

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 23rd November, 2004

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

The Report on the Banking (Amendment) Bill, 2004.

The Report on the Wildlife Conservation and Management (Amendment) Bill, 2004.

*(By Mr. Kagwe)*

**Mr. Speaker:** Are those reports from your Committee?

**Mr. Kagwe:** Mr. Speaker, Sir, these are reports from the Finance, Trade, Tourism and Planning Committee.

### ORAL ANSWERS TO QUESTIONS

*Question No.017*

FULL PAY FOR MR. SACKKEY KIMANI

**Mr. Wamwere** asked the Minister for Education, Science and Technology:-

(a) whether he could explain why Mr. Sackey Kimani, a teacher TSC No.234377, was not paid half of his salary for the period, June 1992 to July, 1996, when he was put in Nakuru Prison for an offence for which he was finally acquitted on 5th June, 1996; and,

(b) given that the office of the Attorney-General has also recommended that he be paid his full pay, if he could pay Mr. Kimani his full benefits.

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Speaker, Sir, I would like to inform the House that this matter is pending in court. Judgement will be delivered on the 25th of this month. I probably would not be very well advised to delve into the matter of discussing it.

**Mr. Speaker:** What is the case number?

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Speaker, Sir, it is Case No.1786/2003.

**Mr. Speaker:** Between who and who?

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Speaker, Sir, between Mr. Sackey and the Teachers Service Commission (TSC).

**Mr. Speaker:** Mr. Wamwere, what is your reaction?

**Mr. Wamwere:** Mr. Speaker, Sir, I do not know whether the case that the Assistant Minister is referring to is an appeal against an earlier judgement that had been handed down by the High Court against the TSC? So, could he clarify whether what he is talking about is an appeal against the earlier judgement and then I will know how to explain?

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Yes, Mr. Speaker, Sir. The TSC is appealing against an earlier matter.

**Mr. Speaker:** Mr. Wamwere, that would be *sub judice*!

**Mr. Wamwere:** Mr. Speaker, Sir, then I guess I should just wait for the judgement on the 25th of this month.

**Mr. Speaker:** You are very well advised. Thank you Mr. Wamwere. It is deferred generally.

*(Question deferred)*

Next Question by Eng. Nyamunga!

*Question No.877*

HARDSHIP ALLOWANCE FOR TEACHERS  
IN NYANDO DIVISION

**Eng. Nyamunga** asked the Minister for Education, Science and Technology:-

- (a) whether he is aware that out of the five divisions in Nyando District, only teachers in Nyando Division do not receive hardship allowance;
- (b) whether he could explain the criteria used to award hardship allowance to teachers in the other divisions;
- (c) whether he is further aware that this anomaly has caused exodus of teachers from schools in Nyando Division; and,
- (d) when he will correct this anomaly.

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

(a) I am aware that teachers in Nyando Division are not paid hardship allowances because Nyando Division is not a gazetted hardship area.

(b) The other divisions of Miwani, Muhoroni, Upper Nyakach, Lower and West Nyakach, were gazetted as hardship areas through Legal Notice No.534 of 1997. They were then part of the Muhoroni Valley and Sondu divisions of Kisumu District. The specific divisions lack infrastructure and are prone to flash floods, drought and also experience outbreaks of diseases. These were the reasons for classifying them as hardship areas.

(c) I am not aware of any mass exodus of teachers from schools in Nyando Division in particular. The transfer requests are submitted to the Ministry and processed by the District Education Office which ensures fair distribution of teachers. So, Nyando is not disadvantaged in that area.

(d) Finally, the gazettelement of hardship areas falls within the purview of the Directorate of Personnel Management, Office of the President, and the last of its kind was done in 1997 and implemented by the Teachers Review Commission.

**Eng Nyamunga:** Mr. Speaker, Sir, I have received a written reply which is very unsatisfactory. It is common knowledge that both Muhoroni and Miwani cannot be flood-prone and

are at the base of four sugar factories and an allsops processing factory. Nyakach is actually mountainous. So, there is no way in which the four divisions can be experiencing floods more than Nyando Division. Could the Assistant Minister give a better explanation as to why Nyando Division was excluded?

**Dr. Mwiria:** Mr. Speaker, Sir, I would like to say that we have found certain inconsistencies in the way these classifications were done in 1997, and it is for this reason that the Office of the President set up a task force to look into the matter in 2003. This is a problem across the whole country. I come from Meru North District where we neighbour Isiolo District but we are not considered a hardship area even though the circumstances are more or less the same. I would like to say here that it is only until we get this report, that we will probably be much more objective in terms of the analysis and classification of districts. There is very little we can do as a Ministry. Much depends on the Office of the President.

**Mr. Munya:** Mr. Speaker, Sir, even though the Assistant Minister is talking of the Office of the President, we still have some schools within the same sub-location receiving hardship allowances while others within the same sub-location do not receive it. So, according to the Ministry, it is not very clear what specific criteria is used. The Ministry has not even corrected the political nature in which these hardship allowances were given in the past.

**Dr. Mwiria:** Mr. Speaker, Sir, I am glad the hon. Member appreciates the fact that these were political decisions. Therefore, in view of this, we hope that the task force which was set up to deal with the problem is going to come up with a classification that is much more objective. I do agree that it is a serious problem but it is one that we have got to deal with and the Ministry, in collaboration with the Office of the President, will come up with what I believe will be a much fairer criteria.

**Eng. Nyamunga:** Mr. Speaker, Sir, could the Assistant Minister inform the House when this report will be ready because this issue is causing problems in my constituency?

**Dr. Mwiria:** Mr. Speaker, Sir, I am not in a position to comment on that matter, because it is with the Office of the President. I, however, hope that it will be done very soon because a commission was constituted in June last year.

**Mr. Speaker:** Very well! Next Question, Prof. Mango!

*Question No.751*

IMPACT OF WTO/COMESA  
REGULATIONS ON LOCAL PRODUCERS

Prof. Mango is not here! We will move on to the next Question.  
Question by Mr. Wamwere!

*(Mr. Wamwere stood up in his place)*

I am sorry; it is not Mr. Wamwere's Question! It is, however, not my fault. I have the wrong Order Paper!

Mr. Wamwere, what were you going to ask?

*(Laughter)*

**Mr. Wamwere:** Mr. Speaker, Sir, I was going to ask whether I had a second Question because I saw one on the Order Paper. However, I would be glad to ask it.

**Mr. Speaker:** Unfortunately, I had another Order Paper that all of you do not have. Anyhow, I have the right one now.

Question by Mr. Khamisi!

*Question No.471*

GOVERNMENT POSITION  
ON BAMAKO CLINICS

**Mr. Khamisi** asked the Minister for Health:-

- (a) what the position of the Government is regarding Bamako Clinics introduced in some parts of the Coast Province a few years back; and,
- (b) why they are not being supplied with drugs and personnel.

**The Assistant Minister for Health** (Mr. Konchella): Mr. Speaker, Sir, I beg to reply.

(a) Bamako Clinics will remain community-managed, financed and staffed as is the practise all over the whole world. Otherwise, they will cease to be Bamako initiatives.

(b) Once given seed money, Bamako pharmacies or kiosks are supposed to be self-sustaining. The money raised from the drugs is supposed to be used as revolving funds for both drugs, maintenance and salaries for community workers. The idea is to empower communities to take care of minor illnesses through their own efforts. If the Government supplies drugs and personnel to them, that will negate the sole purpose of the Bamako initiative.

Thank you.

**Mr. Khamisi:** Mr. Speaker, Sir, Bamako services are as low as you can get in the provision of medical care in the villages. When these services were started in the 1990s, it was done in good faith but most of them have closed down because of poverty. Could the Assistant Minister consider providing, at least, some minimal support to this initiative? This will help ease the suffering of the people.

**Mr. Konchella:** Mr. Speaker, Sir, if this is the case, the Ministry will consider it. However, as I said, this was an initiative for the community. Community committees were supposed to oversee and collect money as an investment and then revolve it by buying and selling subsidised drugs to the community. However, if they have failed, I will suggest to the hon. Member to approach the District Development Committee (DDC) and get approval, so that the Government can take over these facilities and run them.

**Dr. Galgalo:** Mr. Speaker, Sir, you have heard the Assistant Minister say "if they have failed" and he has already been told that they have failed. They have failed because they do not have a central pharmacy from which they procure medicines at affordable prices. The idea was to create the Kenya Medical Supplies Agency (KEMSA) from the former Medical Supplies Co-ordinating Unit. KEMSA requires Kshs1.5 billion to start off a revolving fund. Once started, all facilities, Bamako clinics and rural health facilities included, should get their medicines from it. When is he going to provide money to KEMSA to enable it establish a revolving fund that will enable all these facilities to procure medicines at affordable prices?

**Mr. Konchella:** Mr. Speaker, Sir, the intention of the Government is to centralise procurement of drugs at KEMSA. However, the allocation of funds by this House to KEMSA has really been the cause of the problem. There has not been sufficient funds to create the revolving fund which the hon. Member is referring to. If the Ministry could get additional resources, that would be a very practical and wise thing to do. We are going to initiate it as has been suggested.

**Capt. Nakitare:** Mr. Speaker, Sir, you have heard what the Assistant Minister has said. However, I would like to know if he is aware that Bamako is a village in Nigeria, where these

clinics have failed. Could he tell us why we should imitate other countries' failed projects?

**Mr. Konchella:** Mr. Speaker, Sir, I am aware that they are successful in Nigeria. Maybe it is because Nigeria has a lot of oil money that we do not have. The best we can do is to utilise the funds that we have. Moreover, communities should utilise the money they have because it is contributed by organisations like the United Nations International Children's Fund (UNICEF) and local authorities within the areas of operation. Therefore, if communities are not able to manage their money well, I am afraid that these initiatives will fail as they have. The only way is for the Government to take them over.

**Mr. Speaker:** Last question, Mr. Khamisi!

**Mr. Khamisi:** Mr. Speaker, Sir, the Assistant Minister has agreed that Bamako clinics play a very useful role in the provision of medical care services in the rural areas. Could he then consider expanding that initiative to all the rural areas in this country, and reviving Bamako clinics that have closed down? This will ensure that we provide effective health care services to all communities.

**Mr. Konchella:** Mr. Speaker, Sir, the Government's priority is to improve primary health care in the whole country. The Bamako initiative is part of that primary health facility, and the Government will look into it when it gets additional funds. However, the hon. Member will note that we still have a Bill to discuss in this House, which, we hope, will allocate money to support primary health care in the country. I hope it will be coming to the House soon.

**Mr. Speaker:** Next Question, Mr. Ndolo!

*Question No.510*

RELEASE OF DNA REPORT ON  
"MR. MATHENGE" ALIAS "AYANU"

**Mr. Ndolo** asked the Minister of State, Office of the President:-

(a) whether he could inform the House when the DNA report on the man called "Mr.

Mathenge" alias "Ayanu" from Ethiopia will be released; and,

(b) whether he could also inform the House how much the report cost.

**The Assistant Minister, Office of the President** (Prof. Kibwana): Mr. Speaker, Sir, this is a Question that could have been answered by the Ministry of Foreign Affairs or the Ministry of Health. However, I have decided to answer it.

Mr. Speaker, Sir, I beg to reply.

(a) The DNA report of the man called "Mr. Mathenge", alias "Mr. Ayanu" from Ethiopia cannot be made public due to doctor-patient confidentiality.

**Hon. Members:** No!

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

**The Assistant Minister, Office of the President** (Prof. Kibwana): (b) Mr. Speaker, Sir, the cost of the DNA test, which was conducted in South Africa, was South African Rands 1,350.

Thank you.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister suggesting that the so-called "Gen. Mathenge" came here as a patient?

*(Laughter)*

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

**Mr. Ndolo:** Mr. Speaker, Sir, "Mr. Mathenge" is a hero and a public figure, yet the Assistant Minister is telling us that his DNA is confidential. The family of Mr. Mathenge is now suffering yet he did this country proud. Could he tell this House what the Government is doing about the people who brought Mr. Ayanu here? A lot of money was spent and they are walking around in this City freely. What is the Assistant Minister doing about that?

**Prof. Kibwana:** Mr. Speaker, Sir, the Government has apologised to Kenyans for this huge mistake of confusing the real Mr. Mathenge with Mr. Ayanu. I do not really think a lot can be gained by flogging a dead horse.

*(Mr. Wamwere stood up in his place)*

*(Laughter)*

**Mr. Speaker:** Mr. Wamwere!

*(Applause)*

**Mr. Wamwere:** Mr. Speaker, Sir, I am surprised that hon. Members have applauded me as if I was "Gen. Mathenge". If "Ayanu" turned out not to be the real Gen. Mathenge, what is the Government going to do to find out what happened to the real Gen. Mathenge?

**Prof. Kibwana:** Mr. Speaker, Sir, that is a very legitimate question. The Government needs to get to the bottom of what could have happened to the people who fought for this country's Independence. I was ashamed to see Mrs. Mukami Kimathi turned away from the dais during national celebrations, when she should have sat in an appropriate place to witness her husband's recognition. So, I hope that Parliament will initiate a concrete move to rehabilitate our heroes, who are more or less forgotten. I think even Mr. Raila is a hero who has been forgotten. Mr. Wamwere is probably also a hero who has been forgotten, and so have been others.

**Mr. Maore:** On a point of order, Mr. Speaker, Sir. The Assistant Minister evaded the point of order raised by Dr. Khalwale. Dr. Khalwale pointed out that the so called "Gen. Mathenge" came into the country as a Government guest. The DNA test on this guest was not done by consent. Could the Assistant Minister say whether it was true or not that the DNA test showed that the guest was not Gen. Mathenge? That is what we are after.

**Mr. Speaker:** Mr. Assistant Minister, was he or was he not Gen. Mathenge?

**Prof. Kibwana:** Mr. Speaker, Sir, when Mr. Ayanu came to Kenya, he was not a patient. However, while in the country, he was taken to see a doctor. The moment you see a doctor, the doctor-patient confidentiality principle applies.

**Hon. Members:** Aah!

**Mr. Speaker:** Order! Order! Hon. Members, could you, please, listen to the Assistant Minister?

**Prof. Kibwana:** Mr. Speaker, Sir, since Mr. Ayanu was subsequently returned to Ethiopia, he could not have been Gen. Mathenge.

**Mr. Ndolo:** Mr. Speaker, Sir, the Assistant Minister said that the Government has apologised. Could he tell the House when the Government apologised to the family of Gen. Mathenge and Kenyans?

**Prof. Kibwana:** Mr. Speaker, Sir, as most hon. Members remember, this was done after Mr. Ayanu was returned to Ethiopia. If this House is not satisfied with that apology, I hereby also apologise for that mishap.

**COMMUNICATION FROM  
THE CHAIR**

PRESENCE OF UGANDAN  
PARLIAMENTARY DELEGATION  
IN THE SPEAKER'S ROW

**Mr. Speaker:** Order! Order! Hon. Members, I am sorry, I have to interrupt Question Time and make the following Communication.

Hon. Members, I wish to welcome the distinguished delegation of the Committee on Agriculture, Animal Industry and Fisheries from the Ugandan Parliament. As you can see, they are all seated in Mr. Speaker's Row. They are in Kenya on official duties at the Kenya Agricultural Research Institute (KARI). They are the Hon. John Odit, the Chairperson; the Hon. Dr. Kapiriru Awuori, Vice-Chairperson; the Hon. Dr. Kapwomu N.K, Member; the hon. Dr. Epetite Francis, Member; the Hon. Capt. Nguma Nguminsinza, Member; the Hon. Isange Makadama Rukia, Member; the Hon. Kasamba Mathias, Member; the Hon. Wadry Kasiano, Member, and the Hon. Alwonga Osman, Member.

On your own behalf and on my own behalf, I wish them a happy and fruitful stay in Kenya. As you know, the Parliament of the Republic of Uganda and that of Kenya have a long history of brotherhood. As our neighbours, we heartily welcome the exchange visits between our two Parliaments.

I thank you.

*(Applause)*

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. The Parliaments of Kenya and Uganda also have a long history of sisterhood, and not just brotherhood.

**Mr. Speaker:** Indeed, they do!

*(Laughter)*

I stand corrected. We do, in fact, have a long history of brother-and-sisterhood, fraternal and maternal, and it will continue.

Could we now go back to our Questions?

*(Resumption of Oral  
Answers to Questions)*

*Question No.608*

COMPENSATION FOR BUFFALO ATTACK VICTIM

**Mr. J.M. Mutiso** asked the Minister for Tourism and Wildlife:-

(a) whether he is aware that Monicah Mbithe Daudi, a resident of Ngaamba Sub-Location, Kilome Division, was attacked by a buffalo at Kiu Ranch in Makueni District in June, 2003, and sustained severe hip injuries;

(b) whether he could compensate the victim for injuries sustained since she has been

partially disabled; and,

(c) what he is doing to relocate the wild animals in the area.

**The Assistant Minister for Tourism and Wildlife** (Mr. Khaniri): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Monicah Mbithe Daudi was attacked by a buffalo, and sustained severe hip injuries, because the incident was never reported to the Kenya Wildlife Service (KWS) station in Chyulu Hills National Park and Tsavo West National Park, which cover the area in which the attack took place.

(b) The victim will be compensated as soon as compensation forms are filled and forwarded to my Ministry to be processed for payment.

(c) It is the mandate of the KWS to protect people and their property from wildlife menace. The KWS has intensified patrols and animal controls in areas of human-wildlife conflict. The KWS is also conducting awareness meetings to sensitise communities to mitigation measures.

Thank you, Mr. Speaker, Sir.

**Mr. J.M. Mutiso:** Mr. Speaker, Sir, first of all I would like to correct the Assistant Minister, who said that Monicah Mbithe Daudi's attack was not reported at either Chyulu Hills or Tsavo West National Parks. The incident was reported at the KWS Kajiado South outstation, at Konza. He should, therefore, seek that information from the KWS station at Konza.

**Mr. Speaker:** Shall I then give him the opportunity to do so?

**Mr. J.M. Mutiso:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Very well. Mr. Assistant Minister, I will give you a week, to Thursday next week.

*(Question deferred)*

Next Question, Mr. Mwanicha!

*Question No.072*

#### LOSS OF LIVES ON KINDEGE BRIDGE

**Mr. Mwanicha** asked the Minister for Roads and Public Works:-

(a) how many people have died, having slipped off the Kindege Bridge in the last 10 years; and,

(b) what he is doing to curb further loss of lives on this bridge.

**The Minister for Roads and Public Works** (Mr. Raila): Mr. Speaker, Sir, I beg to reply.

(a) Ten people have died, having slipped off the Kindege Bridge in the last 10 years.

(b) I have instructed the District Works Officer to implement safety measures on the existing structure, as construction of a new bridge, estimated at Kshs4,120,000, is considered for the next financial year.

**Mr. Mwanicha:** Mr. Speaker, Sir, could the Minister read out the names of the persons who have slipped off the bridge and died?

**Mr. Raila:** Mr. Speaker, Sir, the following have died while trying to cross Kindege Bridge in the last ten years: Miss. Moraa Menge, Roti Ariga and Onyonka, all in 1997; Moraa Otworu, a four year old child, Okumu Malimungu, George Nyamu, Joseph Omwamba and Omari Onchiri, all in 1999; Moturi Mokaya in 2000, and; Christine Mokera Atambo in 2001.

**Mr. Serut:** Mr. Speaker, Sir, you have heard the Minister saying that ten people have died as a result of slipping off this bridge. This is a case of negligence on the part of the Ministry of



Roads and Public Works which is supposed to have put rails on the bridge. Is the Ministry going to compensate the families of those people who have died as a result of slipping off this bridge?

**Mr. Raila:** Mr. Speaker, Sir, as the hon. Member would have heard when I answered the Question, the last person slipped on the bridge in 2001, just before this Government came into power. Having said that, the Government is generally very concerned about the loss of lives of Kenyans, and that is the reason we have earmarked Kshs4 million to be used in order to repair this bridge.

**Capt. Nakitare:** On a point of Order, Mr. Speaker, Sir. The hon. Member's question was not answered. Will the families of those who slipped off the bridge be compensated or not and, how small or big is this bridge?

**Mr. Speaker:** Order! Capt. Nakitare, you must sit. That is not a point of order!

**Mr. Omingo:** Mr. Speaker, Sir, the problem of Kindege Bridge is not only unique to the hon. Member's Question. Most bridges in this country were constructed early in 1922, some of which one vehicle must cross at a time. How much money has the Ministry set aside to rehabilitate all the bridges in the country? Otherwise, this country is going to face a catastrophe of collapse of bridges.

**Mr. Raila:** Mr. Speaker, Sir, it is not true that all the bridges or most of them were constructed in 1922. Very many bridges have been constructed since 1930 to date. As I am speaking now, there are several bridges that are under construction. We look at the status of each and every bridge and make arrangements to repair them.

**Mr. Manoti:** Mr. Speaker, Sir, this bridge is on River Gucha which runs from Nyamira to Migori. Along this river, there are very few bridges. What is the Minister going to do to make sure that a number of bridges are constructed especially on the feeder roads along this river?

**Mr. Raila:** Mr. Speaker, Sir, I agree with the hon. Member that River Gucha is a long river. It is called Gucha in Kisii and called Kuja down in Migori. It joins River Migori before it reaches the lake. It is a meandering river and it is very long. I would like the hon. Member to appreciate that it is not possible financially for the Government to construct a bridge on every kilometre of the river. However, we have put bridges at strategic crossing points along the river and others are planned to be constructed in the future.

**Mr. Mwanicha:** Mr. Speaker, Sir, you have heard the Minister name the ten people who have slipped off this bridge. If Maasai goats are mauled by wild animals, they are compensated. As the Minister considers repairing this bridge, could he consider compensating the families of these ten people?

**Mr. ole Metito:** On a point of Order, Mr. Speaker, Sir. The hon. Member is saying that Maasais get compensated by the Government when their animals are eaten by wildlife. I would like him to substantiate, because as it is now, Kenya Wildlife Service does not pay for the loss of livestock.

**Mr. Speaker:** Order, hon. Members! I do not think we need to go into that. That is what sometimes cheapens the House. We have a provision in the Wildlife Act for compensation for death, and it is for all Kenyans or any other person injured. I do not think it is specific. So, could we come back to the river?

**Mr. Raila:** As you know, we have no insurance scheme for pedestrians crossing rivers or roads. The hon. Member may wish to also know that some people were actually drunkards who fell into the river as they were walking when they were inebriated.

**Mr. Mwanicha:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to insinuate that when people are drunk, they can die without compensation?

**Mr. Raila:** Mr. Speaker, Sir, I did not imply that when people are drunk, they should die without compensation. I was mainly saying that when they are inebriated, they are much more

careless and, therefore, more likely to fall into the river.

**Mr. Speaker:** In other words, they should not cross rivers when they are drunk. Very well, Mr. Mwandawiro's Question!

*Question No.480*

DECLINE OF COFFEE PRODUCTION  
IN TAITA-TAVETA

**Mr. Mwandawiro** alimuuliza Waziri ya Ustawi wa Vyama vya Ushirika na Uzaji:-

- (a) ikiwa anafahamu kwamba kilimo cha kahawa Wundanyi na Taita-Taveta kwa ujumla kimekufa; na,
- (b) ni kwa nini.

**The Assistant Minister for Co-operative Development and Marketing** (Mr. Kenneth):  
Bw. Spika, ninaomba kujibu.

(a) Nina habari kwamba kilimo cha kahawa kwa ujumla Wilayani Taita-Taveta kimefifia.

(b) Hii ni kwa sababu ya mapato duni kutokana na bei ya kahawa iliyokuwa wakati huo. Jamo hilo lilivunja moyo wa wakulima kwa jumla, na kusababisha chama cha ushirika cha kahawa cha pekee Wilayani, yaani Taita-Taveta Farmers Co-operative Society kulegea.

**Mr. Mwandawiro:** Bw. Spika, katika historia ya upandaji wa kahawa nchini Kenya, Wundanyi ndio ilikuwa sehemu ya kwanza kupanda kahawa. Lakini tangu wakati huo kilimo kimeendelea kufifia kwa sababu ya bei duni, usimamizi mbaya wa vyama vya ushirika, ufisadi na vile vile bei duni kama ilivyoelezwa. Je, Waziri Msaidizi anaweza kuwaeleza wananchi wa Wundanyi haja ya kuendelea kukuza na kuendeleza kilimo cha kahawa kwa sasa?

**Mr. Kenneth:** Bw. Spika, kwa sasa, bei ya kahawa imeanza kupanda juu. Jambo la pili, ili kuwachukulia hatua maofisa wa ushirika ambao ni wafisadi, Bunge hili lilipitisha sheria mpya ambayo itaanza kutumiwa. Wiki iliyopita, nilisema kwamba tutaagiza vyama vyote vya ushirika vifanye uchaguzi kulingana na sheria mpya. Yeyote ambaye atapatikana na hatia, atachukuliwa hatua kali.

**Mr. Sambu:** Mr. Speaker, Sir, the world coffee prices are quite high. Could the Assistant Minister consider liberalising the buying of coffee from farmers, so that it is not restricted to a few people in the auction.

**Mr. Kenneth:** Mr. Speaker, Sir, coffee liberalisation falls under the Ministry of Agriculture. It is actually under the Coffee Board of Kenya (CBK). There are people who have applied for licences and they are being considered.

**Mr. Mwenje:** Bw. Spika, Waziri Msaidizi amesema kwamba miaka miwili iliyopita, tulipitisha sheria ya kahawa inayosema kwamba, mtu yeyote atakayeomba leseni ya kuuza kahawa atapewa, ikiwa atatimiza masharti yote. Kwa nini sasa Wizara imekataa kuwapatia leseni wenye wameomba - kuna watatu au wanne hivi - ili wanunue kahawa kwa wananchi ili wapate pesa?

**Mr. Kenneth:** Bw. Spika, sioni tofauti kati ya swali la Bw. Mwenje na lile la Bw. Sambu, isipokuwa kwa matumizi ya lugha. Nimesema kwamba leseni zinatolewa na Wizara ya kilimo kupitia Coffee Board of Kenya. Wote ambao wameuliza leseni wanashughulikiwa.

**Mr. Mwenje:** Jambo la nidhamu, Bw. Spika. Waziri Msaidizi anapotosha Bunge hili kwa kusema kwamba walioomba leseni watapewa, ilhali wamenyimwa? Kwa nini anaendelea kupotosha Bunge hili kwamba watapewa leseni?

**Mr. Kenneth:** Bw. Spika, kwanza, wanaopeana leseni ni Coffee Board of Kenya na wako chini ya Wizara ya Kilimo. Yeyote anayetaka kupata leseni ya kuuza kahawa anatakiwa kupeleka maombi yake kwa Coffee Board of Kenya. Coffee Board of Kenya haiko chini ya Wizara yangu.

Kwa hivyo, sijapotosha Bunge hili.

**Mr. Speaker:** Sorry, hon. Members. Last question, Mr. Mwandawiro!

**Mr. Mwandawiro:** Bw. Spika, Waziri Msaidizi ametueleza kwamba, kuanzia mwaka wa 2003, wakulima wa Wundanyi walitoa kilo 72,587 na kilo 1,672. Je, hiyo kahawa iliuzwa? Na kama iliuzwa, kwa shilingi ngapi? Wakulima walilipwa pesa zao?

**Mr. Kenneth:** Bw. Spika, ni kweli kwamba Chama cha Ushirika cha Taita kiliuza kilo 72,587 na zingine 1,672 kwa jumla ya Kshs700,055. Wakulima walilipwa Kshs217,716. Pesa zilizobaki zililipa madeni ya chama hicho cha ushirika katika benki.

*Question No.343*

SEWERAGE SYSTEM FOR BUTERE TOWNSHIP

**Mr. Oparanya** asked the Minister for Water and Irrigation:-

- (a) whether she is aware that Butere Township has no sewerage system; and,
- (b) when she is going to provide the town with a proper sewerage system.

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

(a) Yes, I am aware that the Butere Township has no sewerage system. However, the township also experiences water shortage. In this regard, my Ministry has privatised provision of water supply to the township, before embarking on its sewerage system, which will require adequate water supply to function properly.

(b) My Ministry, through the Lake Victoria Water Services Board, has initiated a Water and Sanitation Programme, which plans to improve, through the rehabilitation of water and sanitation facilities, for 12 towns within the Board area of operation, including Butere Township. The programme will be implemented starting from the financial year 2004/2005 to 2016. Butere Township is included in the third phase of the programme.

Mr. Speaker, Sir, so far, my Ministry is at an advanced stage of procuring consultancy services for phase one; covering Webuye, Bungoma and Kitale towns.

**Mr. Oparanya:** Mr. Speaker, Sir, Butere Town is the headquarters of Butere/Mumias District. The population of that town has more than doubled since it became a district headquarters. The Assistant Minister has said that Butere Town is included in the third phase of the programme. When is the third phase going to be implemented, since the population of Butere Town is more than 10,000 people?

**Mr. Munyes:** Mr. Speaker, Sir, currently, Butere Town has 320 cubic metres of water. The required amount is about 1,000 cubic metres. The third phase that the hon. Member has talked about will be implemented between 2010 to 2016. That is when Kshs300 million will be provided by KFW of Germany to those areas. Currently, we have provided Kshs2 million out of Kshs4 million to Butere to drill a borehole and equip it with a pump.

**Mr. Rotino:** Mr. Speaker, Sir, the Assistant Minister who is answering the Question passes through Kapenguria to Lodwar. He knows that Kapenguria Town has no sewerage system. Even the water system that was constructed after Independence has outlived its own time. What plans does the Assistant Minister have to install sewerage systems in small towns that are coming up, especially Kapenguria Town?

**Mr. Munyes:** Mr. Speaker, Sir, to be specific, Kapenguria Town is covered in the third phase; that is, between July 2010 and June 2016.

**Mr. Midiwo:** Mr. Speaker, Sir, the Assistant Minister has pledged that, apart from putting up a sewerage system, he will revamp the water supply in Butere Town. That is just across the

border. Gem and Butere/Mumias share one water project. Could the Assistant Minister tell us what plans he has to revamp the Malanga/Sididi Water Project which is not operational, and which the Government keeps on saying that it is pumping money into?

**Mr. Munyes:** Mr. Speaker, Sir, that is a different question. But I can say that we have a policy of rehabilitating all stalled projects in our Ministry.

**Mr. Oparanya:** Mr. Speaker, Sir, you heard the Assistant Minister say that we are in the third phase of 2010. Can you imagine a town without water and sewerage system? Could he consider the township to have enough water and sewerage system by the next financial year, instead of 2010?

**Mr. Munyes:** Mr. Speaker, Sir, I am not saying that Butere Town has no water. There is, at least, 300 cubic metres. On top of that, we have given the town Kshs2 million this financial year. That will support the improvement of water supply in that area.

*Question No.677*

ELECTRICITY SUPPLY  
TO LUGARI CONSTITUENCY

**Dr. Kibunguchy** asked the Minister for Energy:-

- (a) whether he is aware that only 1.2 per cent of the households in Lugari Constituency have access to electricity;
- (b) whether he is further aware that most secondary schools and market centres in Lugari Constituency are not supplied with electricity; and,
- (c) when he is going to address the dismal supply of electricity to the constituency.

**The Assistant Minister for Energy (Mr. Kiunjuri):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that some households in Lugari Constituency do not have access to electricity. But, I am unable to confirm with certainty that, only 1.2 per cent of households in the constituency have access to electricity. No survey has been undertaken by the Ministry to determine the position.

(b) I am further aware that some secondary schools and market centres in Lugari Constituency are not supplied with electricity. However, eight schemes in the constituency have already been supplied with electricity. They include Turbo, Matunda, Likuyani, Moi's Bridge, Lumakanda, Lugari Market and Railway Station, Kipkaren River and Lumakanda Boys Secondary School.

(c) Despite the financial constraints, the Ministry is extending the supply of electricity to six schemes in Lugari Constituency. This includes Chekalini Centre, Matulu Secondary School, Lwandeti Market, Shimoli Market, Bishop Njenga Mission and Mahonje Market, whose construction work is expected to be completed by December, 2004. The remaining markets and schools will be considered at a later date, when funds become available.

**Dr. Kibunguchy:** Mr. Speaker, Sir, first of all, this Question has not been adequately answered. I would like to go through some of the things which I am not happy about. The figure of 1.2 per cent comes from the latest census of household survey, which is in the public domain. Secondly, some of the centres that the Assistant Minister is talking about are not in Lugari Constituency. He is confusing Lugari Constituency and Lugari District. I would like to say that I am not satisfied with this answer.

**Mr. Speaker:** It is Question Time, Dr. Kibunguchy!

**Dr. Kibunguchy:** Mr. Speaker, Sir, I am saying that I am not happy with this answer because some of these centres are not in my constituency. I was just pointing that out. For example,

Turbo is in Uasin Gishu District.

**Mr. Speaker:** Order! Dr. Kibunguchy, please, ask your question!

**Dr. Kibunguchy:** Mr. Speaker, Sir, I am saying that I am not satisfied with the answer and I am trying to point out the areas that I am not satisfied with. For example, Matulu Secondary School, Lwandeti, Shimoli and Muhonje Markets are not in Lugari Constituency. My Question was in respect of Lugari Constituency. I am not satisfied with this answer.

**Mr. Kiunjuri:** Mr. Speaker, Sir, first of all, the census that was carried out was not on the energy sector. The answer I have given incorporates the whole of Lugari District because the programmes are under the French sponsorship and you can separate them per constituencies. However, if the hon. Member is not satisfied, I will be very happy to go back and get a breakdown of the schemes and bring a comprehensive answer to the House.

**Mr. Speaker:** You can do that in a week's time. The Question is deferred.

*(Question deferred)*

*Question No.642*

STAFF/FACILITIES FOR KHUNYANGU  
SUB-DISTRICT HOSPITAL

**Mr. Speaker:** I had not made a decision on Prof. Mango's Question and I must dispose it of. The Question is deferred.

*(Question deferred)*

**QUESTIONS BY PRIVATE NOTICE**

KILLING OF PEOPLE BY GANGSTERS  
IN TIGANIA CENTRAL DIVISION

**Mr. Munya:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that a gang that has been terrorising residents of Tigania Central Division attacked Mikinduri and Kiguchwa markets on 3rd November, 2004, killing two people and injuring many others, including Mr. Francis Ndwaru, Chief, Thiangichu, and Mr. John Machira?

(b) Is he further aware that property worth thousands of shillings was taken away by the said gang?

(c) Why are the police at Mikinduri Police Station doing nothing to curb the activities of the gang?

**The Assistant Minister, Office of the President** (Prof. Kibwana): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of two incidents of thuggery reported at Mikinduri Police Station on 3rd November, 2004, and one incident on 4th November, 2004.

(b) No, I am not aware that property worth thousands of shillings was stolen during the above incidents. However, I am aware of the loss of Kshs50,000 which was stolen in one of the incidents involving one of the victims, Mr. Francis Rintari.

(c) It is not true that police officers at Mikinduri Police Station are doing nothing. On the contrary, a thorough operation is currently going on in the area organised by officers from the two

neighbouring divisions of Meru North and Meru Central. This involves cracking down on illicit brews and suspected idlers involved in criminal activities, for further interrogations. The station has been provided with motor vehicle GK A904F, Land Rover, to enhance mobile patrols.

**Mr. Munya:** Mr. Speaker, Sir, the Assistant Minister has said that he is not aware that property worth thousands of shillings was stolen. It does not matter whether any property was stolen. Two people were killed and four others were injured and are in hospital right now. This gang has been terrorising the residents of this area very openly and the police officers have not arrested any one. The Assistant Minister has talked about the police officers cracking down on illicit brews. There is no relationship between the cracking down of illicit brews and curbing the activities of an armed gang. Could he tell us the specific measures that the Ministry is going to take to ensure that the residents of this area will no longer be attacked by armed gangsters?

**Prof. Kibwana:** According to our records, at least, one person was killed by this gang. The hon. Member may have information about a second fatality. This is a serious matter because of the several incidents which have taken place, particularly on 3rd and 4th November. We have communicated with the Provincial Police Officer (PPO), Eastern Province, and we told him that we require them to get to the bottom of this matter. They have advised us that this is a priority. Therefore, the necessary measures have been taken to get to the bottom of this issue.

**Mr. Kagwima:** Mr. Speaker, Sir, my constituency neighbours Mr. Munya's constituency. It is true that in that neighbourhood, not only in Mr. Munya's constituency, but also in Tharaka Constituency and part of the neighbouring Meru Central Constituency, this gang is going round in towns and in people's homesteads. We have reported the matter to the police and the little that is happening is that the police officers are arresting illicit brewers. Could the Assistant Minister dispatch the PPO and a stronger team from Nairobi to investigate this matter? People in that area are now unable to rest in their homes. Could we have a stronger team to investigate the matter? May I also inform the Assistant Minister that as little as a Kshs1,000 bribe is being used to have the criminals released from the police station. He also requires to address that issue.

**Prof. Kibwana:** Mr. Speaker, Sir, the hon. Member should provide me with the specific information of the people who are bribing the police officers, so that we can take the appropriate action. The PPO plus other officers have been told to examine this pattern of thuggery and why no arrests are not being made, so that they can get to the bottom of the gang.

**Mr. Kagwima:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has requested that I provide the specific information. Two weeks ago, some people broke into my house and stole a television set and other items. I reported to the police and they were arrested. One of the suspects, who was my worker, paid Kshs1,000 to a police officer at Marimante Police Station and he was released.

**Hon. Members:** Give evidence!

**Mr. Kagwima:** Mr. Speaker, Sir, this is enough evidence. I am the person who lost the property. My worker paid Kshs1,000 to a police officer at Marimante Police Station and he was released. What more evidence do you need?

**Prof. Kibwana:** Mr. Speaker, Sir, if we get the person who gave the Kshs1,000 bribe plus the evidence that the hon. Member has given us, we will be able to make the necessary arrests.

**Mr. Mwenje:** Mr. Speaker, Sir, the Committee on Administration, National Security and Local Authorities which I chair has several times summoned the Minister in charge of National Security. Recently, he asked us to approve a salary increment for police officers, so that they could comfortably combat crime in this country. I have just now arrived from abroad to find that my own father was attacked last night and his hand was broken. Could the Ministry now get more serious and arrest these criminals who are terrorising people literally everywhere and not just in hon. Munya's constituency? My father was attacked in Kandara Constituency. The hon. Member for

Kandara Constituency is here and he can bear me witness. Could the Assistant Minister tell us what he will do to combat these crimes which are now happening everyday and in every place?

**Prof. Kibwana:** Mr. Speaker, Sir, first of all, I want to say *pole* to the hon. Member for his father getting injured. It is true that security is a major issue in our country which requires concerted effort from all quarters. This is a problem we inherited from the previous regime.

**Dr. Godana:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to take the House for a joke? Only last week, it was reported in the newspapers that Central Province alone last year had 700 murders. There was no such kind of record in the previous Government. Is he, therefore, in order to mislead the House?

*(Applause)*

**Prof. Kibwana:** Mr. Speaker, Sir, in the former regime, journalists were afraid to give that kind of information.

The simple point I am making is that many of the police officers that were inherited by this Government really require to be looked at very carefully, so that we can get officers who really enforce law and order. So, it is a problem that is being worked on. I think part of what should also be done in terms of policy is to get community policing to become a real plank of our fight against crime, as is the case in Tanzania, Uganda and Rwanda, where every ten households have got a committee which examines who visits that area and people who are not known are reported immediately. Therefore, I am sure even Parliament, particularly Mr. Mwenje's Committee, will assist in terms of robust measures to combat insecurity.

**Mr. Mukiri:** On a point of order, Mr. Speaker, Sir. You have heard what the Assistant Minister has said. He is telling us to go back and organise our communities, so that they can take care of our security. Is he in order to admit that the Government has failed to provide security?

*(Applause)*

**Mr. Speaker:** Order! I think the Assistant Minister has to respond to this. You see, Mr. Mukiri, it is called escapism. So, he wants to escape to the last Government and sack all the police officers. Prof. Kibwana, do you mean that every new government that takes over power must sack all police officers?

*(Applause)*

**Prof. Kibwana:** Mr. Speaker, Sir, with due respect to the hon. Member who has posed the question, community policing is an important plank of policing. Therefore, to say that when a Government uses that kind of strategy it is escaping is actually to misunderstand how security is ensured in countries.

**Mr. Speaker:** Very well. I think we need to finish now.

Yes, Dr. Ali!

**Dr. Ali:** It is very interesting that this Government does not know what to say. If a chief is attacked and reports to the police and nothing happens, what will members of the community do? If a chief who instructs the police officers to do this and that is attacked and no action is taken, what will a community or local leader do to protect himself?

**Prof. Kibwana:** Mr. Speaker, Sir, all Kenyans are equal as far as provision of security is concerned. Parliament will remember that when the Office of President asked for money during budget time, so that we could enhance security, we barely got a third of what we asked for. So,

some of the problems also relate to inadequate resources.

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. Is this Assistant Minister in order to say what he has said, when he knows that it is his own Government and Treasury which reduced their Budget and we just agreed with them? Is he trying to imply that Parliament reduced the budget of the Office of the President?

**Mr. Speaker:** Prof. Kibwana, what Dr. Ali is asking you is: Did this Parliament cut your budget, when you brought it here?

**Prof. Kibwana:** Mr. Speaker, Sir, in terms of what had been asked for by the Office of the President and, indeed, when Dr. Murungaru gave his statement, he was able to say here in Parliament that we got about a third of what we had initially proposed. I am not saying that it is this Parliament which cut the budget.

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

**Mr. Speaker:** Order! I must make progress. Last question, Mr. Munya!

**Mr. Munya:** Mr. Speaker, Sir, Mikinduri Police Station is the only station in Tigania East, a constituency that stretches from Isiolo to Tharaka with three divisions. How does the Assistant Minister expect that single police station to handle criminal activities in three divisions? The chief of Kiguchwa Location was attacked because he does not even have Administration Police officers to assist him in ensuring security. Could he consider sending Administration Police officers to Kiguchwa chief's camp immediately?

**Prof. Kibwana:** Mr. Speaker, Sir, we will consider doing precisely that.

**Mr. Speaker:** Very well. Next Question by Mrs. Kihara!

INFLICTION OF CORPORAL PUNISHMENT  
ON MASTER KIZITO MUSIDIA

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

(a) Considering that corporal punishment in schools was abolished by the Ministry, why was the same meted on a pupil, Master Kizito Musidia of Maua Primary School, Sulmac on 23rd May, 2004?

(b) Could the Minister explain why no action was taken against the two teachers involved, that is, Ms. Nyakabi and Mr. Orao, in spite of inflicting grievous bodily harm that resulted in the pupil becoming dumb?

(c) Why did the police at both Naivasha and Kongoni police posts not take action even after the matter was reported to them?

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

(a) I am aware of an allegation that two teachers meted corporal punishment on Master Kizito Musindia of Maua Primary School.

(b) There was no action taken against the teachers because medical examination conducted at Naivasha District Hospital did not reveal any sign, mark, bruise or scars related to canning.

(c) The Ministry is not aware of any report made to the police. However, we are aware that the boy's parent took the matter to court where it is pending before the Senior Principal Magistrate Court in Naivasha.

**Mrs. Kihara:** Mr. Speaker, Sir, I am saddened by the answer given by the Assistant



Minister. The fact of the matter is that the boy was canned senseless by two teachers. He was unconscious and when he regained his consciousness, he was sent home unaccompanied. So, he fell unconscious again on the way and was taken to a private hospital. Having come from a school, the hospital authority called the school. However, the same people who were trying to cover up went to hospital and alleged that the boy is epileptic, which is not the case. From the medical report I have here with me and which I am prepared to table, he suffered major injuries. What caused these injuries?

*(Mrs. Kihara laid the document on the Table)*

**Dr. Mwiria:** Mr. Speaker, Sir, I am not aware of the evidence that the hon. Member is talking about. However, we have a report from the Naivasha District Hospital giving contrary evidence. I do not know what kind that evidence is. I have no interest at all in not ensuring that this child and parents are compensated if teachers did wrong. I would like to have the evidence of canning. The information we got from the hospital is that there was no evidence of canning.

**Mr. Speaker:** On the face of it, it looks like a P3 form from Naivasha Police Station addressed to the Medical Officer of Health (MOH), Naivasha. The degree of harm is classified as "maim". I do not know whether it is placed to this one or the other. The Assistant Minister may wish to look at it.

**An hon. Member:** Maim?

**Mr. Speaker:** "Maim"! Maim is worse than grievous harm.

**Mr. Sasura:** Mr. Speaker, Sir, the Assistant Minister knows very well that, in public schools, there are two categories of children. There are normal children in normal schools and disabled children who attend special schools for the disabled. Now that the hon. Member has alleged that, that child has become dumb as a result of the punishment that was meted out against him, could he confirm to us what child he is talking about? Is it a disabled child or a normal child who was disabled by the punishment?

**Dr. Mwiria:** Mr. Speaker, Sir, the information that I got by talking to teachers, and other people who are involved in that case, is that, that child was mute even before the punishment. So, there has been a previous history. The child had been admitted in hospital in January with the same condition. It is also surprising that the two teachers would find it necessary to cane the same child at the same time. There are many other issues that are interesting. But the evidence that we have, from the Naivasha District Hospital, is that there was no evidence of caning. I hope that is not a cover-up and, if it is, it would be in our interest to uncover it.

**Mr. Muite:** Mr. Speaker, Sir, clearly, the information that had been furnished to the Assistant Minister by the officials is contradicted by what the Gracious Lady; the Member of Parliament for Naivasha Constituency, has said. She asked whether the Assistant Minister could consider sending impartial persons from the Ministry to go and investigate and tell him the truth! There is no reason why this hon. Member should be lying!

**Dr. Mwiria:** Mr. Speaker, Sir, I also do not have any interest at all in ensuring that justice is not done. So, if anybody is playing any games, I would also like to find out. I am, therefore, willing to reconsider the issue and check the authenticity of the message that we have just received from the hon. Member, and then start from there.

**Mr. Speaker:** Could we have your report on that aspect on Tuesday?

**Dr. Mwiria:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** All right! Next Question, by Archbishop Ondiek!

## COMPLETION OF UGEGE/LINAO BRIDGES

**Archbishop Ondiek:** Mr. Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Could the Minister inform the House why work has stalled on Ugege and Linao bridges in Ukwala and East Ugenya locations, respectively, in Ugenya Constituency?

(b) When will work on the two bridges resume and how long will it take to be completed?

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Speaker, Sir, I beg to reply.

(a) Work stalled on Ugege and Linao bridges in Ukwala and East Ugenya locations respectively, in Ugenya Constituency, due to non-availability of technical staff to commence work soon upon deviation and demolition of the old decks in Ugege and exhaustion of funds at Linao.

(b) The work on Ugege Bridge has now commenced and is expected to be completed in three months time, while on the Linao culverts, work will resume after the District Roads Committee's approval for funding the outstanding works; estimated to cost Kshs450,000.

**Archbishop Ondiek:** Mr. Speaker, Sir, the Assistant Minister is aware that Linao Bridge is on a very busy road. When they were contracting the works, were they aware that, that amount of money will not be enough to complete the bridge?

**Eng. Toro:** Mr. Speaker, Sir, we do not start work when we have all the money. We can work in two or three phases; depending on availability of funds. I agree that the road is very busy but, since I have already promised that work is going on, it will be completed. It is estimated to cost about Kshs1 million. Unless the hon. Member is saying that the work has stopped--- As far as I am concerned, the work is going on and, in three months' time, it will be completed.

**Archbishop Ondiek:** Mr. Speaker, Sir, the work---

**Mr. Speaker:** Who gave you the Floor?

*(Laughter)*

Mr. Kembi-Gitura, please, proceed!

**Mr. Kembi-Gitura:** Mr. Speaker, Sir, I am getting very concerned by the answers that are being given by this specific Ministry. It appears that an hon. Member has to ask a Question, so that his or her constituency can be looked into. That is becoming a very dangerous trend because it appears as if hon. Members have to lobby with the Minister, so that work can be done in their constituencies. Does this Ministry have a policy in which it considers all the bridges and roads that need to be repaired in the country, or must I ask a Question in this House, so that the roads in Kiharu can be constructed or repaired?

**Eng. Toro:** Mr. Speaker, Sir, it is not correct to say that work is done when an hon. Member asks a Question. Archbishop Ondiek did not ask this Question before we started working. We are telling him the progress of the work that is going on at the moment.

Mr. Speaker, Sir, depending on availability of funds, there will be progress, repair and construction of bridges and roads countrywide. As I have said before, we have increased the amount of funding to the Bridges Section, so that we can build more bridges than were build before. However, that is going to take time.

**Mr. Speaker:** Last question, Archbishop Ondiek!

**Archbishop Ondiek:** Mr. Speaker, Sir, the Assistant Minister has said that there was lack of technical staff to construct the Linao Bridge. When they were contracting the works, were they aware that there were no technical staff to repair that bridge?

**Eng. Toro:** Mr. Speaker, Sir, we did not contract that bridge out. We are doing it in-house.

That is why I said we had a shortage of technical staff in the Bridges Section to carry out the work. If we had contracted it out, it would have been finished by now. But we have to weigh between contracting it out and doing some in-house work. There is no need of contracting out some works because, if the money is not enough initially, and you want to do it in two phases, it is easier and more advantageous to do it in-house.

**Mr. Speaker:** Very well. Question No.4 is deferred for the last time to Thursday! Thursday is the last day! If Mr. Muiruri does not turn up, then that is it!

GOVERNMENT POSITION ON  
ALTERATIVE PRESS

**(Mr. Muiruri)** to ask the Minister for Information and Communications:-

- (a) Is the Minister aware that certain publications especially *Confidential*, *Independent*, *Patriot*, *Sun* and *Citizen* are maligning innocent people, breaking families and engaging in money extortion through irresponsible journalism?
- (b) What is the Government's position on those publications and what measures has he put in place to regulate their operations?

*(Question deferred)*

CONTRAVENTION OF PHYSICAL  
PLANNERS REGISTRATION ACT

**Mr. Gachagua:** Mr. Speaker, Sir, I beg to ask the Minister for Lands and Housing the following Question by Private Notice.

(a) Is the Minister aware that his decision to appoint Members of the Physical Planners Registration Board through Gazette Notice No.5939 contravened the Physical Planners Registration Act as there was no recommendation from the Architectural Association of Kenya?

(b) Is he further aware that the Kenya Institute of Planners is in the process of administering examinations for registration of Planners, which is in breach of the Physical Planners Registration Act?

(c) What action is the Minister taking to rectify the above anomalies?

**The Assistant Minister for Lands and Housing** (Mrs. Tett): Mr. Speaker, Sir, I seek the indulgence of the House to push the Question to Thursday. I am not happy at all with the answer I have here.

**Mr. Speaker:** Your reaction, Mr. Gachagua?

**Mr. Gachagua:** Mr. Speaker, Sir, I would rather the Assistant Minister rehearsed this matter before Thursday because there is an examination that is being conducted today. In fact, it started yesterday. That is an illegal examination because the body that is conducting it has no mandate under the law. As the students continue to sit those examinations, there is a danger that, not only are the results invalid, but the expenses cannot be refunded by the Ministry. The answer is a simple one and she should be able to give it by tomorrow.

**Mr. Speaker:** But you know she is the one to answer and not you! You know it may be very simple to you! But she is not happy with the answer. So, Madam Assistant Minister, can you do it before Thursday? Can you try to answer it tomorrow afternoon or do you want to do it on Thursday?

**The Assistant Minister for Lands and Housing** (Mrs. Tett): Mr. Speaker, Sir, I was promised the answer by Thursday, but I can push it for tomorrow afternoon. But Thursday would

have been appropriate.

**Mr. Kagwe:** On a point of order, Mr. Speaker, Sir. In view of what Mr. Gachagua has said *vis-a-vis* the examinations that are going on, is it in order for the Assistant Minister to go and take some action even as she brings the answers later?

**Mr. Speaker:** I am sure she must be having that in her mind as well.

**The Assistant Minister for Lands and Housing** (Mrs. Tett): Mr. Speaker, Sir, I will try my level best tomorrow.

*(Question deferred)*

**Mr. Speaker:** Very well, that marks the end of Question Time. There is an hon. Member who wanted to request a Ministerial Statement. I think it is Dr. Khalwale.

### POINT OF ORDER

SUSPENSION OF HEADS OF  
DEPARTMENTS OF LBDA

**Dr. Khalwale:** Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Regional Development Authorities concerning Lake Basin Development Authority where all the Heads of Departments have been arbitrarily sent on compulsory leave. This has led to paralysis of operations at Lake Basin Development Authority and we from the Lake Basin area stand to lose because, this week and next week, investors from Japan International Co-operation Agency (JICA) and Spain would like to visit Budalang'i and Homa Bay with a view to improving rice growing in those areas and Ikolomani, Vihiga and Ugenya with regard to the growing of Soya beans. Could the Minister, through his Statement, reinstate the Heads of Departments so that the visitors can be allowed to visit these areas? Could he also explain what interest the Assistant Minister in the Ministry had in defending the Deputy Managing Director who was sacked rightfully?

**Mr. Speaker:** Very well. Next Order!

### BILL

*Second Reading*

THE BANKING (AMENDMENT) BILL

*(The Assistant Minister for Finance  
(Mr. Katuku) on 17.11.2004)  
(Resumption of Debate interrupted  
on 18.11.2004)*

**Mr. Omingo:** Mr. Speaker, Sir, at the close of business of the House last Thursday, I raised pertinent issues regarding the positive move the Minister has taken. The Minister's move intends to commercialise money business by allowing the Central Bank of Kenya (CBK) to do what it best knows to do.

However, I have my own misgivings with regard to the functions of the CBK and how it has managed the affairs of this country. For instance, the CBK licensed a bank to open a branch only for it to sink a week later. That speaks volumes about the CBK. For that reason, the wonderful powers that the Minister proposes should be given to the CBK require that we have at the helm of CBK, a

man or woman of integrity who will be ready to withstand the test of time and weather the storm of political influence. We can only get that person through vetting of persons qualified for the position of Governor of CBK. Such a person must pass the litmus test. The Minister should, by way of recommendation, bring to this House the name of the person to be appointed Governor of CBK.

Mr. Speaker, Sir, the role of the CBK is regulatory, investigatory and entails the discharge of fiscal and monetary policies, but, apparently, there are several lapses in terms of efficiency and proficiency in the management of affairs of this nation.

The Board of Directors of CBK has been given the mandate to license and vet application forms. The CBK has been performing this function by forwarding the application forms to the Ministry of Finance. One wonders if giving them complete autonomy will make them more efficient than they have been. Even if the Minister wants to devolve that responsibility to the CBK, I beseech him to play an oversight role in this whole affair.

Mr. Speaker, Sir we need to form a Monetary Policy Committee within the CBK. This committee is supposed to work under the oversight functions of the Governor of the CBK so that in as much as the CBK has its autonomy, the Minister shall have a hand in its affairs.

Mr. Speaker, Sir, Clause 9(A) provides for the vetting of members of the Board. It is important that the record on quality of directors in terms of uprightness and transparency be determined before the enormous powers of controlling the interest rates is vested in them. With regard to liberalisation of interest rates, foreigners coerced us to liberalise our money market for the simple reason that they wanted to come in and fleece this nation of the hard-earned sweat of Kenyans. Even in London, the Bank of England regulates interest rates. It is really unfair that we are pushed to swallow some bitter pills which are meant for the commercial expedience of international money mongers. It is, therefore, important to ensure that even as the Minister leaves the function of overseeing the CBK, there must be a measure to take care of that particular function. It is critical that the CBK and the Ministry of Finance move in tandem.

One of the roles of the Bank of England today is to ensure that there is price stability, fiscal stability and to set interest rates. How can we do that ourselves? I have suggested that we can achieve that through the CBK Monetary Policy Committee which will be able to guide and govern the operations of the banks.

Mr. Speaker, Sir, in Clause 44(A), the Minister has recommended that we need to restrict and control interest rates for non-performing loans. One would wonder: "Am I not safe to be a defaulter and qualify for a loan?" It states that on non-performing loans, the amount of interest must not be in excess of the amount of loan outstanding at the time of default. That allows for persons to default for as long as it takes. However, I am sure the amount of interest may not be double the amount that was borrowed. This is selective application of the law in the sense that one would choose to sit back and

default because the maximum rate of interest will be 100 per cent. This is not fair. The maximum interest rates on loans must be above board. If the worry of the Minister is to extend the repayment period, then, I would suggest that a maximum period by which the loan should have been paid back be set out clearly. Classifying loans as non-performing loans will only make loanees who are good payers and for some genuine reason delay to pay back, suffer the consequences not covered by law of the interest rate growing above 100 per cent.

Mr. Speaker, Sir, in Clause 16(3) those loans which do not qualify for this rule are those which had cases in court commencing on 3rd June. What does this mean? It means that when the law comes into operation, the people suffering at the hands of multi-national institutions would not have a chance to take their cases to court. Why are we proposing to include this particular Clause in here? The date should not and must not exist in this Clause, because when the law will come to operation is not known to us. We experienced this in the Donde Bill. We should avoid the issue of fixing a permanent date because of the impairment it may cause in terms of implementation of the

law. Otherwise, we may be accused of applying the law selectively and being unfair.

Mr. Speaker, Sir, let me talk about the Micro-Finance Bill. It is critical that farmers and people of low incomes all over the country cannot access credit. The reason for this is that multinational banks are selectively located in urban areas. These banks do not take the interests of the poor populace at heart. We, therefore, urge the Minister to bring to this House the Micro-Finance Bill that will help tap and create the institutions that will avail resources to the members of the public where they are and at reasonable rates.

I want to commend the idea behind the SACCOs. The SACCOs were meant to create wealth and circulate money among people who are borrowing or members. These SACCOs have now turned to money-mongers and property managers. They are not doing what they were originally meant to do. It is critical that we have a macro-financing law that will help the poor populace mobilise resources and borrow amongst themselves at reasonable rates.

One of the speakers said here that we must allow those members of the international community who are scared to invest in the Arab countries to invest in this country. That could be a very dangerous move. We may become a very attractive target for terrorism because we have been blacklisted as the country with the highest number of drug-transiting centres. We must guard our financial institutions so that we do not attract drug money and arms money into this country or else we shall lose credibility let alone the risk of being focused as a terrorist destination.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, it is important that we highlight, in this regard, the seriousness of the rules and regulations that are also an impairment in the free flow of the money in the economy. When we say that we want to penalise cheques that bounce, we are encouraging people to deal in cash. I want to propose that for the effective management of the economy, all the money must be channelled through the legal channels. In this case, we must, as a necessity, encourage the use of cheques as opposed to cash. Cash transactions normally encourage parallel markets. As a result, a few people pay tax while some do not.

I will impress upon my colleagues, Members of Parliament, that it is critical that we give credence to our cheques. In Tanzania clearing a cheque takes about three-and-a-half seconds because the ICT programme actually functions. For example, you can deposit a cheque in Mandera today and that cheque will be cleared in three-and-a-half seconds because of inter-connectivity. I do not see any reason whatsoever, why we should fear the issue of bouncing cheques because you were issuing the cheque deliberately knowing that you do not have money. Let us be able to have cheques which people can trust are as good as money. In the developed world you are better placed dealing in paper than hard cash. We are saying that will improve our economy and assist tax collection. We shall even have proper statistics of economic growth because matrix accounts popularly known in the Asian community does not reflect well in the economy. That sends false signals even when we want to evaluate the poverty levels in the country.

Mr. Deputy Speaker, Sir, one of the fundamental roles of the Bank of England which I want to draw a parallel from, is that of controlling the money price; that is, through the interest rates. I am not too sure whether it is inefficiency or lack of information that you will find our currency is devalued at the pleasure of the external forces. This means we do not control the price or value of our currency. Prior to liberalisation, we had the issue of interest controls which was deliberated. It failed miserably because the prescriptions given by the international community were deliberately meant to actually gag our people and loot them of their hard-earned money.

The Central Bank has a critical role to play. For that reason, we must be able to appoint a

Governor of the CBK who is beyond reproach. This should be a man who will stand the test of time and pressure of the political elite. I want to remember a respectable lady who stood firm against Goldenberg and this is Mrs. Mwatela. We want men and women of that substance who are actually made of iron and steel. We want people who are insulated by this House to be able to run the bank without necessarily having to check who is watching them.

Why is the Minister trying to delegate all the powers to the CBK? It is important that we place business where it belongs. Mr. Mwiraria has got a reason to move away from money business because his business is administration and policy. Let us not throw away the baby together with the bath water. We are ambitiously giving the powers in here and it is for that reason I am saying that the Minister must be able to oversee some of these changes. In the UK, the Government can, as a matter of interest, determine interest rates for a particular period of time, if it is in the interest of the State. The interest of the State comes in place when you find people who have information. The financial markets are governed by the availability of information for purposes of making informed decisions.

In 1992 interest rates went to about 92 per cent because some people in the CBK had privy information as opposed to what others had out there. They, therefore, used that information to undermine proper operations of the monetary policy. A case in point is where somebody would actually determine and dictate the amount of foreign currency in the CBK to determine the market for purposes of either bringing back or sending away the dollar. This is artificial demand and supply for purposes of dictating what I am supposed to pay as foreign exchange. We knew we had "big boys" who had massive amounts of money out there and they had some to take out. Depending on convenience, they would bring so much into this country so that the prized dollar was down in case they wanted to import things from abroad. We want the Monetary Policy Committee of the Bank to oversee the interest rates.

In the United Kingdom, the minutes of the Monetary Policy Committee are actually published so that people can make decisions on what they are supposed to do on the same footing as those ones who have information. Information is power. If you do not have information, you operate from a disadvantaged position because it is that same information that people are playing close to your chest that could determine the interest rates and foreign exchange rate for purposes of benefiting the individual who has got massive amounts of money.

On the issue of licensing, all these things that we are saying the CBK will do were actually being done. The technical advice they were supposed to give the CBK, that was their role. It is only that they have not appended the last signature. Now the Minister has told them: "You can actually vet and licence or vet and deregister." We must as well ensure that where there were lapses in the failure of previous regime when the Treasury was overseeing the CBK, we have plugged those holes so that it can benefit the populace.

It pains me to realise how miserable our workers in the banks are when a bank stands up at whatever fora and they say, "we have made a profit". Yesterday one bank made 86 per cent profit growth from the previous year. Look at the Kenyan people working out there; they are miserable simply because we are squeezing the juice from them and giving it away. It is also high time that even in terms of corporate social responsibility, our banks became shameful to even announce those profits when you reflect back and see the kind of costs they levy on establishment. It is really a shame. The ratio of one of the banks that I saw on the establishment cost was about 0.1 per cent of the total turnout. I think it does not make sense. We need to impress upon the banks as it were, if they cannot transfer the wealth back, there is a law which the Minister can use; the Dividend Distribution Act. We should tax highest the profits going out there. The income tax law provides for that kind of law so that we can kind of discourage them. If they want to take money out, of course, to where they come from, it is a welcome move. But we need to impress upon them that, when they take it out, it does not benefit where those profits were made and the infrastructure which you are

using to make these profits. Therefore, using the dividend distribution formula and the Income Tax Act, the Minister needs to increase the repatriation of dividends from this country, so that if the banker cannot get it from the bank itself, the banker can get it through free education or through a good road which we can use to ride to our regions.

There is an issue which is so critical here; how do we liberalize on the one hand and seek to control on the other hand. Each country has got its priorities, we do not want to be instructed that we must do all that these people would require at the expense of our people. That is why in the United Kingdom (UK), in the interest of the nation, the Government must walk in and give directions on what overrides the national interest. It is not an issue of playing into the hands of these "Big brothers", for they have been prescribing pills that are too bitter for us to swallow. It is critical that at one time, we must also rise up to be counted and say "No" to this prescription. Our biggest worry, and I think you know it as much as I do, is that business of donor dependency syndrome. These guys know that I can tailor a jacket double my size in the hope that they will give me food! So, since I am desirous to fit the jacket, I will beg from them and dance to their tune. When they tell me to jump, I will not ask them "why"; I will only ask them "How high do you want me to jump?" Kenya must now stand up to be counted. We lived and managed without foreign donor for ten years, and we can do it. With the NARC Government which has zero tolerance to corruption, I believe we can just unchain ourselves from these marauding business people in the international community who dictate on what we are supposed to do for purposes of capitalism as opposed to the well-being of the Kenyans. The availability of credit to farmers, institutional credit, interest rates, security as it were, zero tolerance to corruption and enabling Kenyans to grow in terms investments; all these were in our manifesto and we can accomplish it, but only if we did so by our deeds and not by pronouncements.

I want to make a passionate appeal to the Minister here, that as he responds to this Bill, these critical things that I have mentioned need to be addressed so that we can strike some bit of a compromise in terms of administering the Act. Otherwise, what the Minister has done today is a welcome move and I support this Bill, save for the comments I have made and the strengthening of our equivalent reserve bank.

With those few remarks, I beg to support.

**Mr. Mwenje:** Thank you, Mr. Deputy Speaker, Sir, I will not take as long as my brother, Mr. Omingo here, but I want to agree with him that banks should be able to control interest rates in any country. I am a banker by profession and I know that the banks should be able to control interest rates, and that the Central Bank, in cahoots with the banks, should also be able to control the liquidity of currencies so that the amount held by the people, particularly when the value of foreign currencies has gone up, I expected that the Central Bank would have released a little bit more foreign currency to control the rising cost of the foreign currency that was in the currency; although it did happen eventually, but to a lesser extent. So, I think that it is time that the banks do their jobs in boosting the economy of this country, and the Central Bank should take its position in the economy of this country to control what is happening in terms of liquidity and the circulation of money, because that appears to have been ignored, and that is what is causing a lot of problems.

Mr. Deputy Speaker, Sir, I do not agree with Section 9 of this Bill because if we allow the Central Bank to vet or to say who should be a director or even who is going to be the chief executive. If you want to start your own bank tomorrow, they will say that you are not qualified to do so. So, we need to state categorically what we mean. I agree that the Central Bank of Kenya should have a hand in it, but we need to say exactly what we mean. If we mean that all those who were operating banks before and the banks have fallen, they should not be allowed to operate other banks and it should be stated so in the Bill. But if we say that the Central Bank has the right to refuse to approve the appointment of a director or the chief executive of a particular company, then this power will be misused by the Central Bank. This can, in fact, be misused at every point. This is



where favouritism will come in. I would like to ask the Minister to specify clearly in the Bill what he intends to achieve.

**Mr. Billow:** On a point of order, Mr. Deputy Speaker. Is the hon. Member in order to--- The matters he is raising are already in the Bill, and it is already a law that the Central Bank does, in fact, vet directors and chief executives of banking institutions. They are there in the First Schedule.

**Mr. Deputy Speaker:** No, no, Mr. Billow. Mr. Mwenje is entitled to his views. Let him talk about it even when the issue is in the Bill. So, Mr. Mwenje, you have the Floor.

**Mr. Mwenje:** Thank you, Mr. Deputy Speaker, Sir. I hope that my friend, Mr. Billow, will understand that what I am trying to say is important because I am trying to say that what the Bill says is not clear enough for somebody to understand and it can be misused. So, I am appealing to the Minister to make sure that it is specific. It should state exactly who and what qualification the Central Bank will be looking for. They should not generalize the Bill here.

The other issue is on the question of interest. I do appreciate and thank the Minister that, during the Budget Speech, he actually inserted the question of how much interest can be charged on a non-performing loan. Suddenly, we saw quite a lot of non-performing loans, and I do remember even this House coming to waive non-performing loans for an institution like the Agricultural Finance Corporation. We did that here and waived a lot of non-performing loans worth millions of shillings. Today, we also have the coffee farmers asking the Minister to waive the non-performing loans in the Co-operative Bank, which they are not able to pay. We have a lot of non-performing loans which are particularly given to people who really cannot afford to pay them because what they intended to do failed; not through their own volition. If you are a farmer and there is no rain, there is nothing you can do about that. We have a lot of borrowers who have not been able to pay their loans for no fault of their own.

So, the question of non-performing loans should be considered because banks continue charging interest rates on non-performing loans, even where it was an overdraft. You know, you only take an overdraft if you are going to do a particular thing, like trading. So, if you are not trading, even some of these banks continue charging interest rates on non-performing loans from collapsed banks. Whose fault is it? First of all, the bank could not meet its obligations, and then, here they continue charging customers interest rates on money which they are not able to give them. That is not in order. That is why I totally agree with the Minister here, that we need to set the amount of interest rates that can be charged on non-performing loans. It should never be beyond double the principal amount that was originally given. This is what the banks have continued to do, and people have suffered. Their lands and houses have been sold because of these kind of non-performing loans. I am glad that the Minister has seen this one. But I would like him to specify clearly. If interest rates will be paid for so much, if it is double the same amount of principal in Clause 44(1). I think it is important that it is clearly specified what kind of interest rate is going to be charged on the principal.

I have already alerted the Minister that I think we need to be clear on this thing, because our people have really suffered. Banks have not been willing to negotiate. But I think, in the presence of such a law, the banks would be willing to negotiate. In fact, when this matter came up in the Donde Bill, they agreed to start negotiations, and I think it is important that we now be specific that this is the kind of interest rates that one will be charged on non-performing loans.

Mr. Deputy Speaker, Sir, the other issue is the question of the ordinary interest rates. The ordinary interest rate is, of course, based on the interest rates paid on the savings account. That is the usual way for any bank to calculate their interest rates. That is what we were doing when I was in the bank. The problem arises when the banks now decide they want to operate like any *dukawalla*. They put an interest rate at 19 per cent, despite giving only 4 or 5 per cent on savings. That is not correct. I think the Minister must now come out and clearly control the interest rate charged. It must

be relative to the interest rates charged on savings accounts.

Mr. Deputy Speaker, Sir, I travelled with you abroad, and we saw even newspapers announcing to people to go for loans at the rates of 3 per cent. Every newspaper was advertising for loans at 3 per cent. If banks abroad can lend at 3 per cent, why are banks here not able to lend in the same manner? I think it is purely because those running the banks here or the owners or directors of the banks, are simply being exorbitant; exploiting Kenyans. I think it is time the Ministry of Finance brought interest rates down to 3 or 4 per cent. That is the time we will realise that the Government is performing its duty and the economy is now working. But as long as they continue keeping interest rates at 19 per cent, how many people can borrow and pay, unless you are borrowing that money to go and do shylock business? You cannot be able to repay at that rate. So, I think this is another area that I would ask the Minister to consider controlling these interest rates in one way or another.

Mr. Deputy Speaker, Sir, this is an agricultural country. It is mandatory that 20 per cent of any banking lending must go to agriculture. Today, there is hardly any amount going to agriculture. We have seen people who are growing flowers getting loans to assist them. But even those banks that would not want to lend directly to agriculture were required to lend that money to Agricultural Finance Corporation (AFC), which would eventually grant the same money to the farmers. In that way, they promoted farmers. But today, no bank is willing to lend to farmers because they think the risk is bigger. They would rather put that money in Treasury Bills, where it will do nothing but earn interest. But how will that money in Treasury Bills help the economy, apart from paying Government debts? It does not help in any way! I think it is time the Minister came up again and gave a mandatory requirement by banks to lend 20 per cent to farmers. If we did that, this country would not experience famine and we would not go to look for food from all over the world. This country would be self-sufficient in food production. But today, the small-scale farmer in Mwingi cannot grow anything because he has no money; not that he does not want to. But where does he get the money from? Unless we assist him by getting that loan, either from AFC or directly from the bank, he will never improve the economy. Yet we continue saying that Kenya is an agricultural country. This will never be realised. Therefore, I want to also appeal to the Minister to consider that, immediately in the next Budget Speech, he needs to order banks to lend to the agricultural sector so that our people can farm.

Otherwise, all in all, this is a good Bill, if we do the necessary amendments. There are some few amendments that we need to make and I hope that the Minister will go back and get his people before we reach the Committee Stage and bring the necessary amendments, instead of us having to do it, since we have already pointed them out.

But before I conclude, let me touch on the question of licensing of banks. I think it is time we made work easier. Let us license our people. Look at what Barclays Bank is doing now. They are closing branches in Kiambu, Murang'a, Naivasha--- Let us not continue relying on foreign banks. The other day, a bank which I used to work with, ABN-AMRO, closed down *kabisa*, because they thought they were not getting enough business here, or for whatever reason. I think it is time we supported those who are in the building industry who finance house construction work. They are our own local banks. We should assist them. It is time we looked at our own national banks, like National Bank of Kenya and Kenya Commercial Bank. They should tell us why they are not making profits like other bigger banks.

With those remarks, I beg to support.

**Mr. Billow:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I would like to take this opportunity also to thank Mr. Mwenje for his excellent contribution, especially with regard to the agricultural sector.

Mr. Deputy Speaker, Sir, when the Minister for Finance was moving this year's Budget, he mentioned a number of proposals that he would make in the financial sector. Some of them are now captured in this Bill. The amendment to Clause 44 and the *In Duplum* Rule regarding interest are

both captured. However, in general, we still need to see the proposals on the national payment system, the Micro Finance Bill and the restructuring and selling those banks which are proposed. These are matters that are outstanding.

Mr. Deputy Speaker, Sir, in the past, the banking sector has had a major problem mainly from non-performing loans. We have a banking system that has over 30 per cent of its loans that are non-performing. That is a very high figure. About half of those non-performing loans are actually in Government controlled banks. One of the reasons for this, we have been told, is the weak capitalization in many of these banks and problems of under-provision because of weak regulations. However, I also think the major reason why we have had this problem is mainly due to poor corporate governance. Some of the amendments proposed here, including those ones that increase the independence of the Central Bank of Kenya (CBK), are intended to enhance good corporate governance.

Mr. Deputy Speaker, Sir, the 43 mainstream banks with a total of almost 1.5 million bank accounts still do not provide adequate service to Kenyans. Majority of Kenyans do not have access to financial services, especially in the rural areas. The credit in this country goes largely to large enterprises in urban centres. We have just heard the last speaker decry the closing of bank branches in major towns in this country, mainly rural areas. The fact that we have 43 banks and that majority of Kenyans do not actually access banking service is a very major concern for most of us. It is time that the Government started looking at alternatives. Of course, we have the SACCOs, Micro Finance Institutions (MFIs) and the Post Office Saving Bank, but the Government must critically look at alternatives to the mainstream banks in the rural areas, so that they can provide cheap access and affordable credit to farmers. In this regard, I would like to say that rural finance, particularly for the agricultural sector should be provided. This happens in many countries and the Government could assist in rural finance in a number of ways. The Government could provide interest rates subsidy on concessionary borrowed funds to those who start rural finance, so that they could have banks extended to rural areas and provide credit to farmers in those areas. In doing so, the Government will provide affordable credit to Kenyans in the rural areas. This happens in many countries and it can be done here. The Government can externally obtain funds at a cheaper cost and lend them at a subsidy to such institutions.

Mr. Deputy Speaker, Sir, the Government can also assist by providing exemptions to reserve requirements; exemptions on cash ratios required by the CBK. Currently, about 12 per cent of the total cash must be placed in custody with the CBK. If this exemption is provided, it would encourage banks to provide credit. It could be made conditional that those banks which are willing to lend more liberally to farmers, businesses and smaller micro enterprises in the rural areas would be provided with this exemption. I am sure many of the banks will start relocating or opening branches in rural areas.

The Government can also assist through assumption of loan losses of such institutions. There are many instances where the Government has assumed losses, for example, the Agricultural Finance Corporation (AFC) and some banks. The Government's policy of assumption of loan losses for rural finance institutions would really encourage such institutions to provide credit facilities where they are needed most. Also, in other circumstances, the Government could assume foreign exchange losses as a way of providing incentives to rural finance institutions that want to operate in the rural areas.

Mr. Deputy Speaker, Sir, I am happy that the Minister has introduced the fit and proper vetting requirements in Clause 9. This is not only for the chief executive and the directors, but also for significant shareholders; those who hold about seven per cent shareholding. Some of the reasons why we have had problems in this country is that in the 1980s and 1990s, over 36 banks collapsed with billions of shillings belonging to their customers. The major reasons for this was because of lack of integrity, relevant skills in the banking sector, poor management skills, failure to appreciate

risk management, inside trading and so forth. Most of the reasons which were responsible for the collapse of banks had nothing to do with poor corporate governance. Since the CBK introduced the fit and proper vetting procedures for directors, we have seen improvement in this area. I am glad that the Minister has extended this requirement to the significant shareholders because of their influence in the management and control of banks. It is important that those people who are involved in the financial sector such as banks, be people of integrity, have a capacity in terms of their skills and experience to manage such institutions. In the past, we have seen situations where people who are responsible for the collapse of banks simply changing places and going to start other banks or being involved in the management of other banks. It is very good that there is a provision that such people who have been directors of an institution that has been liquidated or under liquidation, will not qualify as directors or be allowed to manage banks. So, I would like to support that particular section. We, perhaps, even need to tighten it in terms of the competency and diligence with which those who are responsible for managing banks are required to exercise.

Mr. Deputy Speaker, Sir, I am also happy that with regard to independence, the Bill goes to great lengths really to extend or provide independence of the CBK with regard to licensing and revoking of licences. We have seen concerns that have been expressed in banks that Ministers being political offices; the tendency to ignore certain provisions in the Act, has been raised by the industry players many times. I am happy that the Bill actually provides for that independence and gives power to the CBK to licence and revoke the licences, where necessary.

Mr. Deputy Speaker, Sir, I would like to go to the provisions of the *In Duplum* Rule. Whilst I appreciate the control of the amount of interest that will be charged on outstanding loans, that should not exceed the amount of the outstanding principal. I am concerned about some of the provisions of the new Section 44(A). It provides that the additional interest over and above the total principal and interest owing at the date it comes to force, should not exceed that amount. I find this a bit unfair. This is because if today you have borrowed, for example, Kshs10 million as the principal amount plus interest, maybe, the figure outstanding when this Bill comes into operation will be Kshs100 million. This is already ten times higher. What this section provides for is that banks will be allowed to continue charging additional interest up to the total of the principal plus the interest outstanding at the date this Bill comes to effect. So, I find it very unfair, indeed, because for those who are borrowing today, for example, if you borrow Kshs10 million today, and you pay Kshs3 million, you will be left with a balance of Kshs7 million. Therefore, the maximum the bank can charge you is an additional Kshs7 million. In this particular case, the Bill does not protect those who took loans before it was published. Therefore, it gives the banks the opportunity to continue charging interest on the outstanding principal amount. That needs to be looked into.

**The Assistant Minister for Finance (Mr. Obwocha):** On a point of information Mr. Deputy Speaker, Sir. Mr. Billow is interpreting this Clause to mean that if one has borrowed a principal amount of Kshs100 million, the bank will demand that same amount. That is not right. It indicates that the bank can demand up to the maximum of the principal sum borrowed, which, in this case, is Kshs100 million. If the interest outstanding is less than Kshs100 million, that is what the bank will demand. This Clause is supposed to protect people, so that the interest amount charged to them does not exceed the actual principal sum. In some cases, people who have borrowed Kshs100 million have been charged Kshs400 million as interest.

**Mr. Billow:** Mr. Deputy Speaker, Sir, the hon. Member obviously missed my point. Clause 17(4)(b) of this Bill on page 503 is very clear. It says, "Interest in accordance with the contract between the debtor and the institution accruing up to the time this section comes into operation, not exceeding the principal and interest owing on the day this section comes into operation." It is not only the interest that can be demanded. The Clause says clearly that additional amount charged by a bank should not exceed the principal, plus interest owing at the time when this Bill comes into effect. That is the disadvantage that those who have past loans will suffer in relation to those who

will be borrowing today.

My other major concern regards interest and has been raised by the previous speaker. The difference between the lending rates and the rates provided on deposits is so wide that I think it is part of the problem we have in this country. It is important that the Minister addresses this concern. The reason why we have had problems with interest rates is that most of our banking institutions primarily choose to trade with money and do not invest in the productive sectors in this country. I think it is time that banks were encouraged to invest in the productive sector, so that they can rely on income from other sources and not only from interest.

My concern, which is the concern of many other Kenyans, is that part of the reason why our economy collapsed in the 1990s was because of high interest rates. Businessmen were not able to borrow because of high interest rates. It is only in the last two years that the rates have gone down to manageable levels, and the private sector can go for credit. Today we are seeing a return to that high interest rate regime. If Kenyans have been keen, they must have seen that in the last few weeks, interest rates have been on the rise. They have been on the rise owing to pressures from the donors like the IMF, World Bank, and other major international banks. The interest rates have also been high because of the Government borrowing through Treasury Bills.

A few years ago, the Government decided to shift from borrowing through the Treasury Bills to borrowing through Treasury Bonds. The main reason for this was to lengthen the maturity of Government debt, and at the same time reduce the high interest rates that had become impossible in the previous few years. I am concerned that the Central Bank of Kenya and the Government are under pressure, and seem to be succumbing to the idea that lower interest rates are not in the interest of this country. Last year, the interest rates were the lowest. The Treasury Bill rates were about 1 per cent and even lower. That did not lead to an outflow of capital from this country. In fact, we continued to get investors. Therefore, the argument being presented by donors is that, as we continue maintaining low interest rates, there will be capital outflows. I think this argument is not correct. I sense that there is pressure from the major international banks, which are using donors to push for high interest rates, so that they can make huge profits. The Government needs to be careful, because high interest rates will dampen the growth of the economy, as they have done in the past.

**Mr. Deputy Speaker:** Order, Mr. Billow. I just want to confirm if you are the Official Opposition spokesman on this Bill. For the purpose of time, your time is unlimited.

Proceed!

**Mr. Billow:** Mr. Deputy Speaker, the high interest rates issue should be addressed. The Government should continue using bonds for borrowing. That is the only way in which we can have stability in interest rates in this country. Low interest rates would then benefit our people. We should not only look at the concern of international institutions or banks. We should be concerned about the benefits that low interest rates confer on Kenyans. Many businesses have been able to access credit because of the low interest rates. We should continue with that.

Many banks prosper from inter-bank interest rates generally because they lend money to each other at higher rates than those on Treasury Bonds. This is something we should be cautious about. If the Government offloads huge Bonds and Treasury Bills in the money market, the demand becomes high, the tendency will be to try and push the prices down.

In the last few weeks, the money market has remained stable, and has offset Government pressure from increasing the interest rates. I think the Government should be cautious because that will not help the economy of this country.

I also want to say something about the structuring of the banking sector, which the Minister promised during the Budget Day. He said that the Government would restructure and sell Government banks. These include the Consolidated Bank of Kenya, the National Bank of Kenya and other banks owned by the Government. We have to be cautious. When the Government thinks

of selling these banks, it should do so within a policy framework. We are yet to pass legislation on privatisation of State Corporations. I think one of the reasons why some of us prefer that the Government delays the exercise until a Bill is passed, is because we want the divestiture process to benefit Kenyans. We want local shareholders to be part of the local banks. I want to give an example of the Development Finance Bank. Before the year 2003, the ICDC owned 30 per cent of it. Last year, the ICDC exercised the pre-emptive rights and purchased 40 per cent more shareholding. Today, it controls 70 per cent of the bank's shareholding. It is a very liquid bank, properly capitalised and one of the best performing.

If the ICDC, which is owned by the Government, owns 70 per cent of the bank, is it now subject to State Corporations Act? Does the Government appoint directors and other personnel? This is something we need to find out. The reason I am concerned is because there may be plans to merge it with other banks, in particular with Housing Finance Company of Kenya (HFCK). Last year's audited and published accounts for HFCK reflect that the bank is undercapitalised. This is a bank that is owned in part by the same shareholders as the ICDC. The ICDC owns shares in the Development Bank of Kenya and in the HFCK.

This bank, HFCK, has got monetary problems and if it is going to be merged with ICDC, then what is going to happen is that ICDC will be the loser in the merger. ICDC is a State Corporation; it is a public entity. I think those foreigners who own shares in this bank should be urged to capitalise them. ICDC should be able to inject money into HFCK, if it requires capital, but not to benefit indirectly from the liquidity and capitalisation which is in a bank which is owned 70 per cent largely by Kenyans. I find this to be an indirect acquisition of a bank that is wholly owned by Kenyans.

Mr. Deputy Speaker, Sir, this CDC group is the same group of companies that is also behind, in my assessment, the pressure on the Government to sell KCB and National Bank of Kenya (NBK) to them through pressure from donors like World Bank and IMF. I think the Government needs to be quite clear on that, that any sale of the bank should be done through a public offer so that as many Kenyans as possible can participate in its ownership and I think that is very important.

I think this argument presented by donors, that it is only through the foreign shareholding that the management of banks will improve, is not true. There are many banks which are owned locally and which are managed by Kenyans and whose performances are better than those of foreign-owned companies. So, I think if there is going to be any sale of banks we should wait both for the Privatisation Bill so that we can address the issues of transparency of the process and so forth and, at the same time ensure that any sale of these financial institutions should be done through the Nairobi Stock Exchange so that through the public offer as many Kenyans as possible can buy and we can ensure local shareholding.

Mr. Deputy Speaker, Sir, another reason why it is important for maintaining local shareholding is so that these banks can have a place in the rural areas. There is no doubt in our minds that if these banks were bought by foreigners they are going to close down their branches in the rural areas in the same way we have seen Standard Chartered Bank and Barclays Bank pulling out of Kiambu and all these areas. If we want to maintain KCB or NBK in any of these major towns, it is important that as many Kenyans as possible are involved in the shareholding of the bank.

Mr. Deputy Speaker, Sir, I am almost concluding but I also want to mention very briefly that the Central Bank of Kenya (CBK), and my colleagues had mentioned it earlier, needs to address the issue of the value of the shilling. Of course, today, we have read reports that CBK may, in fact, cede some of its powers of dealing with the Treasury Bills and Bonds on behalf of the Government to the Treasury but I think it is important that the CBK addresses the financial sector properly.

There has been quite a bit of uncertainty in the last few months not only on the exchange rate but also on the rate of interest on the Treasury Bills and Bonds and I think this uncertainty is not

going to be good for the economy. However, the devalued shilling which is now Kshs82 per one US dollar will affect the size of the national debt. Most or half of our debts are external debts and if the shilling continues to depreciate, the size of this debt is going to be so high and it is going to be costly to service this debt. At the same time, it would also increase inflation in the country because of the cost of imports going up. The Government has to borrow more domestically or raise taxes to service debts but I think it is important that, in order to address the sluggish economic growth that we have, we have to address the imperatives particularly in the exchange rates, interest rates and so forth and act on inflation.

Mr. Deputy Speaker, Sir, lastly, I want to mention that the Bill, in general, I think is good. I am happy particularly with the powers that have been given to the CBK and also the questions of dealing with the interest on non-performing loans. However, I need to emphasise that something needs to be done for the past debts so that we are not unfair to those who have taken over those debts.

With those few remarks, I second the Bill.

**Mr. Kagwe:** Thank you, Mr. Deputy Speaker, Sir. As you have said, as Chairman of the Finance Committee, we have looked at this Bill. Indeed, I tabled the report of the Bill today and I salute the contributors of this Bill so far because they are right to the point.

Mr. Deputy Speaker, Sir, we appreciate that the Bill aims at separating and transferring or ceding of powers from the Minister of Finance to the CBK in doing a lot of supervisory roles that the Minister has had in the past. This is a good thing because the Minister is busy. He is on policy matters rather than details and he cannot micro-manage an economy and, therefore, it is a good thing that we cede these supervisory powers to the CBK. However, I think it is important for us to remember that we do not want to move away from a lot of bureaucracy to a situation where one person is going to be supervising the banks. That is why it is important for us to read the Banking (Amendment) Bill together with the CBK (Amendment) Bill because when we move this power of supervision of banks, interest rates and so on from one institution that is the Treasury, we cannot simply transfer them to the Governor of the Bank and one or two of his people. That is not a safe thing to do.

Therefore, in amending this Bill and in changing the rules of supervision, it is important that the Minister quickly brings the CBK (Amendment) Bill onto the Floor of the House so that they can be passed almost simultaneously so that when he leaves the supervision powers, those powers can go to the Monetary Advisory Committee so that within the bank itself there can be a legal unit and not an individual or two people that looks at some of the issues that we have spoken about and some of the powers that we want to give to the CBK. That is a very crucial thing in terms of monetary stability in this country.

Mr. Deputy Speaker, Sir, I think it is also good for us to recognise that the Bill envisages a situation where banks are getting not less but more responsibility in terms of the effect they can have on Kenya's economy. This is particularly so when you consider the issue of bank charges where in the past, the Ministers had the power to regulate as far as banking charges are concerned. Now, this Bill envisages a situation where the banks will regulate themselves. We must caution the banks from this House that the matter of bank charges is a responsibility that they have to this country.

In addition to this responsibility, we must not lose sight of the fact that the Donda Bill came into effect and it is indeed a law in this country as we speak today. It came into effect because of the greed of banks. Therefore, even as we pass the Bill and agree that the approval of the Minister as far as the bank charges are removed, we must look for a way and that is why I insist that it should be passed together with the Monetary Advisory Board so that that committee can also be regulating a few of these things because it is dangerous as it stands today. Banks can lower interest rates as the CBK lowers them but they compensate or more than compensate for those charges if they keep on

raising bank charges. It is a total anomaly to find a situation where you go to a bank, deposit money and in the next couple of months when you go there, the money is less than what you deposited there. It beats total logic. Kenya is the only country in the world that I know of where money becomes less in a bank than what you invested in the bank. This is not an acceptable position.

(Applause)

Therefore, banks should be duly warned that if this thing continues, we can come right back here and look for a way of protecting Kenyans. After all, it is them we owe responsibility to.

Mr. Deputy Speaker, Sir, the Bill also envisages the issue of creating of something called a significant shareholder. I agree with the Shadow Minister for Finance, Mr. Billow, that it is important to do this. However, 5 per cent is a bit too low and it should be looked into because it is not really significant. In most cases, especially in small banks, it is actually insignificant. Therefore, the rule regarding significant shareholders needs to be examined and debated in totality before we agree that the 5 per cent is acceptable.

In the same breath, this proposed banking law should be read together with the Central Bank of Kenya Act, if, indeed, we are going to define a significant shareholder, who is going to be restricted in terms of ownership. That cannot be left to individuals. It must be left to a committee that can be fairer than an individual who can decide that he does not like my face and, therefore, decide that I cannot be a significant shareholder. Further, the definition of who is a significant shareholder, or who is not of good character and thus cannot be a significant shareholder, should be addressed.

Regarding the *In Duplum* Rule, I wish to support Mr. Billow because he was correct and the Assistant Minister was wrong in his assessment, as far Clause 16(b) is concerned. We must do something about this Clause. When we come to the Committee Stage, we should revise this whole Clause because unless we do that, a lot of the people, who are already in this problem, will not be assisted in any way.

Over the last couple of years, the Central Bank of Kenya (CBK) has allowed debt write-offs by banks, which are supposed to be passed on to somebody. We need to use write-offs because we should not have money owed to banks when we know very well that it is unlikely to be paid. We will not only be unfair to the shareholder, but, indeed, we will be putting in jeopardy those who would like to start paying this money but cannot. Therefore, in respect of what Mr. Billow was saying, the amount to be accrued in form of the loans and interest should be what is accruing at the time that the loan becomes non-performing, and not up to the time when this law becomes applicable. It should be at the time when the loan became non-performing, given the definition of non-performing that we are going to give in this Bill.

The definition of non-performing loans is another area that we have to be careful about. We have left the definition of a non-performing loan open and, therefore, a bank can decide tomorrow that as far as it is concerned, because it is up to it, your loan is not non-performing. In this case this law does not apply to you and you can continue accumulating interest until the bank decides that your loan is non-performing. We must be very clear about what is going to amount to a non-performing loan. At the Committee Stage, we must define, for example, that a non-performing loan is that which an individual has not been re-paying for a period of six months or six instalments, whichever is longer. That will make it clear as to what will become a non-performing loan.

As far as the performance of the CBK is concerned, we must go a little bit further than this Bill, if we are going to create harmony, not only in the economy but also in the monetary and fiscal policy. Earlier on, a colleague said that the Bank of England regulates interest rates. However, what it does through the Monetary Advisory Committee is to regulate its lending rates. Therefore, commercial banks take their cue from it and decide at how much to lend. That is the way it should



be!

Mr. Deputy Speaker, Sir, I believe that if we are going to have a viable monetary system, it is important for us to amend the Bill, create a monetary advisory committee. We go a little bit further and, at some future date, actually introduce a financial services authority. The reason I am saying this is because while the CBK has been dealing with banks, insurance companies and other financial institutions have basically been on a free-for-all. There are SACCOs and all sorts other institutions that are of benefit to Kenyans but which are not properly regulated.

As far as directors of banks are concerned, I wish to say the following. We must be very careful about interfering with freedom of investment and, as I said earlier, be also very careful about who is going to own a bank. We must also be careful about the whole role of investment in our economy. We should let individuals and the public judge; unless we are talking about a real criminal.

The other issue that I would like to share with the House is the issue of stability of our banks in relation to the International Monetary Fund's (IMF's) so-called conditionalities of borrowing. We must appreciate that there is no country in the world that has ever developed on the basis of stipulations by the IMF. Not one single nation can today say: "This country is so developed because we followed the World Bank's and IMF's advice." When we were overseas, at the Bank of England and elsewhere in the last couple of weeks, we were told that the World Bank and IMF are pressurising the Minister for Finance to match interest rates in Kenya with those of our neighbouring economies. Kenya is not Uganda or Tanzania! They are saying that Uganda is growing at the rate of 7 per cent, and, therefore, Kenya's interest rates should match those of Uganda. If we do simple mathematics, what would we base 7 per cent growth rate on? You can have 7 per cent of 10 and it is only seven while you can also have 5 per cent of 100, which is alot! What I am saying is that the IMF and the World Bank must be looked at suspiciously. Some of the things they tell us are unbelievable and they would dare not tell them to anybody else.

One of the reasons why these institutions are able to hold us to ransom the way they do, with a lot of contempt, is because we also do not have our own ideas. We must stop waiting for them to come and tell us what to do. We must go to them and present ideas on what we ourselves want to do. Take for example, our Treasury Bonds, and the Shadow Minister for Finance referred to this issue regarding the long-term handling of our domestic borrowing. We can reduce the pressure that we have as far our deficit is concerned; by ensuring that Treasury Bonds are flexible in nature. We cannot have a long-term Bond that has a fixed interest rate because, as soon as domestic borrowing creates the pressure on Treasury Bill rates and they go slightly higher than the long-term bonds, there is clearly a problem. Everybody will want to dump the rate on long-term Bonds, stop buying any of them or simply wait around to see how much the Treasury Bill rates are going to be. That is why over the last couple of months, the Government has been unable to borrow. As soon as it goes to the Bond market, nobody wants to touch them. People do not have any confidence that the Treasury Bill rates will not eventually exceed the rate on long-term Bond.

Therefore, the long-term Treasury Bond (TB) rate should be reflexible, with a slightly higher amount over and above the short-term TB rate. Only then can we have confidence in the long-term TB rates. We can then borrow through long-term TBs rather than through short-term TBs.

Mr. Deputy Speaker, Sir, I would now like to speak on the issue of stabilising our commercial banks. We have a very good example of the current issue concerning the National Bank of Kenya (NBK). The NBK needs to be stabilised, but the suggestion by the International Monetary Fund (IMF) and the World Bank that the Government should sell all its shares in that bank, or close down the bank altogether, is not viable. The way forward is to float the shares of the NBK at the Nairobi Stock Exchange (NSE). The Government should not withdraw its shares from the bank. If we settle for share dilution, the money that will be collected from the NSE will not go to the Government, but to the NBK. We must understand this issue clearly. If we sell the NBK shares, the

money that will be realised will go to the Government. It will not go into stabilising the NBK. Therefore, the only way to stabilise the NBK is through share dilution, so that the money that will be realised will go into stabilising the bank. I believe that, that is the way the Minister should handle this particular issue.

Some of the Bills before this House are part of the conditionalities imposed on Kenya by the IMF and the World Bank. We must make it clear that we will only pass those Bills which are significant and relevant to our efforts to revive this country's economy. In so doing, the Committee on Finance, Planning and Trade is impatiently waiting for the Micro Finance Bill to be brought to this House. Micro finance institutions have now become the saviour of rural areas development in this country. When that Bill is brought here and enacted into law, it will provide a new way of banking for communities in the rural areas. For instance, there will be nothing to stop us from providing for guidelines by which micro finance organisations will operate.

We should consider special ways by which to support agriculture as well as the micro finance institutions. Many of our youths and educated people living in urban areas are not interested in agriculture any more. They are technology-oriented people. They are interested in the internet and information technology. So, we cannot continue talking about supporting the agricultural sector and forget that our young generation is keen on being financed to participate in the micro-industry sector, and businesses that may have nothing to do with agriculture. Very few of our young people today would want to go back to the rural areas and grow tomatoes on a half-acre piece of land, even if you provide them with money to do so. They would prefer to start a technology-based company.

Mr. Deputy Speaker, Sir, many of the comments that we have, as a Committee, will come as amendments to this Bill during the Committee Stage.

With those few remarks, I support the Bill.

**Mr. Kimeto:** Ahsante sana, Bw. Naibu Spika, kwa kunipa nafasi hii.

Bw. Naibu Spika, Kenya ingekuwa inawasaidia wananchi wake, lakini utaona kwamba pesa ambazo benki ziliwakopesha wananchi kufanyia maendeleo zinaendelea kuhujumu juhudi za watu walioomba mikopo hiyo. Utaona kwamba mtu akichukua mkopo kutoka kwa benki, hulipa riba ambayo huendelea kuongezeka daima. Kuwe na kiangazi, mvua nyingi kupita kiasi, ama iwe umelazwa hospitalini, utaendelea kulipa riba. Hakuna mtu anayefanya chochote kuona kwamba hizo pesa ambazo zingewanufaisha Wakenya zinafanya hivyo. Ningependa Waziri aagize kwamba mtu akichukua mkopo, aulipe mkopo huo, pamoja na riba, hadi kiwango fulani; mtu asilipe zaidi ya kiwango hicho. Kiwango cha riba kwa mkopo huo kisizidi kukua.

Kwa mfano, ukiomba Kshs1 milioni, utalipa kiasi hicho cha pesa pamoja na riba, ambayo itaendelea kuongezeka wakati unapozidi kupita. Ukishindwa kulipa kwa wakati mliokubaliana na benki, unatozwa faini hadi kiwango cha asilimia 50. Utalipa malimbikizo ya riba yatakayopita kiasi cha mkopo uliopewa. Kwa hivyo, ningependa Waziri wa Fedha aweke kiwango ambacho mtu hastahili kupita akilipa riba kwa benki. Akifanya hivyo, mikopo ambayo wananchi huchukua kutoka kwa benki itawasaidia kujifanyia maendeleo. Tusipofanya hivyo, mikopo hiyo haitawasaidia wanaoichukua. Wale waliokuwa matajiri miaka ya zamani, na ambao walichukua mikopo kutoka kwa benki miaka ya hivi majuzi, sasa wamekuwa maskini. Mikopo kutoka kwa benki inaongeza umaskini miongoni mwa jamii.

Bw. Naibu Spika, hatukumbuki kwamba tulipojinyakulia Uhuru, katika mwaka wa 1963, Serikali ilikuwa na utaratibu mzuri sana wa kuwanufaisha Wakenya asili. Serikali iliwapatia Wakenya mikopo ili kuwawezesha kununua ardhi katika mashamba ambayo yalikuwa yamenyakuliwa na wakulima Wazungu kwa kiwango cha riba cha asilimia 3. Ingawaje mpango huo ulitekelezwa kwa muda mfupi, uliwasaidia wananchi kupata makao. Kama mpango huo haungeanzishwa, wakati huu Kenya ingekuwa bado mikononi mwa Wazungu. Viwango vya riba vikiendelea kuwa juu, na kuihujumu nchi hii, hatutaweza kuendelea. Kama tunataka mikopo iwasaidie wananchi, ni lazima kuwe na kiwango cha cha riba ambacho benki haistahili kukipita.

Kama Waziri wa Fedha angekuwa hapa, ningemfunza jinsi ya kuendeleza maswala ya fedha katika nchi hii. Hali ilivyo ni kwamba, mtu akiomba kiasi kidogo tu cha pesa, baada ya muda, atalipa pesa nyingi sana kwa sababu viwango vya riba huongezwa mara kwa mara. Kwa mfano, nilikopa Kshs1 milioni kutoka kwa benki, lakini nililipa Kshs4.6 milioni. Benki hiyo ilikuwa na uwezo wa kuniamuru nilipe Kshs16 milioni. Nilichukua mkopo wa Kshs2 milioni halafu nikalipa haraka haraka mpaka nikabakisha Kshs1 milioni. Baadaye, nikalipa Kshs4.6 million, na kufikia sasa, ninahitajika kulipa Kshs16 million. Ninasikia vibaya sana moyoni mwangu.

*(Mr. Mwiraria entered the Chamber)*

**The Assistant Minister for Finance** (Mr. Katuku): Sasa Waziri amekuja. Mwambie ulivyotaka kumwambia.

**Mr. Kimeto:** Bw. Naibu Spika, ningependa kumfahamisha Waziri kwamba nilichukua mkopo wa Kshs2 milioni kutoka kwa benki halafu nikalipa haraka haraka hadi nikabakisha Kshs1 milioni. Baadaye, nililipa Kshs4.6 milioni, lakini kufikia sasa, benki hiyo inahitaji Kshs16 milioni kutoka kwangu. Jambo hili limenifanya niamini kwamba benki katika nchi hii zinawaibia Wakenya. Kwa hivyo, kama inawezekana, ningependa Waziri aweke kiwango cha riba ya mikopo ya benki ambacho mtu akifa watoto wake watalipa.

Bw. Naibu Spika, ingefaa kiwango hiki cha malipo kisioengezeke ili watoto wake waendeleo kulipa hizo pesa. Lakini haitafaa huo mkopo ukiendelea kuongezwa kwa sababu sheria ni ya kila mtu katika nchi hii. Kama sheria inasema tuwe na kiwango fulani cha riba, ni lazima kiwe kiwango hicho kwa kila mtu, hata wale waliokopa pesa hapo mbeleni, kwa sababu nchi ni moja. Sheria siyo ya watu wachache. Tungetaka sheria inayojumuisha watu wote. Hatutaki sheria ya kuwahujumu wengine, huku inafaidisha wengine. Tungetaka sheria ya usawa. Bw. Waziri, ningependekeza kwamba, kama ingewezekana, kuwe na amendment kwa Section 44(a).

**Mr. Deputy Speaker:** Bw. Kimeto, elekeza mchango wako kwa Bw. Naibu Spika.

**Mr. Kimeto:** Bw. Naibu Spika, ninaomba msamaha.

Katika Mswada huu kuna wakati ambao unatafikana kuwa sheria, lakini ningependa iwahusishe watu wote ambao walichukua mikopo katika nchi hii, hata awe ni kiwete. Sheria ni ya watu wote. Katika Mswada huu hakuna mahali ambapo mtu aliyechukua mkopo na akashindwa kulipa anasaidika. Inafaa tutambue ya kwamba kuna wakati pesa haizaani, wezi wanaiba, ama huyo mtu anaaga dunia, halafu watoto wa mtu huyo hawapati usingizi kwa sababu hawawezi kulipa pesa hizo. Katika Kiingereza kuna valuation roll, yaani gharama maalum ya shamba.

Kuna wakati, kwa mfano, gharama ilikuwa Kshs3 milioni, halafu riba inazidi gharama ya shamba. Je, Waziri alifikiria vizuri wakati alikuwa anaandika Mswada huu, kwa sababu, bei ya shamba pamoja na riba huzidi pesa ambazo mtu anastahili kulipa? Tungetaka Kenya hii iwe ya watu ambao wanafikiria wenzao. Wale ambao tuko hai, inafaa tujue kwamba kuna wakati ambao hatutakuweko na pengine tuna mikopo. Je, watoto wetu wataishi namna gani ikiwa pesa tunzodaiwa zimezidi bei ya shamba ambalo tulitumia ili kupata mkopo huo? Sisi tunataka mambo kama haya yarekebishwe. Inafaa tupewe mikopo kwa miaka hata 30. Wakati tulipopata Uhuru, Wazungu walipatiana mashamba kwa watu kwa miaka 30. Tumefaidika kwa sababu, hata watoto wameweza kulipa hizo pesa, hata kama mababu zao wamekufa. Haifai kuweka riba ambayo haiwezi kulipwa. Tunataka kufurahisha Wakenya. Kwa hivyo, inafaa kiwango hiki cha riba kisioengezwe. Kama ni ya bure, iwe kila mtu anafaidika.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker]*

*(Mr. Ethuro) took the Chair]*

Bw. Naibu Spika wa Muda, kama mtu atakopa Kshs3 milioni inafaa pesa zile anatalipa zisizidi theluthi moja ya Kshs3 milioni kama riba. Haifai kuweka riba juu sana halafu wananchi wanashindwa kulipa. Inafaa nia ya Serikali ya NARC iwe ni kuimarisha uchumi wa Kenya, wala sio kuhujumu uchumi wa wale ambao wangetaka kujiendeleza. Wale watu ambao wameteseka ni wale ambao walikuwa wanajua njia ya kukopa pesa, lakini kwa wakati huu, wamerudi nyuma kabisa.

Tungependa benki zetu katika nchi hii ziwe zinasaidia Wakenya bali siyo kuwahujumu. Ingefaa Waziri wa Fedha ahakikishe kwamba wale watu walioweka pesa zao katika nchi za ng'ambo wazirudishe, ili wasaidie kurekebisha nchi kwa kukopesha Wakenya hizo pesa. Wale wanaotaka kusaidia Kenya hii kwa kufanya biashara hapa nchini, inafaa wakubaliwe. Wakilipia ushuru biashara zao, hakuna mtu atakayeenda kwa Benki ya Barclays, National Bank ama Kenya Commercial kutaka mkopo. Wale wenzetu kutoka ng'ambo ambao wanataka kusaidia Kenya hawatatudhulumu. Kuna watu ambao wanalala kwa pesa. Wako na pesa nyingi lakini hawana nafasi ya kufanya biashara nchini. Kwa hivyo, ningependa kumuomba Waziri awakubalie watu kutoka international community waje kufanya biashara katika nchi hii ili tupate kusaidika.

Bw. Naibu Spika wa Muda, Mswada huu usipolenga kusaidia Wakenya, wananchi wetu watabaki maskini, kwa sababu benki zinachukua pesa zote na kuwaacha wananchi wakiwa fukara katika njia zote; akili na kadhalika. Kwa hivyo, ningependa kumuomba Waziri Mwiraria afanye jambo kama hilo. Ninaombea nchi ya Kenya sana.

Bw. Naibu Spika wa Muda, mimi nilimwomba Bw. Donde atusaidie, kwa sababu mambo yalikuwa yameharibika. Bw. Donde alileta Mswada kama huu. Benki zote katika nchi hii zilikusanya pesa, zikaenda katika eneo lake la uwakilishi bungeni na kumtoa nje. Kwa hivyo, kwa sababu nimesema mambo hayo, wasije kwenye eneo langu la uwakilishi bungeni na hizo pesa zao na kuniangusha. Ikiwa Bw. Mwiraria anafanya kazi vizuri, watajaribu kumpinga baadaye.

Bw. Naibu Spika wa Muda, tunataka mambo yatakayosaidia wananchi. Wizara lazima iangalie benki ambazo hazisaidii wananchi ili zinyimwe leseni. Lazima Wizara ichunguze na kuona ya kwamba benki zinasaidia kila mtu kiuchumi. Ikiwa njia ya kupata pesa itakuwa nzuri, haitakuwa vigumu kugharamia viwanda. Wakulima watapata mikopo na kufanya nchi yetu kuwa ya kutegemewa siku za baadaye. Kwa hivyo, tunataka Wizara ya Fedha itumie uwezo wake kusaidia wananchi. Wizara hiyo ikilala, basi Kenya nzima italala. Wizara ya Fedha inasaidia Kenya katika kila sekta. Tusipowaweka watu wenye akili katika Wizara hiyo, mambo hayataendelea vizuri. Wakishindwa kufanya kazi hiyo, waniite katika ofisi yao. Nitawashauri vile watakavyoendesha mambo katika nchi hii.

Kwa hayo machache, naunga mkono Mswada huu.

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to support the Banking (Amendment) Bill.

Mr. Temporary Deputy Speaker, Sir, reading through the amendments, it is very clear that the Ministry of Finance wants the whole Banking Act to be implemented in a professional manner. The only institution that can implement it in a professional manner is the Central Bank of Kenya (CBK). It is pleasing to note that powers are being removed from the Minister and given to CBK for purposes of making the implementation of the Banking Act professional. That will curtail the licensing of banks for political reasons. We have had quite a number of banks that never really deserved to be registered, because they were basically political. Most of those banks have now been closed. But they were closed when a number of Kenyans had already put in their money there.

Mr. Temporary Deputy Speaker, Sir, there is also another category of banks which were not political, but for a reason which the regime of that time thought was convenient, were also closed. They include Continental Bank, Union Bank, Rural-Urban Credit Bank and so on. Those banks

were really helping the local *mwananchi*. They were professionally managed. But one day, out of the blues, a circular was issued, instructing all parastatals to withdraw their funds from those banks. That led to their collapse. So, we need to find a way of reviving those banks. Those banks were owned by *wananchi*. If you look at the current banks, very few are owned by *wananchi*. Instead, most banks are owned by multinationals. Banks like Barclays, Standard Chartered and Stanbic are all owned by foreigners. So, in effect, those foreigners can blackmail this country because we have allowed them to own all the banks in this country. So, we need to find ways of encouraging our own people to own banks.

Mr. Temporary Deputy Speaker, Sir, banks have also let us down in this country. They pay as low as 2 per cent as interest on deposits and yet, they charge borrowers 12 per cent, 15 per cent and 17 per cent. The spread is just too high. In fact, this is the only country where the spread between the interest rates paid on deposits and the interest rates paid on loans is too high. We need to reduce that. We also need to put a law--- In fact, all our problems would be solved if we were to put it in law that the maximum spread between interest on deposits and interest on loans is so much. For example, if we were to say 5 per cent, that would take care of all our problems and the issue of interest rates would not be with us.

Mr. Temporary Deputy Speaker, Sir, I would like to commend the Minister for Finance for the good work that he is doing. Before the NARC Government took over, interest rates were as high as 35 per cent. They have come down to 12 per cent but, unfortunately, they are on the increase again. Now, some banks have increased them to 13 per cent, 14 per cent and 15 per cent. I want to ask the Minister to take some steps to make sure that interest rates do not go up again. We have been encouraging our people to borrow money. We have been telling them that interest rates are now low and they can afford to repay. But if interest rates continue to increase at the rate they are now increasing, our people are going to find themselves in a similar problem that they found themselves in, in 1993. We need to take specific measures to ensure that interest rates do not go up. Instead, they should continue going down.

Mr. Temporary Deputy Speaker, Sir, before the NARC Government took over, interest rates on Treasury Bills were at 20 per cent and 25 per cent. They started going down up to 2 per cent. Again, we need to caution the Minister for Finance that, interest rates on Treasury Bills have started to go up. That is worrying! They have now gone up to 5 per cent. In the last auction, they were at 5.5 per cent. That is a worrying trend! If you take into account the local Government debt of about Kshs300 billion, an increase of 1 per cent is a substantial amount of money that the Government would have, otherwise, saved. So, the Minister for Finance needs to take specific measures to make sure that interest rates on Treasury Bills go down.

Mr. Temporary Deputy Speaker, Sir, if you go to other countries in America, Europe and Asia, they have got specialised banks. We need to have a bank for farmers. We also need a special bank to deal with students'. In countries like India, they have students banks which advance money to students. We need a students bank. In places like Japan, they have banks that only deal with rice farmers. We need banks that take care of coffee and sugar-cane farmers. This is, the only way in which everybody can access credit. We need even workers banks, so that the workers can access credit.

Mr. Temporary Deputy Speaker, Sir, we also need to have legislation dealing with the micro-finance. This is now the in-thing. Banks are copying what the micro-finance institutions have been doing. The micro-finance institutions have been lending without security. Banks have now started lending without security. In fact, they are infringing on the niche of the micro-finance institutions. We require some kind of legislation to deal with micro-financing, which we do not have at the moment.

We also have been told that there are some people who borrowed money from some of these political banks and have not repaid it. These banks are owned by the Government and, therefore,

when people do not repay the money they have borrowed from those banks, it is us, Kenyans, who are subsidising their lifestyles. We need to send a message to those borrowers that they should repay their loans because this amounts to corruption. If you borrow money from a bank that is owned by the Government and you do not repay, in effect, that bank is owned by Kenyans and, therefore, we are the ones who are suffering. We need to send that message to the people who borrowed money from these banks. They should repay, so that the banks can lend more money to the *mwananchi*.

Mr. Temporary Deputy Speaker, Sir, although the Minister for Transport has tried to reign in on the *matatu* menace by insisting on the issue of speed governors and safety belts, most *matatu* owners have said that they can never stop overloading and overspeeding because of the short period that they have been given by banks to repay the loans they have taken to purchase their vehicles. They have said that unless the banks extend the repayment period from the present 24 months to about 60 months, they will have to overload and overspeed, so that they can make as many trips as possible. If they do not do that, they are not able to repay their loans. In effect, all the deaths that occur on our roads, to some extent, can be connected to the banks.

We need to call upon the banks or even on the Minister for Finance to bring a law to this House, specifying the minimum period within which borrowers, particularly those who borrow money to buy *matatus*, should be allowed to repay their loans. That way, they will stop overloading and overspeeding, and we shall save more lives.

Mr. Temporary Deputy Speaker, Sir, banks have also been accused of behaving like shylocks. Even where somebody has paid about 80 per cent of the loan, you still find the bank auctioning his property. We need to pass a law like the Hire Purchase Act, which provides that once a purchaser has paid two-thirds of the purchase price, the items that he has purchased on hire purchase cannot be repossessed. We need a law which should provide that once a borrower has paid about two-thirds of the initial loan, his property cannot be auctioned. That will protect our borrowers.

For reasons which I have never understood, banks do not want to lend to the farmers, and yet 80 per cent of Kenyans depend on agriculture for their livelihood. We need to pass a special law forcing the banks to lend to our farmers. It is pleasing to know that the Agricultural Finance Corporation (AFC) has now been revived and it is lending money to our farmers, but some of their conditions are too stringent. They ask for guarantors and all sorts of things. The AFC needs to be told to go easy on our farmers. We have encouraged our farmers to borrow money, but they are not getting this money because of the stringent conditions laid down by the AFC. Otherwise, it is good that the AFC has been revived and it is helping farmers.

Mr. Temporary Deputy Speaker, Sir, the other problem is that men borrow money using the family land and they do not even inform their spouses and children. We need to pass a law in this House to provide that the agricultural land must be owned jointly by the husband and the wife to avoid banks auctioning these properties. When a bank auctions a family property, it is not only the borrower who suffers, but the wife and the children also suffer.

With those few remarks, I support the amendments.

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, I want to make my comments on this Bill. This Bill seeks to give the Central Bank some regulatory authority. I would like to support this because the Central Bank has more expertise than the Treasury. Indeed, this should have been done a long time ago. However, I have certain reservations about giving the Central Bank a lot of power.

The problem with the Central Bank is that the Chairman of the Board of Directors is the Governor of the Central Bank. That is where my problem starts. Before giving the Central Bank the full regulatory power, we should first amend the Central Bank Act, so that somebody outside the Central Bank could be made the Chairman of the Board of Directors. It does not make sense for an institution to have its Chief Executive being its Chairman. The question then is: Who will regulate

and ensure that there is fairness in that institution? Therefore, I would like to call upon the Minister to immediately bring to this House an amendment to the Central Bank Act, so that we can look at it. As much as we would like the Central Bank to be autonomous, we would not want to create a monster.

Mr. Temporary Deputy Speaker, Sir, just the other day, we were told that the Governor of the Central Bank contracted out some services, which were supposed to be carried out by the Central Bank, to a consultancy firm to investigate certain banks in this country. The Central Bank is an expert in the supervision of other banks. It does not make sense for the Central Bank to cede that authority to somebody else when it has well-trained experts, who are authorised by law to do that job. Therefore,

that points out to what I said earlier. It is unfortunate to have the Governor of Central Bank of Kenya (CBK) as the Chairman of the Board of Directors because that is really precipitating corruption. I do not mind if we give the CBK more power, so long as that is amended very quickly.

Mr. Temporary Deputy Speaker, Sir, I am an advocate of free market. So, when people say they want interest rates to go up or down, or to be controlled, it does not make economic sense at all. Many people do not understand the operations of interest rates. That is where we came from. People must understand that we have just come from a regime that controlled interest rates. Are we saying that we go back to where we came from? We must learn that the country will only grow if interest rates are left to be controlled by the market forces. The interest rates are controlled by demand and supply. The biggest demand of money in this country is occasioned by the Government. Therefore, what we should actually be addressing is the fact that there must be financial discipline by the Government. This is because the moment the Government lowers its appetite for more funds, the demand for money will definitely go down. When the demand for money goes down, it means interest rates will automatically go down, because the Government is the biggest consumer of money in this country. If the Government will be indisciplined in its expenditure and there is more money for recurrent expenditure, then it, therefore, means they will borrow more from the market. When they do so, automatically, the interest rates will go up. Therefore, to lecture us that the Government must control the interest rates is completely unacceptable in the economy of today. That is the economy of yesteryears, which we have just come from. Therefore, I would like to encourage the Government to completely free the money market. If there are still a few hurdles left, this Bill seeks to address them.

Previously, it was a requirement for the banks to seek authority from Minister with regard to their charges. I am happy that the Government now understands that since there is a free market, the banking charges will be determined by the respective banks. All that they will be required to do is to publish the same in the media. My only concern is that not everybody reads the newspapers in this country. Unfortunately, all these are only printed in newspapers that write in English. We must extend this. The only assistance we could get from the Government is to ensure that information is available to Kenyans even in rural areas, so that they know, for example, bank "x" and "y" charge this and that amount as banking charges, so that they can go to the bank that gives them the best service. The banking sector is very competitive, indeed. We should not pretend that banks are here to give us social services. Banks are there to make money, just like any other enterprise in this country. Banks are investors in this country and they must be able to make money. The Government must ensure that there is a good environment for any investor, including banks, to make money. People must never imagine that banks are there, so that they can give them social services and keep for them money for the sake of it.

Mr. Temporary Deputy Speaker, Sir, banks are there to make money. We must ensure that the Government lowers its borrowing, banks are competitive and information is available. I can assure you that interest rates will definitely go down. The banking charges will go down as a result of competition. There is no investor in this country who will put up an investment just for the sake

of it.

Mr. Temporary Deputy Speaker, Sir, I have read this Bill. I am happy that the fees that will be collected from the licences will be deposited in the Consolidated Fund. I have always argued that, in this country, all the funds that are collected should be deposited in the Consolidated Fund. That is the only way we can enhance financial discipline. Last year, or probably this year, the Kenya Airports Authority (KAA) was given power to collect money from various airports and retain it. Where is accountability? Why can we not allow all the institutions in this country to collect money and remit the same to the Consolidated Fund immediately? That would mean that whoever wants to use the money can requisition for the same through the laid-down procedures. That is the only way in which we can be accountable in this country. Therefore, when we say that the licensing fees will be deposited in the Consolidated Fund, to me, it makes a lot of sense.

Mr. Temporary Deputy Speaker, Sir, I have a quarrel that when you apply for a licence in this country and you are denied, you have to appeal to the Minister for Finance. To me, that is not right. We cannot appeal to a person. We must appeal to an institution. I know that the Minister is a person. We are referring to one person. I think it makes sense that when you are appealing, you do so to an institution with several people. That is a final appeal for you to get a licence and so, if you are denied, it is not done by one person, but a group of individuals. I would like to suggest that there be a committee that will comprise certain individuals who have interest in the money market. That would include the Treasury, the Central Bank of Kenya (CBK) itself, stakeholders like the Bankers Association, the Financial Secretary, the Chief Economist and such other persons who have interest in financial institutions.

Mr. Temporary Deputy Speaker, Sir, we have always known that any appeal that is made, is done through tribunal comprising of certain individuals. Therefore, I would like to suggest that when we come to that clause, we should seek for an amendment, so that, when the CBK denies you a licence, then you can appeal to an institution.

This Bill does not, in any way, assist those who borrowed money before it becomes effective. I heard the argument that was put forward, earlier but still, it does not make sense. When we come to the Committee Stage, I will recommend that certain sections of this clause be deleted completely. When you borrow Kshs30 million and you have repaid Kshs100 million, and the bank in its statements still requires you to pay another Kshs100 million, that is not fair! In this Bill, one would be required to pay Kshs100 million, which is actually principal plus interest. Thereafter, that amount of money will attract interest again up to another Kshs100 million. Therefore, one can end up paying up to Kshs200 million. In my opinion, such a measure does not assist people who will have borrowed money before this clause is enacted as law. I propose that we delete parts (b) and (c) of this particular clause so that those who have borrowed money before this Bill passes into law be required to pay only the principal and interest they owe banks. It is still punitive, but it is better than nothing. Kenyans who will have borrowed money from banks before this amendment will, otherwise, never be assisted by the provisions in this Bill. Those who borrow money from the time this Bill becomes law are the ones who will benefit more. In as much as we strive to give various explanations, that is what this Bill means. I do not think that there is any other meaning. The Minister ought to look at that clause again.

**The Assistant Minister for Finance** (Mr. Obwocha): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Kipchumba that, indeed, this clause will help some of the people who have taken loans from banks. The clause actually affects loanees from whom the banks are demanding more than the principal and, in fact, double the principal. If, for instance, a loanee has a principal sum of Kshs30 million and the bank demands Kshs100 million from him, at the time of enforcement of this clause, the loanee can only pay Kshs60 million. Therefore, this particular clause will assist people who have outstanding loans and from which the bank is demanding four or five times the principal sum that they had borrowed.



**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, we heard that explanation before. I wish to request the Assistant Minister to go and read and understand this Bill. It seems like they have brought to this House a Bill that they do not understand.

Mr. Temporary Deputy Speaker, Sir, in respect of such loans becoming non-performing loans before this Section comes into operation---

**The Temporary Deputy Speaker** (Mr. Ethuro): Which clause are you referring to?

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, I am referring to page 503 of the Bill. The last part of clause 17 is very clear. It states that:

"Before this section comes into operation, the maximum amount referred to in the subsection shall be the following:

(a) The principal and interest owing on the day this section comes into operation."

That means whatever amount the bank will deem outstanding. If they had loaned you Kshs30 million, in their own statement, the outstanding amount will still be Kshs100 million, that is, principal plus interest.

In part (b), it is provided that the banks shall calculate interest on the Kshs100 million in accordance with the contract one might have signed with the bank. The bank can actually charge you interest up to a maximum of another Kshs100 million. So, if you borrow Kshs30 million and you manage to pay Kshs100 million, you can still be forced to pay up to Kshs200 million. That is why I said that the Minister should go and read the Bill again. He might end up introducing a very dangerous clause that will not help people who will have borrowed money before this Bill is enacted as law.

Mr. Temporary Deputy Speaker, Sir, I will take time after this to explain the clause to Mr. Obwocha, so that we can assist Kenyans together.

**Hon. Members:** Does the Minister understand?

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, he understands. He probably does not want to understand.

**The Temporary Deputy Speaker** (Mr. Ethuro): Mr. Kipchumba, you could do better than explain to the Minister. Just bring the amendments.

**Mr. Kipchumba:** Mr. Temporary Deputy Speaker, Sir, I wanted to comment on Clause 14. Clause 14 talks of the Board giving power of attorney to only the Chief Executive Officer of the Board when the bank is under receivership. I was just wondering why we are bringing that amendment because the board can give power to any member to act on its behalf. Why must it be the Chief Executive Officer of the Board only? I would like the Minister to give me a better explanation as to why he has brought this amendment. Let us not bring amendments for the sake of it. The board has power in its operations to give power of attorney to any of its members. I do not know why we are restricting these powers to the Chief Executive Officer of the Board.

Clause 11 is excellent in that it states the bank must not guarantee a person or an agent more than 20 per cent of the core capital of the institution. Twenty per cent is still very high. If one person is guaranteed up to 20 per cent of the capitalization of an institution, we are talking of a fifth of the capacity of an institution to only one person. Why must we allow this? I would like to suggest that, that be reduced to 10 per cent. This is because the bank is not owned by an individual. The directors and the Board are there because members of the public have put in money in that institution and they are just custodians of public funds. I do not want us to limit it to the shareholders who have 5 per cent.

We must vet all directors of financial institutions because they are just custodians of people's money; it is not their money. They could own 1 per cent or 2 per cent, but the rest 95 per cent is owned by other Kenyans. Therefore, we cannot allow people of questionable character to be directors in those kinds of institutions. I would like to submit that we must still amend that Act so

that all directors of financial institutions must be vetted by the CBK. We are not demanding too much. We are just saying one must be a person with integrity and good character. We are not asking for too much. We want to avoid situations of the past where banks have collapsed with people's funds. We have seen families who have suffered. This is not because they are poor, but because they deposited their funds in financial institutions which, because of political or other reasons or because of the questionable character of the directors who loaned themselves money, many Kenyans have been made poor.

We cannot allow this to occur in future again. Therefore, we must vet anybody who would like to be a director in any of these institutions. If you do not want to be vetted, then you should start your own bank and lend to yourself. You should not take money from the public. It does not make sense for you to be a custodian of our money and you do not want your character to be looked into.

Mr. Temporary Deputy Speaker, Sir, I want to talk about an issue which the Minister seems not to care about. Last year, Barclays Bank of Kenya applied for a corporate bond and, to date, the bank has not been cleared to clear that bond in the market. When you ask the Central Bank, they will tell you that it is not their responsibility; when you ask the Treasury, they will tell you the same thing; when you ask the Capital Markets Authority who, in my opinion, are supposed to have been the institution to clear the Barclays Bank to issue the corporate bond, they will tell you that they have not been cleared by the Treasury. If we are serious in attracting investments in this country, we must lay down our regulations and make them clear. We cannot have an institution as big as Barclays Bank applying for a corporate bond, involving a lot of money; a bank which would like to lend money to Kenyans to buy houses and other properties, and you delay them for a whole year without a reasonable explanation.

We must bring in a Bill that will give clear guidelines as to where to apply if you want to issue a corporate bond. We cannot play monkey-business in this country and delay investors! We want to attract investors, but if we cannot treat the few investors that we have in this country well, how would you attract more investors? Therefore, I would want to draw the attention of the Minister for Finance to the fact that there are so many financial Acts that are yet to be repealed in this country, and one of those Acts is the one that regulates issuance of bonds in the market.

In addition to what I have said earlier, that the Minister must quickly bring in the Central Bank Act so that we can amend it in this House, so as to allow somebody else, apart from the Governor of Central Bank from being the Chairman of the Board of Directors. We must also bring in an Act that will allow various financial institutions like Barclays Bank of Kenya to issue corporate bonds without having to go round, not knowing who to ask for authority on such a simple investment matter.

Mr. Temporary Deputy Speaker, Sir, like I said before, this is a good Bill. But a Bill can only be good if it is acted on. At times I ask myself who actually controls the Treasury when it runs amok? The Treasury controls the other Ministries; who controls the Treasury itself? Now, we are giving a lot of powers to the Central Bank. The Government must still retain its responsibility, because at the end of it all, the Central Bank will just act as a regulatory authority. The Government, through the Treasury, must still play its rightful role, because by amending this Act, like I said before, we will be trying to avoid the bureaucracies that Central Bank has to go through every time it wants to issue licences to other institutions. First, you should approve that a bank must be established, but you apply for licence from the Minister and you have to wait for the Minister to give you authority. Finally, by the time--- We have seen banks which would have been established in this country running to other countries.

Therefore, we will give full support to the Minister, subject to the amendments that we will suggest at Committee Stage. We are requesting the Minister to go and read those amendments properly so that we will have very few problems in amending the Bill.

With these few remarks, I beg to support.

**Mr. Wamwere:** Asante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi na mimi nichangie Mswada huu ambao ni muhimu sana kwa nchi na watu wetu.

Ninaongea kwa masikitiko kwa sababu kama mteja wa benki zetu, ninaweza kusema kwamba sijaona faida ya kuwa mteja. Ninaweza nikasema kwamba kile nimekutana nacho ni hasara tupu. Nimejiuliza mara nyingi, kama hakuna faida ya kuwa mteja, kwa nini kuweko na wateja wa mabenki?

Bw. Naibu Spika wa Muda, tumesikia kilio cha mhe. Kimeto wakati alipoongea, vile alivyokuwa na mkopo wa Kshs2 million na namna huo mkopo umepanda hadi kufikia Kshs16 million. Mteja kama mhe. Kimeto hawezi kuongea juu ya faida yoyote ya kuwa mteja wa benki. Anaweza tu akaongea juu ya hasara tupu. Ni lazima kuwe na kasoro kubwa katika uhusiano wa benki zetu na wateja, kama mteja hawezi akahesabu chochote kama faida ya kuwa mteja. Mara nyingi, mimi huona kwamba kuwa mteja wa benki zetu ni sawa na kuwa mbuzi au kondoo ambaye anaingizwa kichinjoni, kuchinjwa, wala sio kulishwa. Mara nyingi, ninauliza biashara ya aina hii inaruhusiwa kwa nini? Wewe ni mteja, lakini hakuna faida; hasara tupu. Unaingizwa kichinjoni, unanyolewa, unachinjwa na ukitoka pale, wewe ni gofu tupu. Ningetaka kuisisitiza kwamba kuna kasoro kubwa ambayo ni lazima ifanyiwe marekebisho.

Bw. Naibu Spika wa Muda, huu Mswada ni muhimu sana kwa sababu tunaongea juu ya benki ambazo zinamilikwa na wageni. Ningetaka kusema kwamba hasara moja kubwa ambayo inapatikana ni kwamba wanaomiliki mabenki ni wageni na wateja wanakuwa ni wenyeji. Benki hizi zina wateja wengine kule zinakotoka. Kwa mfano benki ya Barclays, Standard Chartered na benki zingine za kigeni zina wateja ng'ambo na humu nchini. Ukiangalia huduma zinazopewa wateja wa ng'ambo na wa humu nchini, utakuta kwamba wateja wa humu nchini wanabaguliwa. Hawapati kila huduma inayopewa wateja wa ng'ambo na benki ambazo zinamilikiwa na wageni. Utakuta benki za wageni zina taratibu mbili; moja ya wanavyohudumia wateja wao kule walikotoka, na nyingine ya namna wanavyohudumia wateja wa humu nchini. Wengine wetu tumeishi ng'ambo na tunajua ya kwamba wateja wa humu nchini wanabaguliwa, ikilinganishwa na namna wateja wa kule ng'ambo wanavyotendewa na benki hizi. Sijui Wakenya wataenda wapi ili wapate ulinzi dhidi ya ubaguzi huu ninaozungumza juu yake. Hatuwezi kwenda kwa serikali ya ng'ambo, kwa mfano, Serikali ya Malkia wa Uingereza kupata ulinzi dhidi ya ubaguzi huu. Ni lazima tuililie Serikali yetu. Ni matumaini yangu kwamba Waziri anayehusika ananisikiliza kwa makini. Hata hivyo, ni huzuni kuona akipiga soga badala ya kunisikiliza. Anasahau ya kwamba wakati Bunge hili litakapowaka moto, wote tutachomeka!

Bw. Naibu Spika wa Muda, Serikali ni lazima ihakikishe ya kwamba Wakenya hawabuguliwi. Ubaguzi huu ndio unaofanya benki nyingi hapa nchini kujipatia faida kubwa wakati biashara zingine zinapoporomoka. Ukilinganisha faida ambazo benki hizi za kigeni zinapata hapa nchini na ile faida wanayoipata kule ng'ambo, utaona ya kwamba faida yao hapa nchini ni kubwa sana. Kama tungekuwa na Serikali yenye wazalendo halisi, wangeona kuwa benki hizi zinapata faida kubwa hapa nchini kuliko ng'ambo. Basi wangepanya utafiti kujua ni mambo gani yanayosababisha hali hii. Ukiona ya kwamba kampuni za kigeni zinapata faida kubwa hapa nchini kuliko kule ng'ambo, basi unyonyaji dhidi ya watu wetu umekithiri na kupita mipaka. Watu wetu wananyonywa zaidi tukilinganisha na huduma wanazozipata kutoka kwa kampuni hizi za kigeni. Haja ya benki si kutekeleza unyonyaji tu, lakini ni lazima kutoa huduma kwa watu wetu. Ni lazima huduma yao ilingane na faida wanayoipata. Lakini ikiwa benki zinapata faida kubwa kuliko vile zinavyowahudumia watu wetu, basi kuna kasoro fulani.

Ningetaka kuungama ya kwamba msimamo wangu, sera na imani yangu ni tofauti kabisa na ya mhe. Kipchumba. Anaamini ya kwamba benki zetu ziwe na uhuru wa kufanya kama zitakavyo. Kwa mfano, wapate faida kubwa hata bila ya kutoa huduma yoyote kwa wananchi wetu.

**Mr. Kipchumba:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Wamwere in order to say that I stated that banks should charge high interest to swindle people of

their money? I said that interest rates operate on a free market of demand and supply. This is a very simple terminology of economics.

**Mr. Wamwere:** Bw. Naibu Spika wa Muda, tunaongea lugha mbili tofauti. Kwa hivyo, huenda ikawa mhe. Kipchumba hanielewi vilivyo. Ninasema ya kwamba ikiwa mambo yetu yote yataamuliwa na soko, basi soko litafuata bendera ya unyonyaji.

**The Assistant Minister for Foreign Affairs (Mr. Wetangula):** On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to inform hon. Wamwere that whatever he has said is absolutely right. Even in the biggest economies in the world, interest rates are not left to market forces. This is also the case in the United Kingdom.

**Mr. Wamwere:** Bw. Naibu Spika wa Muda, natumai kwamba sifa hizo ni za kweli na si za kupaka mafuta katika mgongo wa chupa.

Tukiwacha soko iamue mambo ya uchumi wetu ni kama kuwaacha simba na sungura wapambane ili ionekane ni nani ana nguvu kuliko mwingine. Panapokuwa na mashindano kati ya simba na sungura, ni lazima ujue kwamba sungura huwa hana namna ya kujitetea. Kwa hivyo, kama kazi ya Serikali ni kulinda masilahi ya sungura na ya simba, ni lazima isisitize maoni na uamuzi wa soko.

Nikitaja umuhimu wa benki, ningependa kusema kwamba benki ni muhimu sana katika uchumi wa nchi. Mabenki ndio maghala tunaweka utajiri wetu. Kama mabenki ndiyo maghala ambamo utajiri wetu wote, itakuwa ni makosa sana yakimilikiwa na wageni. Ni kama vile mtu anavyoweza kwenda shambani kulima na hata kuvuna mahindi, na badala ya kuweka mahindi hayo katika ghala lake, anayaweka katika ghala la mtu mwingine. Ukiona mkulima akifanya uamuzi kama huo, huyo ni mkulima mpumbavu. Nchi yoyote inayoruhusu maghala au mabenki yake yawe katika mikono ya wageni ni nchi pumbavu. Ni nchi ambayo inataka kunyonywa mpaka imalizike. Ni nchi ambayo iko tayari kuuza uchumi na uhai wake. Kwa hivyo, haifai tusikilize mambo tunayoambiwa kila siku na wafadhili; wao hutuhimiza tuuze benki zetu kwa wageni. Tukifanya hivyo, tutakuwa tumeingia katika mtego wa wageni, ambao ni wanyonyaji. Kwa hivyo, hata kama kuna mabenki ambayo yanaweza kuruhusiwa kumilikiwa na wageni, Wakenya ni lazima wasaidiwe kumiliki mabenki ya taifa kama vile National Bank of Kenya. Tukipeana mabenki yote, basi tutajuta. Ni lazima, tukatae kabisa kuyauza mabenki yetu. Ni lazima, baada ya kuipa uwezo Benki Kuu ya Kenya kama Mswada huu unavyofanya, isiipe mamlaka benki ya kigeni, ambayo inaitwa Benki Kuu ya Dunia.

Siku hizi ukoloni unatekelezwa na Benki ya Dunia. Hakuna chombo kingine ambacho kinatumwa na wafadhili na wageni kututawala. Shida hii inazikumba nchi za Ulimwengu wa Tatu. Tumesoma katika magazeti kwamba Mswada uliohusu bima ya jamii uliondolewa kutoka orodha ya Miswada ya Serikali kwa sababu ya shuruti za Benki ya Dunia. Tukiwacha **[Mr. Wamwere]** Benki ya Dunia itutawale, shughuli za nchi hii zitakuwa mikokoni mwa wageni. Msimamizi wa Benki ya Dunia hapa nchini, Bw. Diop, atageuka kuwa gavana wa Kenya.

#### ADJOURNMENT

**The Temporary Deputy Speaker (Mr. Ethuro):** Mr. Wamwere, you still have 15 minutes which you may use next time to contribute to this Bill.

Hon. Members, it is now time to interrupt the Business of the House. The House stands adjourned until tomorrow, Wednesday, 24th November, 2004 at 9.00 a.m.

The House rose at 6.30 p.m.