you don't want to contribute. No, you can't talk to me.

**Hon. B. Ng'eno:** Thank you. I rise to support the motion and to congratulate the members for making positive contributions and above all to congratulate the Adhoc Committee for shedding light to this County Assembly and giving direction where we require it the more and this honourable House is full of brilliant men and women who can take this County Assembly to another level. I believe our task is to take this County Government into a County that everyone will admire to live in. We are not about to discipline anyone but we want to shape the future of this County Government so that we leave history that at one time the first County Assembly established a foundation that everybody will be proud of. Mr. Speaker, in Central Africa, there were cannibals who had one principle that every time, the shortest rule to reach the heart was through the stomach, Mr. Speaker. Majority of the leaders in this country have resorted to the shortest route to reach the heart through the stomach, Mr. Speaker but the goodness is that this House has rose above the bar. We have realized that the statement that was raised by a certain Hon. Executive Member that we will not manage what we wanted to do is because he believed that the principle that was applied by cannibals in Central Africa was going to apply equally in this honourable House. We want to shame the devil that the principle that was used in Central Africa is no longer useful in Kenya, Mr. Speaker or in Bomet. Finally, Mr. Speaker, this report has enough information. It's long overdue and it is timely. I wish to request this honourable House that we start the journey of changing this county government. I have realized that blame games have ever been in place and that we blame someone else while leaving out the real culprit hidden but we want the culprit to be removed from his hideout, Mr. Speaker. More scandals are

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on the way over the said person but I want to say let us support this report so that we shall be in the books of history and that if it is possible, let it be in public domain that this report was passed by this Honourable House and they didn't want anybody to suffer but for the process of trying to convert and bring changes that are going to make this County Government prosper. Otherwise, Mr. Speaker, I thank these honourable members for not agreeing to the principle of cannibals that was applied in Central Africa. Thank you.

**Hon. Speaker:** Hon. Ngetich one minute and the Hon. Chelule.

**Hon. J. Ngetich:** Thank you very much, Mr. Speaker. I can't even take one minute but only just a half a minute. Mr. Speaker, I only want to register my concern. It happens that I am among the adhoc committee members. I wish to say that the CEC Finance failed to give us the information and I feel very embarrassed for him to deny us such information as per article 35 of the Constitution. The CEC Finance also lied to us that he was committed somewhere else yet he was within the premises of the County Government. I support the report of the adhoc committee being one of the members. We need to bring sanity to this County Government, Mr. Speaker because these things will be turning round and at one time they will be in the County Assembly. The blames are always in the executive but if we fail to adopt this report, the blame will be on the County Assembly. I support the adoption of this report, Mr. Speaker. Thank you very much.

**Hon. S. Chelule:** Thank you very much Mr. Speaker sir. I also stand to support the report because I am among the Adhoc Committee members. I also congratulate the chairman and the team because they have taken a long time to draft this report until it is now the way it is. So it is my stand to tell the Honourable members who were there last Thursday which was on last week that it is not the same as today because the activity that took place last week isn't the same as today's. The Thursday ahead of us has also a different activity and as we know that when we start to adopt this report, as I have seen the majority of the House have supported the report, let me say we have this same spirit until we end but not like the previous one which we brought to the floor and we finally knocked the wall. I also urge the members that this report must be taken to the end and we use our power that is conferred by the Constitution and we shall not have any problem. I also urge the Majority Leader of this House to drive this House into the right direction. I have been seeing him misleading us but I am not blaming him because the chair he holds was not given to him rightly but he grabbed it. That is why he wants to mislead the House. Thank you very much, Mr. Speaker.

**Hon. Speaker:** Hon. Chelule kindly apologise for that. You need to apologise. Withdraw and apologise.

**Hon. Chelule:** Let me withdraw and I apologise.

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**Hon. S. Towett:** Okay thank you very much Mr. Speaker for allowing me this chance to reply to what my colleagues have raised or said. Hon. Speaker, from the onset I want to thank the Hon. Members for having contributed towards this motion objectively. They have scrutinized and ventilated into this report well. For that I want to thank them very much. I have seen a lot of concern and commitment towards this report. Mr. Speaker, I think a lot has been said and most of it was in support of this report. One, when the water is flowing, we need not divert it or block it because somewhere down the line, it must find its natural course. This is what we want to do today by allowing water to flow naturally so that we don't disturb what nature has put in place. Two, Hon. Speaker, we are here to set a foundation that was stated the other time and the same has been stated by my colleagues well that we are building a foundation. I was asking myself that what kind of foundation we are going to set. Is it a foundation for a blessing or a foundation for curses? So if we do right, we are laying a foundation which will take us to achieve blessings. If we do what is not right, we are laying a foundation which will take us to where we will be cursed. Hon. Speaker, I believe what we want to do as an assembly is what is right so that at the end of the day or even many years to come people who will access this information, will judge us right and will conclude that this Honourable members did what was right and did what was possible to be done. Honourable Speaker, we have talked about the respondents and how they came and responded but I know we have dealt much on the issue of the CEC. I want to thank the Chair, Budget Committee for the fact that she made us know that they were given the documents we were asking for. I don't know why the CEC could not inform us that we have the documents with us. I don't know why he could not explain. It means we may have asked more than what the Budget and Appropriation Committee had asked for. Therefore he decided not to avail those documents because maybe there was more to be revealed than what the Budget and Appropriation Committee had. That is the only thing we can conclude because when we don't have the information, then what else can we say. Hon. Speaker, members have talked about this County Government that if only it could be allowed to go for an overdraft if there were the last audited accounts without even going through the Assembly. In the event that there were no last audited accounts, the process was for the CEC to seek for an approval of this House and that was never done. When approval is sought for, and if it were accepted, whatever the amount that was to be acquired through this overdraft was supposed to be sent swiftly back to the revenue account for the County Government to request for it to be allowed to use, but for this facility it was never done the same way. The overdraft was acquired and it was used at source. Hon. Speaker, I don't think I want to take long. Members have called for section 122 of the Public Finance and Management Act whereby the Treasury is expected to maintain the records of all the loans. I know an overdraft is a loan. If he could not come with the records to tell us this is the amount that we had looked for, this is the accrued interest, it means even these records may not there in the first place. Mr. Speaker, Hon. Kirui brought it clearly that when asking the CEC, whether he

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went for an overdraft or not, he did agree that he went for an overdraft. We went further to ask whether it is a loan but he said it is not a loan but short term borrowing. That really forced us to visit the dictionary to understand better what an overdraft is and what short term borrowing is so that when we make a conclusion, we didn't want to leave this House in doubt. We wanted to explore all the possible avenues so that when we are presenting, we make a definite presentation without leaving a stone unturned. So we went round and round. After visiting the dictionary, we also asked the representative of the Controller of Budget the errors...

*(The Speaker interrupted)*

**Hon. Speaker:** Thirty seconds.

**Hon. S. Towett:** Ok. What the understanding of overdraft is. It led us to make our wise decision. To that far Mr. Speaker, a lot has been said but I don't want to leave unless I say that the proposed amendments, Mr. Speaker, I think they could have been right if they were brought in and are supported with reasons. What could have been the best reasons as to why a member would want to move an amendment for recommendations which the committee may have taken time on? So that we ventilate through it and see if it were necessary. I know the Majority Leader was doing his function as a leader of government business representing the government. I cannot blame him. That is his work and he has to do it. Hon. Speaker, I want to thank the members of this committee for the good work that they have done and for the time they took to really look into this issue until they came up with such recommendations. I want to thank the members from the office of the Fiscal Analyst and the Budget Office for the work that they did and the valuable information they gave us and the advice they also accorded this committee. I also want to thank the legal office for their valuable contribution and time we had together. They assisted this committee to come up with such recommendations and also explained certain issues that the committee was looking for answers on, and most of all, I want to thank the Office of the Clerk for having facilitated us in many ways. They also made sure our requests were forwarded. Whatever information that was given to us was relayed to us in good time. Lastly, I want to thank the Office of the Speaker and the Hon. Speaker in particular for having supported us in all ways and for having given us this opportunity to serve this County and give an answer to this overdraft. That far Mr. Speaker, I want to thank the House and believe that they are going to adopt this report so that it starts the new process that we have recommended. With those few remarks I want to thank everybody.

**Hon. Speaker:** Thank you very much Honourable members. Before I put the question and given the nature and the recommendations of the report, my direction will be so that we correctly ascertain what the House is saying, we will vote so that we have the right decision of the House given the nature of the recommendations and the decision of the report. I think the Clerk...

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*(The Speaker asked the members if they wished to vote by show of hands).*

So that is the decision to move the motion? Can somebody move the motion that we can make the decision by show of hands? Hon. Majority Leader?

**Hon. J. Kirui:** Thank you very much Hon. Speaker. I wish to seek your indulgence Hon. Speaker. Since this is a matter that the House is unanimous on the report, and if there was a contrary opinion, Mr. Speaker, it could have been witnessed during the contribution. I also wish not to subject the members into unnecessary exercise again. Hon. Speaker if you call for the *Ayes* and the *Nays* and may be four people will stand to oppose, then that is the time you may call for division, Hon. Speaker. I may not be well versed but I seek for your direction, Hon. Speaker.

**Hon. Speaker:** Hon. Majority Leader that is exactly what I wanted so that there is actually the right concurrence. This is a very heavy matter and there are two ways which are either through division or through voting. Since you believe there is almost concurrent, I can be able put the question and then we proceed. Hon. Members is that what we agree on?

*(Hon. Members shout yes)*

So if that is the way forward Hon. Members I now put the question that pursuant to section 14(1) (b) of the County Government Act, 2012 this County Assembly adopts the report of the Adhoc Committee established to investigate the circumstances that surrounded the securing of bank overdraft facilities by the Bomet County Treasury without the County Assembly's approval and the unnecessary costs incurred by the County as a result of that.

*(Question put and agreed to)*

**Hon. A. Chepkirui:** Thank you Hon. Speaker. I would like to seek your direction. On Tuesday this week we were given a nominee as the Budget and Appropriation committee, to vet a Chief Officer nominee for Economic and Planning and today we had a committee meeting and the question arose as to why we are given a nominee whom we are not going to have a direct oversight over yet we have another who will be concerned with the finances. We would wish to seek your direction whether we can have a joint meeting together with the Finance, ICT, and Economic Planning and Budget and Appropriation committee so that we do the vetting of Economic and Planning and that of Finance together. I seek your direction Hon. Speaker.

**Hon. Speaker:** Hon. Members my direction on the same would be that most of the members agree on that point. The Chair of Finance and Economic Planning had raised the same issue. My direction would be that the way we did with Agriculture and Trade and Cooperative committees perhaps we can give the special consideration to that committee. The committee on Finance and Economic Planning will be able to lead on the first ones that I had made them to work on. They will be able to do joint vetting with committee on Budget and Appropriation. Secondly, on the

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question of the nominee of Economic and Planning, the Budget and Appropriation Chair can do the lead and the committee on Finance and Economic Planning can do joint vetting with you. The two committees can undertake the vetting of the two so that they will be on different dates. That is my communication that the two committees can work jointly. On the Finance, the chair of Finance and Economic Planning will be the lead when tabling the report. It is therefore vice versa. Thank you very much. Next order!

### **ADJOURNMENT**

**Hon. Speaker:** Hon. Members, I had requested that we meet for a *Kamukunji* after this. There being no other business, this House is adjourned until Tuesday at 2.30 p.m.

*(The House adjourned at 5.51 p.m.)*