

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 18th November, 2004

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.831*

DEATH GRATUITY FOR LATE  
PHILIP BORE'S WIDOW

**Mr. Kimeto** asked the Minister for Information and Communications:-

- (a) whether he is aware that Mr. Philip Bore, P/No.72966, died on 19th June 1996;
- (b) if he is further aware that Mrs. Pricilla Chemetet Bore, widow of the deceased and her children have not been paid death gratuity or any other benefits; and,
- (c) when the payment will be made.

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

(a) Our records do not indicate that we had an employee by the name of Philip Bore, P/No.72966. Therefore, we are not aware that he died in 1996.

(b) I, therefore, cannot answer parts "b" and "c" of the Question.

**Mr. Kimeto:** Mr. Speaker, Sir, could I give documented evidence to the Assistant Minister for Information and Communications to prove my case.

**Mr. Speaker:** I know what to do, Mr. Kimeto. For the benefit of all parties concerned, let me defer this Question to next week. Liaise with the Assistant Minister regarding it and let it come back next week, Thursday.

**Mr. Kimeto:** Mr. Speaker, Sir, that is fine.

**Mr. Speaker:** Very well; the Question is deferred.

*(Question deferred)*

*Question No.925*

OWNERSHIP STATUS OF  
TELEPOSTA TOWERS

**Mr. Abdirahman** asked the Minister for Information and Communications:-

- (a) who owns Teleposta Towers on Kenyatta Avenue, Nairobi, and what its current market value is; and,

(b) who funded the construction of the building and how much the total construction cost was.

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

This Question was asked and answered last week. However, there are some issues concerning it which I am supposed to address.

**Mr. Abdirahman:** On a point of order, Mr. Speaker, Sir. This Question was not answered at all. It was deferred. The Minister was not able to answer the Question because, according to him, there were some details concerning it that he did not have.

**The Assistant Minister for Information and Communications** (Mr. Were): Mr. Speaker, Sir, I have a copy of the HANSARD for that day. The Question was answered. However, there are issues that the hon. Member raised, which the Minister could not address since he did not have the details regarding them.

**Mr. Speaker:** Then answer the additional questions!

**The Assistant Minister for Information and Communications** (Mr. Were): Mr. Speaker, Sir, the Question concerns the actual value of the land and building, the rental income per annum and the name of the valuer. The answers are as follows.

Mr. Speaker, Sir, the value of the land was Kshs365 million while that of the building and work site is Kshs2,695,000,000. The current value of the building is Kshs3,060,000,000. This valuation was done by the former Ministry of Lands and Settlement. The rental income per annum is approximately Kshs145 million.

**Mr. Abdirahman:** Mr. Speaker, Sir, the amount of money that was spent on this building up to its completion, which the answer does not indicate clearly, was Kshs3.7 billion. The current value of the building is Kshs3 billion. Since the funds used to put up the building belonged to employees, what benefits are they getting from it? How are they supposed to benefit from the building?

**Mr. Were:** Mr. Speaker, Sir, this building is earning rental income. Over a period of time, the amount spent on its construction will be recovered. I believe that after that, there will be dividends which will go to Telkom Kenya employees and those who have retired.

**Mr. Angwenyi:** Mr. Speaker, Sir, we know that the level of rent depends on the value of the property rented. Normally, rental value is 1 per cent of the value of the property. Why are Teleposta Towers tenants paying a rental amount of Kshs145 million per annum instead of Kshs300 million, which is the average rate for a building of its standard in this City?

**Mr. Were:** Mr. Speaker, Sir, we are aware that there are many buildings in Nairobi and this has caused stiff competition for tenants. Kshs145 million is what Teleposta Towers can fetch right now.

**Mr. Abdirahman:** Mr. Speaker, Sir, we have realised that investments which were done in the past are not paying back. I would like to know from the Assistant Minister what future guidelines he has. We know that Telkom Kenya had many resources in the past. I would like to know from him what advice he has given State Corporations regarding future investments since past investments have not yielded good fruits.

**Mr. Were:** Mr. Speaker, Sir, in the past, the parastatal was run by the former regime. But, as we talk now, Telkom Kenya is being privatised. Once it is privatised, I believe that the new owners will know how to handle their investment properly.

**Mr. Speaker:** The next Question is by Dr. Rutto.

COMPLETION OF KIPKELION  
TOWN WATER PROJECT

**Mr. Speaker:** Is Dr. Rutto not here? We will come back to this Question at the end.

*Question No.810*

TARMACKING OF KINYONA-NJABINI ROAD

**Mr. Waithaka**, on behalf of **Mr. O.K. Mwangi**, asked the Minister for Roads and Public Works:-

- (a) whether he is aware that Kinyona-Njabini Road is the link between Maragwa and Nyandarua districts;
- (b) if he is further aware that the road has been impassable for a long time, thereby curtailing trade between the two districts; and,
- (c) if the answers to "a" and "b" above are in the affirmative, when the Ministry will tarmack the road.

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

(a) I am aware that Kinyona-Njabini Road is one of the links between Maragwa and Nyandarua Districts.

(b) I am aware that a section of the road has been impassable for sometime now.

(c) The Ministry does not have immediate plans to tarmack Kinyona-Njabini Road. This road is unclassified and falls under the District Roads Committee (DRC). However, I have given instructions to both Maragwa and Nyandarua Districts DRCs to pay immediate attention to the section which is impassable with a view to having it repaired.

**Mr. Waithaka:** Mr. Speaker, Sir, it is only a portion between Kinyona and Kwavari which is unclassified. All the other sections of that road are classified as C67. The classified sections extend from Njabini to Naivasha. Does the Ministry have any plans to tarmack Road C67, which connects three districts, Nakuru, Nyandarua and Maragwa?

**Eng. Toro:** Mr. Speaker, Sir, the plans that the Ministry has at the moment include repairing Road C67, Gathora-Njabini. This road is currently being graded and gravel patching is going on. At the moment, the sections that were not motorable are now motorable. This road is going to be included for tarmacking in the programme for Dundori-Ol Kalou-Njabini-Gathora Road. So, that road is being given priority. The Kinyona-Njabini Road will have to be looked into later. The Kenya Wildlife Service (KWS) had a programme to gravel this road and only after five kilometres, the grader they were using broke down and they abandoned the project. I am sure we are going to ask KWS to see whether they can resume the work.

**Mr. Manoti:** Mr. Speaker, Sir, the Ministry of Roads and Public Works has got a very capable Minister and Assistant Minister. In most cases, they have never said no to any project which is asked by the hon. Members here. As you can see from the hon. Member who has asked this Question, this is a very important road and roads can improve the economy of any place. If the Assistant Minister knows that he has no money, why can he not say that there is no money? He told me that he allocated Kshs50 million for the Kisii-Kilgoris Road in my constituency in the last financial year. To date, I have never seen any improvement on that road.

**Eng. Toro:** Mr. Speaker, Sir, it is not that we are promising money when there is no money. However, I am saying that before we can do any construction, a design has to be done. So, when we are at the design stage, we do not require a lot of money and we cannot wait until we have

the money to do design work on certain roads. This particular road has two sections. There is the section from Maragwa and the one from Thika to Njabini. There is a shortcut from Kinyona to Njabini which passes through a deep forest which I said KWS were working on it. The other longer route is from Gathora to Njabini and on this one some consultants were commissioned at a cost of Kshs7 million to design for tarmacking from Gathora-Njabini-Dundori-Lanet. So, that is the position at the moment.

**Mr. Waithaka:** Mr. Speaker, Sir, Nyandarua is a settlement scheme and the majority of people who settled in Njabini came from Kinyona and they used that route through a deep forest. Kinyona to Njabini is less than 40 kilometres but today, for one to go to Kinyona, one has to travel to Nairobi which is more than 100 kilometres and then go to Thika which is 50 kilometres, get another vehicle to Kinyona which is another 50 kilometres. Imagine people covering 200 kilometres from Kinyona to go and see their relatives! Is the Assistant Minister considering this road as a priority to connect the two areas for the purposes of easy transportation because when Kinyona people have no food, we have a lot of food but we cannot transport it to Kinyona in order to assist them and *vice-versa*? It is a very important road. Is the Assistant Minister considering prioritising this road so that it can be tarmacked?

**Eng. Toro:** Yes, Mr. Speaker, Sir. We are giving consideration to this section of the road and I know this road very well. I am saying that at the moment, we have not programmed it for tarmacking or design. What we can do is to ask KWS to resume work because it is also receiving some funding from Kenya Roads Board (KRB) and we shall request them to resume the work that they had started and abandoned only after five kilometres. If they can do that, the section of the road from Kinyona to Njabini can be opened and it is passable.

**Mr. Speaker:** Mr. O.K. Mwangi, have you come?

**Mr. O.K. Mwangi:** Yes, Mr. Speaker, Sir. I have just come in.

**Mr. Speaker:** Okay. I will give you the very last chance.

**Mr. O.K. Mwangi:** Thank you, Mr. Speaker, Sir. While I appreciate what the Assistant Minister has said about this road, he should note that this road is very important to three districts, namely, Nyandarua, Maragwa and Murang'a. Since he says that KWS has already done some work, when does the Ministry intend to do the rest of the work? Whether it is going to be done by the KWS, all roads fall under the Ministry of Roads and Public Works and, therefore, the Assistant Minister is in a position to say when it will be done. When will it be done?

**Eng. Toro:** Mr. Speaker, Sir, I cannot say specifically when the work will be done but the only thing I can say is that we are going to look into the possibility of either KWS doing the section that is impassable or allocating money to the District Roads Committees (DRCs), Maragwa and Nyandarua to do that section of the road.

**Mr. Speaker:** Next Question by Ms. Adelina Mwau.

*Question No.681*

MEASURES TO SUPPORT  
REHABILITATION OF ALCOHOLICS

**Ms. Mwau** asked the Minister for Health:-

- (a) whether she is aware that the country now has a sizeable population of alcoholics, most of whom are young men and women of productive ages;
- (b) in view of the impact of alcoholism on economic production and interference with social fabric, what the Government is doing to support the rehabilitation of alcoholics and to prevent more Kenyans from being alcoholics; and,

(c) whether she could inform the House the number of rehabilitation centres in the country.

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

(a) Yes, I am aware that the country has a sizeable population of alcoholics as well as workaholics.

*(Applause)*

(b) In the struggle to curb alcoholism, the Government has put in place control mechanisms in the form of legal institutions for example, The Liquor Licensing Act, Cap.121, The Traditional Act, Cap.122 and The Customs Act. My Ministry is collaborating with the Provincial Administration, Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs), National Agency for the Control of Alcohol and Drug Abuse (NACADA), the private sector and international organisations such as the World Health Organisation (WHO) in trying to minimise the consumption of alcohol and drug abuse.

(c) My Ministry has a treatment and rehabilitation centre in Mathare Hospital here in Nairobi. Plans are also underway to establish rehabilitation centres in all provincial general hospitals, starting with Mombasa and Kisumu cities. These will be followed later with such centres being built in all districts. The NGOs and private sectors have also been supporting my Ministry in putting up such centres such as Chiromo Lane Medical Centre in Nairobi and Asumbi in Nyanza Province.

**Ms. Mwau:** Mr. Speaker, Sir, I thank the Minister for the answer. However, alcoholism is a disease and it is managed through rehabilitation. I am not talking about people who are mentally ill, and who are treated at Mathare Mental Hospital. I am talking about rehabilitation of alcoholics! One in every eight people who take alcohol ends up being alcoholic. I want to know from the Minister how many Government treatment and rehabilitation centres are functioning. Let her not tell me about Mathare Mental Hospital!

**Mrs. Ngilu:** Mr. Speaker, Sir, I would wish to visit that hospital with the hon. Member, so that she can see that we have an area where alcoholics are taken care of. They are rehabilitated and helped to become normal people, after which they get back to work. As I said, we are going to introduce the same care at the Coast and Nyanza Provincial General Hospitals. We will then do likewise in district hospitals.

**Mr. Marende:** Mr. Speaker, Sir, is the Minister aware that formalin, which is otherwise supposed to be used in theatres for operation, is being pilfered from medical institutions and used in the manufacture of *chang'aa*? If she is aware, what is she doing to curb that pilferage?

*(Loud consultations)*

**Mrs. Ngilu:** Mr. Speaker, Sir, could the hon. Member repeat his question?

**Mr. Speaker:** Order, hon. Members! It will help a lot if we consult quietly. You can see that the Minister did not get the question posed by Mr. Marende.

**Mr. Marende:** Mr. Speaker, Sir, I will indulge the Minister, largely because she is a workaholic!

**Mr. Speaker:** What did you say?

**Mr. Marende:** Mr. Speaker, Sir, I said she is a workaholic and not an alcoholic.

*(Applause)*

The question I asked is this: Is the Minister aware that there is serious pilferage of formalin,

which is otherwise supposed to be used in operations in theatres, and that it is used in the manufacture of *chang'aa*? If she is aware, what is she doing to ensure that that pilferage is curbed?

**Mrs. Ngilu:** Mr. Speaker, Sir, I am aware of that because it has happened for sometime. People have used formalin to manufacture *chang'aa*. This is very dangerous and we have ensured that we keep this drug under key and lock in our hospitals and mortuaries.

**Prof. Olweny':** Mr. Speaker, Sir, what policy does the Government have in place to reduce the consumption of alcohol in this country?

**Mrs. Ngilu:** Mr. Speaker, Sir, due to many years of societal decay, clubs and beer places have been opened nearly everywhere including in residential estates. However, we are ensuring that bars open only at the right time, and that alcohol is sold to the right people and in right amounts. This has to be observed! If club owners do not do so, then they will be breaking the law and it will take its course.

**Mr. Speaker:** Last question, Ms. Mwau!

**Ms. Mwau:** Mr. Speaker, Sir, you can see that this is a Question that has generated a lot of interest in this House. You heard that there are several non-governmental organisations (NGOs) that have set up rehabilitation centres. However, they are very expensive. For example in Karen, it costs Kshs300,000 to give treatment for six weeks, and Kshs2,000 per day at the Red Hill Centre, excluding drugs. What is the Ministry doing to make sure that those rehabilitation centres can be used by the poorest of the poor? Many parents have alcoholic children and they cannot rehabilitate them because doing so is very expensive.

**Mrs. Ngilu:** Mr. Speaker, Sir, it is really sad that businessmen will always exploit demand. People become alcoholic and, therefore, they have to be treated. Rehabilitation is private enterprise like any other. However, as a Government, we will ensure that our hospitals work well and are affordable, so that those unfortunate enough to be in this state will be treated.

I also want to say that we must continuously educate our populace on the problems affecting us. Apart from the very poor people, this is also a disease of the affluent.

**Mr. Speaker:** Very well! Next Question, Dr. Oburu!

*Question No.802*

REVIVAL OF NORTH  
SAKWA WATER PROJECT

**Dr. Oburu** asked the Minister for Water and Irrigation:-

- (a) whether she is aware that the North Sakwa Water Project was abandoned after the Government spent a substantial amount of public funds;
- (b) whether she is further aware that materials purchased for the project were neglected by the Ministry and subsequently vandalised; and,
- (c) if the answers to (a) and (b), above are in the affirmative, what urgent steps she is taking to revive this vital project.

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

(a) I am aware that North Sakwa Water Project was initiated in 1978 as a self-help water project. The project received funds from several sources, including the European Economic Commission, the Kenya Freedom From Hunger Council, the Government of Kenya and the beneficiary community. The construction work progressed smoothly until 1987 when it stalled due to lack of funds. By the time the project stalled, it was 30 per cent complete.

(b) North Sakwa Water Project was initiated on a self-help basis, and all the project

components and materials were in the custody of the project management committee. However, due to inadequate security arrangements from the project beneficiaries, the project components and some materials were vandalised when work on it stalled.

(c) My Ministry will appraise the project to establish the financial requirements to complete it. Since the project is highly prioritised at the district level, the newly established Lake Victoria South Water Services Board will take up the other stages of the project cycle until it is fully completed and operationalised.

**Dr. Oburu:** Mr. Speaker, Sir, this is a project which, as the Assistant Minister has admitted, stalled 17 years ago. He has also admitted that it has been prioritised by the district development committee. Moreover, the NARC Government has been in office for the last two years. If it is a priority project, why is the Assistant Minister referring me to some imaginary Lake Victoria South Water Service Board, yet I know that the provision and implementation of water projects in this country is the responsibility of the Ministry of Water and Irrigation? I want him to tell me what he is doing about it and not what a future board is going to do.

**Mr. Sugow:** Mr. Speaker, Sir, it is true that the NARC Government has been in operation for the last two years, but the Government of National Unity, to which I belong, is barely one year old. As far as implementation is concerned---

**Mr. Owino:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to assume that the NARC Government is non-existent?

**Mr. Sugow:** Mr. Speaker, Sir, I will ignore that one and go back to my response to the question.

The water boards, which were recently launched, are not imaginary. The Ministry is undergoing restructuring, and there is decentralisation of provision of water services to those boards. The boards have been established and will be operational. That responsibility has been given to the particular board under whose docket this particular project falls.

**Dr. Manduku:** Mr. Speaker, Sir, you will recall that in the early 1990s, Kenya severed relations with Norway. At that time, Norway had a group of companies called Norad, which were putting up water projects in this country. After the two countries severed relations, Norad left the country leaving many of those projects incomplete. For example, Keroka Water Project was left half-way done. Since Kenya has reinstated relations with Norway, could the Government arrange for Norad to come back and complete the projects, or put in place a programme to complete them?

**Mr. Sugow:** Mr. Speaker, Sir, I agree with the hon. Member that quite a number of projects stalled when many donors left the country due to political reasons in the past. However, the Government is trying its best to rehabilitate these projects based on the relationship it is re-establishing with the donors and on the availability of funds. So, I would like to assure the hon. Member that we will rehabilitate those projects.

**Mr. Korir:** Mr. Speaker, Sir, the Assistant Minister has said that the water boards are not imaginary. Could he tell us the role and mandate of the Lake Victoria South Water Services Board and where its headquarters is located?

**Mr. Sugow:** Mr. Speaker, Sir, that is a substantive Question. The hon. Member can file it, so that I can bring a comprehensive answer.

**Dr. Oburu:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is avoiding to answer the question. He is the one who informed us that there is a board called Lake Victoria South Water Services.

**Mr. Speaker:** Indeed, he has!

**Dr. Oburu:** Mr. Speaker, Sir, now, he does not want to tell us what it is. He is saying that it has to come as another Question. Is it in order for him to tell us that he is going to bring another answer on this board, which he has informed us that it exists? We do not know about it.

**Mr. Sugow:** Mr. Speaker, Sir, the mandate of that board is elaborate. If the hon. Member would like to know its role, it is only fair that we are given sufficient time to bring that answer.

**Dr. Oburu:** Mr. Speaker, Sir, this is a very important project in my constituency. It is in an area where women even divorce their husbands due to lack of water. I want to appeal to the Assistant Minister to consider this project under the Ministry of Water and Irrigation. I am asking the Assistant Minister to put this project back where it belongs; that is the Ministry of Water and Irrigation, and provide for the appraisal and budget for it, so that it can be implemented in the next financial year. I appeal to him not to throw this project to some board.

**Mr. Sugow:** Mr. Speaker, Sir, I sympathise with the hon. Member. I appreciate his appeal and I will consider it. However, I would also like to appeal to him to appreciate that this was a community project. As such, the role of the hon. Member and that of the community is paramount. I am ready to co-operate with the hon. Member and visit the project, together with the so-called imaginary board he is talking about, with a view to helping him implement it. So, I am ready to visit the project with the hon. Member any time after we proceed on recess, so that we can assess the project and bring on board the board to implement it.

**Mr. Speaker:** Very well! Capt. Nakitare's Question is deferred to next week!

*Question No.708*

ILLEGAL ALLOCATION OF  
KITALE KARI LAND

*(Question deferred)*

Next Question, Maj. Madoka!

*Question No.945*

COMPENSATION FOR MR. HERMAN  
MARINGA JEFA

**Maj. Madoka** asked the Minister Labour and Human Resource Development:-

- (a) whether he is aware that Mr. Herman Maringa Jefa of ID No.5520792, who was working for Greson Secondary School in Gilgil, was involved in an accident on 30th June, 1997, which caused him disability;
- (b) whether he is further aware that Mr. Jefa's claim under the Workmen's Compensation Act was calculated at Kshs64,805 by the Nakuru Labour Officer, Reference No.ML/NKU/005/02, dated 5th July, 2002; and,
- (c) when Mr. Jefa is going to be paid.

**The Assistant Minister for Labour and Human Resource Development (Mr. A. Khalif):**  
Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Herman Maringa Jefa, ID No.5520792, who was working for Greson Secondary School in Gilgil, was involved in an accident on 30th June, 1997, which caused him disability.

(b) I am also aware that a claim under the Workmen's Compensation Act, on behalf of the workman, was tabulated on 5th July, 2002, amounting to Kshs64,800 by the Nakuru Labour Officer, Ref. No. ML/NKU/005/02, dated 5th July, 2002.

(c) The employer has contested the award by the District Labour Officer (DLO), Nakuru.



So, Mr. Jefa will have to wait for the determination of the case before he can be compensated.

**Maj. Madoka:** Mr. Speaker, Sir, I appreciate the Assistant Minister's answer. It is true that the employer has contested the award. When they appeared before the labour officer, he advised the employer and the claimant to sort out their differences. It is almost two years since then. The employer has refused to discuss this issue with the claimant. Could he ensure that the labour officer talks to the employer and the employee, and make a decision as to which way forward?

**Mr. A. Khalif:** Mr. Speaker, Sir, it is true that the aggrieved person and his employer were supposed to discuss that matter. They were instructed to do so by the DLO, Nakuru. The officer expected the two parties to report to him whether they agreed or not but, to date, they have not done so. So, we are waiting for them to report to the DLO how they finalised the matter.

**Maj. Madoka:** Mr. Speaker, Sir, as I have said, the employer has refused to talk to the employee. So, the Ministry has a responsibility to get the labour officer to ensure that the employer meets the claimant.

**Mr. A. Khalif:** Mr. Speaker, Sir, we will ensure that this person is compensated.

*Question No.896*

REFUND OF MONEY COLLECTED BY  
MBAITU CO-OPERATIVE SOCIETY

**Mr. Mbai** asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that Mbaitu Multi-purpose Co-operative Society of Machakos District collected money from the public in 1999 to buy shares from Kenya Meat Commission and Kenya Orchards;

(b) whether he could inform the House the total amount collected in part "a" above; and,

(c) if the answer to part "a" above is in the affirmative, what measures he is taking to ensure that the amounts collected are refunded to the owners.

**The Assistant Minister for Co-operative Development and Marketing** (Mr. Kenneth):  
Mr. Speaker, Sir, I beg to reply.

(a) I am aware that some funds were collected for share capital of establishing Mbaitu Multi-purpose Co-operative Society and not for buying shares from the Kenya Meat Commission (KMC) and the Kenya Orchards.

(b) The total amount collected was Kshs670,000.

(c) The Ministry has directed the DCO Machakos to locate the officials to account for the funds they may have collected from members and report to us within a month from today.

**Mr. Mbai:** Mr. Speaker, Sir, this Assistant Minister has misled this House. I have got documents here to show that those people went round Machakos District collecting money and calling people to buy shares in the Kenya Meat Commission and Kenya Orchards. I have got some receipts here to support my argument. Could the Assistant Minister confirm whether the Kenya Meat Commission and the Kenya Orchards were on sale at any given time?

**Mr. Kenneth:** Mr. Speaker, Sir, I do not have the receipts or the documents that the hon. Member is referring to. However, I am aware that, indeed, some money was collected on account of share capital. I think we are not in dispute on the amount that was collected. I think the most important thing is now to trace how the money was used or misused.

**Mr. Mbai:** Mr. Speaker, Sir, I have documents here to support my argument. Could I lay them on the Table?

**Mr. Speaker:** Which documents are you talking about?

*(Mr. Mbai moved to the Chair and handed Mr. Speaker a document)*

Mr. Mbai, this document does not seem to help very much! It is simply written on Kshs500 for 25 shares, and then scribbled behind is the figure of Kshs500 is Kshs667, KMC, by a different signature. So, I will not accept this. I am sorry. Mr. Mbai do you have any other question? Mr. C. Kilonzo, do you want to assist your friend?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, the reason for the multi-purpose co-operative society going round and collecting money was in order for members to buy shares in the Kenya Meat Commission and the Kenya Orchards. That time, it had been confirmed that they were selling shares. What we are trying to find out is whether the Kenya Meat Commission had agreed at any particular time to sell shares to this particular group.

**Mr. Kenneth:** Mr. Speaker, Sir, I have stated that the amount that was collected was Kshs670. It is also stated that this Kshs670 was for share capital of establishing this society. It is that Kshs670 that I have ordered that it should be followed to the last cent, so that we can get it back to the members.

**Mr. Speaker:** For the record, Mr. Kenneth, is it Kshs670 or Kshs670,000?

**Mr. Kenneth:** Mr. Speaker, Sir, it is Kshs670,000. Thank you.

**Mr. Mwanzia:** Mr. Speaker, Sir, I happen to have looked at this answer which has been given by the Assistant Minister, and I am happy that the Minister has accepted that this multi-purpose co-operative society exists. It is true that this multi-purpose co-operative society exists, and we know the directors. It is a big issue in Ukambani because actually, money was collected prudently for this purpose. The Assistant Minister has said that the total amount collected was Kshs670,000 but I do not believe him. We have over 5,000 members and if you multiply this number by 500 people it is over Kshs2.5 million. Could the Assistant Minister in the report establish the number of---

*(Loud consultations)*

**Mr. Speaker:** Order! Order, hon. Members! There must be the atmosphere to communicate. The hon. Member is trying to put his point and the Assistant Minister cannot hear. Proceed!

**Mr. Mwanzia:** Thank you, Mr. Speaker, Sir. Could the Assistant Minister try to establish the actual number of people who became members because I do not believe it is what he has actually said, and also the amount which was collected by those directors, because we know them and the people want to be refunded. We actually know that KMC and the Kenya Orchards were not on sale, but they only wanted to make money.

**Mr. Speaker:** Very well! You are debating now!

**Mr. Kenneth:** Mr. Speaker, Sir, the society had recruited about 3,000 members, but the total amount that they had actually contributed towards the share capital was Kshs670,000. It is based on that, that we are taking action. The inquiry will be gazetted any time from now. The order was issued on 8th November, and within one month, we will have the results out. If anybody will be caught, he or she will be prosecuted for wrongdoing.

*Question No.907*

GOVERNMENT EXPENDITURE ON CKRC

**Mr. Marende** asked the Minister for Justice and Constitutional Affairs:-

- (a) how much money has so far been expended by the Government on the Constitution of Kenya Review Commission from the date it was set up;
- (b) what role the Commission has been playing in furtherance of its mandate since 15th March, 2004 when the National Constitutional Conference adopted a Draft Constitution; and,
- (c) whether he could justify the continued expenditure of public funds on the Constitution of Kenya Review Commission.

**The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae):** Mr. Speaker, Sir, I beg to reply.

(a) The Government has spent a total of Kshs2,786,000,000 on the Constitution of Kenya Review Commission from the date it was set up to date.

(b) The Commission has been engaged in the following tasks since 15th March 2004: Preparation and finalization of the final Commission Report and other Commission reports; preparation of the Draft Constitutional Bill for presentation to Parliament; compilation and finalization of the National Constitutional Conference Report; finalization of the HANSARD reports of all the Commission proceedings; strategic planning for the proposed referendum; consensus building and facilitation of the resolution of the review stalemate; finalization of the Commission data base and archiving; and, routine finance and administration matters.

(c) The project work-plan of the Commission is based on the Constitution of Kenya Review Act, and it shows that the Commission is yet to finalize its work and, therefore, it cannot be disbanded until its work is finalized.

**Mr. Marende:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for that answer, though it is not quite satisfactory. The Assistant Minister has treated that Question rather casually.

The intent and spirit of the Constitution of Kenya Review Act is that there would be no interference with either the Commission or the process of review by the Government. Could the Assistant Minister explain why he has allowed interference from the Executive with the Constitution of Kenya Review Commission, and why the Minister is directly interfering with Parliament as an organ of constitutional review?

**Mr. Githae:** Mr. Speaker, Sir, my answer was very exhaustive and, therefore, I demand an apology from the hon. Member for saying that I treated this Question casually. I think you cannot get a more serious answer than what I have given. I demand an apology!

Nevertheless, Mr. Speaker, Sir, the Executive has not interfered. The Minister has not interfered. Could you give instances where the Executive and the Minister have interfered with the process?

**Mr. Munya:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is telling us that the Commission is building consensus. We know that most organs of the Constitution of Kenya Review Commission are not functioning because of a court ruling. Why are we spending taxpayers' money on a process that is not moving forward?

**Mr. Githae:** Mr. Speaker, Sir, the process is moving forward. Recently, the President referred the Consensus Bill back to Parliament. We are required to pass those amendments, so that the process could move forward. In the meantime, the Constitution of Kenya Review Commission is very busy preparing all the reports and they have not finished.

Secondly, the law is very clear. The Commission cannot be disbanded until we have a new Constitution. The NARC Government was elected on a platform of justice and we are following the law to the letter!

**Mr. Billow:** It was only in the beginning of this week that we read reports about a letter written by the Head of Public Service and Secretary to the Cabinet - who is an Executive in the Constitution of Kenya Review Commission--- That is an example that we asked for. I want to ask a question. This Government has been dragging its feet! It has not shown any commitment whatsoever to the constitutional review process. Could the Assistant Minister tell this House why the Government cannot be bold enough, come out in the open and tell Kenyans that it has shelved the constitutional review process until after 2007, rather than waste taxpayers' money?

**Mr. Githae:** Mr. Speaker, Sir, the letter from the Head of Civil Service and Secretary to the Cabinet was written in his capacity as a stakeholder. Very many people and groups, including political parties, Members of Parliament and faith-based organisations have written memorandums. So, I do not know what is so peculiar or special about what the Head of the Civil Service did. He has raised some very pertinent issues about the number of commissions proposed by the draft Constitution. They need to be addressed. This is the right time for any other stakeholder to petition the commissioners to review some of those provisions.

Mr. Speaker, Sir, regarding the draft Constitution itself, the NARC Government promised Kenyans that it will give them a new Constitution. We have not and will never change our opinion! We want to give Kenyans a new Constitution. That is why we are saying that Members of Parliament should pass the Consensus Bill to give the way forward.

**Mr. Mwandawiro:** Bw. Spika, Waziri Msaidizi amesema kwamba pesa nyingi sana zimetumika kwa marekebisho ya Katiba. Wakenya wana shida ya kazi, njaa, umaskini na hawawezi kupigania Katiba milele. Ni lini Serikali ya NARC itawapatia Wakenya Katiba mpya?

**Mr. Githae:** Mr. Speaker, Sir, as I said, there is a way forward now. What is required is for us to pass the Consensus Bill, so that the draft Constitution from Bomas of Kenya can come here, together with the deliberations and agreements in Naivasha and many other reports. We can debate, approve and take our recommendations to the Attorney-General to prepare a Bill, which will be presented to Kenyans in a referendum.

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

**Mr. Marende:** Mr. Speaker, Sir, first of all, regarding the Assistant Minister's challenge, I offer no apologies to him! I still maintain that the treatment of this Question has been casual, and that the interference by the Executive is a matter in the public domain. One case has been cited by Mr. Billow. The Head of the Civil Service wrote a letter to the Chairman of the Commission asking her to act in a particular manner. I am a recipient of a copy of that letter, and so, is the Assistant Minister.

Mr. Speaker, Sir, there was also an instance where the Minister himself was aired in the national television saying that he will disregard any decisions, even by Parliament, on the amendment to Section 47, because the Government does not support it.

Mr. Speaker, Sir, I want to go back to the Act itself! That is why I am talking about casual treatment---

**Mr. Speaker:** Put your question! You know we are not in court, Mr. Marende!

**Mr. Marende:** Mr. Speaker, Sir, how does the Assistant Minister reconcile his answer with Section 26 of the Act, which provides that the Commission shall complete its work within a period of 24 months of commencement of the Act. We are aware that, that period was extended by this House once. But since then, there have been no further extensions and yet, the Act provides that the Commission shall complete its work within 24 months. Could the Assistant Minister explain that?

**Mr. Githae:** Mr. Speaker, Sir, I repeat and reiterate that the Executive has not interfered with this process. It has no intention of interfering with it. But, nevertheless, even the Executive is a stakeholder in the process. In fact, we are encouraging all the stakeholders to point out the

shortcomings in the draft Constitution. That is not interference.

Mr. Speaker, Sir, with regard to Section 47, that was not interference. It was an opinion by the Minister. He said that it was not necessary to amend Section 47 because not a single Constitutional Amendment Bill has gone through this House in the last four years. Even KANU tried it and failed. We have no intention of falling into the same trick. We shall not allow a minority-

--  
**Mr. Marende:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that the opinion on Section 47 was personal, when the Minister, himself, went on record saying that, that is the Government position and not personal?

**Mr. Githae:** Mr. Speaker, Sir, I am saying that, that is the opinion of the Minister as a Government Minister. That is not interference. It is an opinion. The way forward has been given and we need to pass the Consensus Bill.

**Mr. Omingo:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell this House that, that was a personal opinion of a Minister of Government?

**Mr. Speaker:** Order! I, in fact, encourage our Select Committee to bring the report, so that this House can discuss it.

*(Applause)*

It is their business to do so. They were set up by this House and they must come to report to this House. In fact, I am very upset by all the Press conferences being given on this matter, without the Members of that Committee reporting! I think Members of that Committee must understand that they are a creature of this House and that they have no legs of their own without this House. So, they must come to this House and not anywhere else. Proceed!

*(Applause)*

**Mr. Githae:** Mr. Speaker, Sir, I am also very upset!

**Mr. Speaker:** Order, hon. Members! The Question by Dr. Rutto is deferred to next week.

*Question No.835*

COMPLETION OF KIPKELION  
TOWN WATER PROJECT

*(Question deferred)*

#### QUESTIONS BY PRIVATE NOTICE

EVICITION OF SMALL-SCALE  
FARMERS IN ISIOLO

**Mr. Speaker:** Dr. Kuti's Question is deferred!

*(Question deferred)*

DIVERSION OF RELIEF FOOD  
IN KOIBATEK DISTRICT

**Mr. Sirma:** 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 nine bags of relief food were dispatched to Kabor Primary School in Koibatek District vide dispatch advice No.13587 on 7th September, 2004?

(b) Is he further aware that the consignment as collected by vehicle registration No. KAD 065T never reached the intended destination?

(c) Could the Minister explain the whereabouts of this food and what action he has taken to punish those responsible for the diversion of the food?

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

(a) The National Cereals and Produce Board (NCPB) depot at Eldama Ravine released nine bags of 90-kilograms each of relief maize vide dispatch No.B132587 on 7th September. Four bags of maize were to go to Kabor Primary School and five bags were for the "food for work" programme in Siboswet in Sogor.

(b) The food was loaded to the vehicle registration No. KAD 065T and entrusted to the area councillor, Mr. David Morogo, who was instrumental in the issue of the food to the two projects after pleading for their case. He had offered to transport the food.

The reports reaching us indicate that the food did not immediately reach the intended beneficiaries until 4th November, 2004, when the headmaster of Kabor Primary School indicated that he had received 10 bags of maize. The food allocated to the "food for work" programme for Siboswet has not reached the station.

(c) Investigations are being carried out to reveal where the food was between 7th September, 2004, and 4th November, 2004. I had dispatched only nine bags of maize, but ten bags were delivered to Kabor Primary School, according to the headmaster.

**Mr. Sirma:** Mr. Speaker, Sir, this is a clear case of corruption. I appreciate the answer from the Assistant Minister, but could he take action? The maize was transported between 7th September and 4th November, 2004, by a vehicle registration No. KAD 915D. Two parents and the driver of the vehicle which carried the maize from the NCPB depot at Eldama Ravine, recorded statements with the District Criminal Investigations Officer (DCIO). Could the Assistant Minister take an immediate action and arrest the culprits, including the officer who was in charge of the dispatch; the District Commissioner?

**Dr. Machage:** Mr. Speaker, Sir, indeed, diversion of relief food meant for the needy is a very serious issue and whoever will be found guilty of such an offence will face the full force of the law. Yesterday, I talked to the Officer Commanding Police Division (OCPD), Mr. Lomba, and I instructed him to ensure that:-

(1) The owner of the vehicle which carried the maize from the depot, the area councillor, is arrested.

(2) The owner of the vehicle which carried the maize from the councillor's place to the area where it was sold, is also arrested.

(3) The owner of the vehicle that carried the maize back to the school after having disappeared for three months is arrested.

This order was issued yesterday and I repeat it on the Floor of this House.

**Mr. Korir:** Mr. Speaker, Sir, was it procedural for the District Commissioner to give relief food to a councillor?

**Dr. Machage:** Mr. Speaker, Sir, in the distribution of relief food, just like in its collection of the same, volunteers are very much welcome. So, the DC was in order to that extent. If he was involved in the process of diverting the maize that was supposed to be delivered to the people - this is being investigated - and if found guilty, he will have to face the full wrath of the law.

**Mr. M. Maitha:** Mr. Speaker, Sir, nine bags of maize were dispatched. Where did the tenth bag come from?

**Dr. Machage:** Mr. Speaker, Sir, I am asking the same question.

**Mr. Sirma:** Mr. Speaker, Sir, theft of relief food is common in this Government. Could the Assistant Minister investigate the various relief food supplies which were issued by a former DC for sale to individuals, in that district?

**Dr. Machage:** Mr. Speaker, Sir, I totally deny the "above" allegation. My Ministry has worked so hard to make sure that relief food reaches the intended destination.

**Mr. Sasura:** On a point of order, Mr. Speaker, Sir. Did you hear the Assistant Minister denying the "above" allegation?

**Mr. Speaker:** Yes.

**Mr. Sasura:** Mr. Speaker, Sir, there is no "above" allegation here.

**Dr. Machage:** Mr. Speaker, Sir, then I deny the "below" allegation.

SUSPENSION OF WB-FUNDED HIV/  
AIDS REPRODUCTIVE HEALTH PROJECT

**Mr. Billow:** Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that the World Bank funded decentralised HIV/AIDS and reproductive health project covering 8 districts was suspended in August, 2004, before its completion next year?

(b) Could the Minister explain the reasons behind this drastic action?

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

(a) The World Bank funded decentralised HIV/AIDS and reproduction health project named "Deya", has not been suspended. I am aware that the Ministry of Health has agreed with the World Bank to restructure the district grants component of the decentralised HIV/AIDS and reproductive health project. The objective of this is to explore the possibility of adopting a direct fund disbursement approach to health facilities, similar to the one that is being done by the Ministry of Education on a pilot basis. This was in response to the fact that district grants, which were covering all districts in the country to support district based service interventions, had problems. The grants component was disbursed through the Pay Master General to the districts accounts. Of the allocated US\$16 million, only US\$4 million was released due to disbursement through the Exchequer mechanisms as well as slow reporting and submission of statements of expenditures from the districts.

(b) Currently, there is a World Bank mission that is concluding on the restructuring mechanisms of the proposed pilot disbursement process. The mission will finalise its work tomorrow and will submit its submissions to the World Bank Board by January, 2005.

**Mr. Billow:** Mr. Speaker, Sir, although belatedly, I must congratulate the Minister for her courage early this week when she stood up against a system that was opposed to the poor. I must also thank her for that answer. If you have listened to the Minister's answer, you will note that she has used the words "slow disbursement and reporting and the late submission of the statements of expenditure". All that could be summarised to mean bureaucracy. That has denied Kenyans in the

rural areas the much needed health care, resulting in only 25 per cent utilisation rate of the funds. Could the Minister tell this House how much was the total commitment for his project by the World Bank and over what period was it supposed to be utilised?

**Mrs. Ngilu:** Mr. Speaker, Sir, the total commitment to this project by the World Bank was US\$50 million. Out of this, US\$16 million was going through grants to the rural facilities for reproductive health and HIV/AIDS. Of this, a total US\$20,941,000 was allocated and committed to 23 goods contracts through the GTZ for procurement, purchase and delivery of blood safety kits, HIV/AIDS test kits, anti-TB drugs, vaccines, fridges, equipment, logistics, STI drugs and condoms. We are restructuring this to ensure that there is a faster flow of resources and that is why we have the World Bank consultants in the country, who are completing their work tomorrow. The report will be taken with a view to re-designing this project. This is because, the way it was designed, it has been very slow. It was supposed to take four years, from 2001 to 2005.

**Mr. Speaker:** Next Question by Mr. Wamunyinyi!

REPAIR OF SCHOOL CLASSROOMS  
IN KANDUYI CONSTITUENCY

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

(a) Is the Minister aware that on 8th October, 2004, several schools in Kanduyi Constituency were damaged by strong winds, leaving many pupils without classrooms?

(b) What is the Minister doing to ensure that the classrooms are repaired to allow pupils continue with learning?

(c) Could the Minister consider establishing permanent emergency fund within the Ministry to cater for these kind of emergencies?

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

(a) I am aware that four primary schools in Kanduyi Constituency were damaged by strong winds on 8th October, 2004. The damaged schools are Buema, Kibabii, Marakaru and Kakichuma primary schools.

(b) The Government is currently involved in the provision of textbooks and instructional materials to all school-going children in public schools under the free primary education programme. In terms of classroom reconstruction, the Ministry expects the local community, local leaders and other stakeholders to meet and strategize on the best way possible to rehabilitate the damaged classrooms.

(c) At the moment, the Ministry has not put in place any mechanisms to meet the cost of rehabilitating damaged classrooms in any school. However, we are in the process of looking for ways and means of addressing the problem as a matter of national concern, because this is a problem nationally.

**Mr. Wamunyinyi:** Mr. Speaker, Sir, the local communities and local leaders, including ourselves, are aware that we are not supposed to organise Harambee. Five months after the Budget, the Constituency Development Fund (CDF) committees have not received funding from the Government. Therefore, arising from the answer given by the Assistant Minister, that the local leaders and other stakeholders meet and strategize on the best way possible to rehabilitate the damaged classrooms, this is not practical. The parents as well as hon. Members are aware that we are not supposed to organise Harambees. Which specific ways is he referring to when he says we can organize to reconstruct the schools?



**Dr. Mwiria:** Mr. Speaker, Sir, just because Members of Parliament cannot preside over Harambees does not mean they cannot mobilise resources. I think leaders have other ways of doing it and it is important for us to explore these ways. I must reiterate that, I think the principle here is one of cost-sharing and that will require, ultimately, whether we like it or not, communities to do something while the Government is looking for ways of ensuring that we have instructional materials and teachers.

**Mr. Onyancha:** Mr. Speaker, Sir, there have always been emergency funds at the Ministry headquarters to fund schools that have had this kind of misfortune. Why not these schools from Kanduyi Constituency?

**Dr. Mwiria:** Mr. Speaker, Sir, we do not have any emergency funds as such set aside. What happened towards the end of the last financial year is that, some monies that were remaining were given to specific schools that made requests. However, we have been thinking about the possibility of coming up with an emergency fund. The problem is limitation of available resources from Treasury. I would like to say that we would like to do this, but a great deal will depend on the extent to which we will have resources availed to us by Treasury.

**Mr. Sasura:** Mr. Speaker, Sir, since last year, we have had several Questions from Members of Parliament similar to this, and this Ministry has always given us the same answer. When the Ministry talks about stakeholders, it is basically talking about sponsors of schools who are not there nowadays. In addition, it is not fair for the Ministry to keep telling us to solicit funds from other stakeholders because headmasters are adamant. They know that when they ask for money, they will be victimised by the Ministry. Now that the Ministry has been promising since last year to put some policy in place to attend to such calamities as fire, wind and rainfall, when will this policy come out?

**Dr. Mwiria:** Mr. Speaker, Sir, I would like to assure the hon. Member that we promised to do something from last year, and we have been trying to do something. But again, a great deal has been subject to how much resources were available to us as a Ministry. We were not able to get any money from the Treasury for this purpose. We will, however, continue to pursue it, as much as we continue to encourage communities to be prepared to deal with emergencies in the absence of that particular fund.

**Mr. Wamunyinyi:** Mr. Speaker, Sir, the Assistant Minister confirmed that various schools that have suffered calamities in the country have been given support. Why can he not extend this to the schools in Kanduyi Constituency? In addition, he should possibly explain the criteria used in giving those funds while he explains what he is doing in the Ministry. Just telling us he is finding ways is not enough.

**Dr. Mwiria:** Mr Speaker, Sir, the ways we are looking for is to come up with a lasting solution to the problem. I said clearly that the schools that benefited from that, benefited from some balances from the last financial year. So, the circumstances for the schools in Kanduyi Constituency are different, and I am sure they are not prepared to wait until the end of the financial year to check if there are balances. So, meanwhile, I think they should do their best to see what they can do as communities, because the young pupils must learn. But I must promise that it is in our interest to come up with a long-term solution as quickly as we can.

**Mr. Speaker:** The next Question by Mr. Muiruri is deferred to Tuesday.

GOVERNMENT POSITION ON  
ALTERNATIVE PRESS

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

- (a) Is the Minister aware that certain publications, especially the *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 these publications and what measures has he put in place to regulate their operations?

*(Question deferred)*

### POINT OF ORDER

#### ALLEGATIONS OF BRIBERY DURING MEMBERS' RETREAT AT WHITESANDS HOTEL

**Maj. Madoka:** On a point of order, Mr. Speaker, Sir. Would it be in order for us to also demand that the Questioner comes prepared to respond to the allegation he made that Members of Parliament were bribed with Kshs10,000 to attend the conference at Whitesands Hotel?

**Mr. Speaker:** You mean you are putting a Question on an hon. Member?

**An hon. Member:** Yes, because he did it!

### COMMUNICATION FROM THE CHAIR

#### MEMBERS MUST UPHOLD THE DIGNITY OF THE HOUSE

**Mr. Speaker:** Order, hon. Members! Can I say the following? We have been here for less than two years as this Parliament. I did state last week that, it is up to this House to decide its place in the history of our parliamentary democracy. Everyday, we seem to be eroding, at a very alarming rate, the dignity, integrity and honour of this august House. I think hon. Members must be very careful.

I must also remind hon. Members that there are avenues to deal with your colleagues who lower the integrity of this House; namely, the Powers and Privileges Committee. If any Member feels that, through utterances, actions or conduct, a fellow Member has behaved in a way that demeans, derogates or lowers the integrity of this House or that of a Member, then you are at liberty to write to the Powers and Privileges Committee, so that, that Member may be summoned to that Committee and be brought to account for actions that demean this House. I hope, in the meantime, that every hon. Member will uphold the integrity and honour of this House.

Thank you.

Mr. Munyao, before you---

**The Minister for Health** (Mrs. Ngilu): On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it? He is on a point of order, Mrs. Ngilu! Is it on what I have just said?

**The Minister for Health** (Mrs. Ngilu): Mr. Speaker, Sir, it is on what you have said.

**Mr. Speaker:** Yes! Maybe, I can hear it!

**The Minister for Health** (Mrs. Ngilu): Mr. Speaker, Sir, it is on record that an hon. Member of this House said that when we attended a workshop in Mombasa - and we have done so before - hon. Members only did so because they were paid Kshs10,000 each and it was a holiday for them. I think that is very demeaning to hon. Members.

*(Applause)*

That was a very serious workshop that would have changed the faces of the people whom we represent. I still believe we are still on course with the National Social Health Insurance Bill. I truly believe that, that hon. Member should come and apologise to this House for his utterances. That is certainly not acceptable. Once again, I want to thank all hon. Members who attended the workshop in Mombasa.

*(Applause)*

**Mr. Speaker:** Order, all of you! Just take it from me that my statement is much more authoritative than any one of you, if I make it from the Chair. So, that should end that issue now! Anybody complaining about it, please write to the relevant Committee. The statement from the Chair is enough, authoritative and strong! That is enough!

**Mr. Mbau:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it again?

*(Laughter)*

**Mr. Mbau:** Mr. Speaker, Sir, the Chair has just advised that such an hon. Member, or any other Member, should be summoned by the Powers and Privileges Committee, of which I am a Member! I have never been invited for any meeting. When does it meet?

*(Laughter)*

**Mr. Speaker:** Order, hon. Members! The Powers and Privileges Committee only meets when there is business to transact. Create the business and the Committee will meet! If there is no business, the Committee will not meet.

*(Applause)*

Order, hon. Members! I will not have any more of this now!

*(Mrs. Ngilu stood up in her place)*

Order, Mrs. Ngilu! Will you, please, sit down?

**Hon. Members:** Name him! Name him!

**Mr. Speaker:** Order, hon. Members! You must understand that an hon. Member can only be dealt with on the Floor of the House, if he or she does a mistake on the Floor of the House. That will be dealt with by the Chair and the House together. If you do something outside the House, then the proper forum to deal with that hon. Member is the Powers and Privileges Committee! I have just advised you. Until you write to the Chairman of that Committee, there is no agenda before it.

However, that does not mean the Chair will ever accept any statement of conduct that demeans the collective membership of this House, or the House itself. I am the custodian of the dignity, integrity, rights and privileges of this House! Therefore, any assault on the collective membership of this House is also an assault on the whole House and the Chair. So, we take that with

a lot of seriousness!

Mr. Munyao, please, proceed!

### MINISTERIAL STATEMENT

#### REVIVAL OF KENYA MEAT COMMISSION

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, on 9th or 10th of this month, hon. Katoole Metito, Member of Parliament for Kajiado South, requested for a Ministerial Statement from the Minister for Livestock and Fisheries Development on three issues regarding the Kenya Meat Commission (KMC).

He specifically asked: What is the debt owed by KMC to National Bank of Kenya (NBK)? What was the security pledged? Who are the other creditors of KMC and what securities were pledged for the same? Did the Attorney-General give advice on securities where they were pledged or any other case sheet on behalf of KMC? Finally, who is the receiver manager? Who pays him? How much is he or she paid a month and whose business is he conducting?

Mr. Speaker, Sir, I want to issue the following Ministerial Statement in regard to the same. To begin with, may I clarify that the Board of KMC was, indeed, inaugurated much earlier in June this year. What was promised to hon. Members during the Ministry's Vote was that the KMC Board was to move its functions the following day to the Athi River premises. May I also inform hon. Members that, since the inauguration in June last year, the KMC Board has been conducting its business from the Ministry's Headquarters in Kilimo House and not in the KMC registered office in Athi River.

Mr. Speaker, Sir, may I now specifically respond to the issues raised by the hon. Member. One, in an effort to restructure KMC, the Ministry of Livestock and Fisheries Development dissolved the KMC Board due to poor performance and appointed a caretaker committee in 1987. While doing so, the Treasury, through the NBK, also made available to KMC Caretaker Committee an overdraft facility amounting to Kshs120 million to enable continued operations. A security of documents related to that transaction indicated that, that overdraft, which was not secured, was used up and never serviced as KMC continued to slide into more financial problems. The alleged debt, including interest charges, now stands at approximately Kshs2.7 billion. The NBK has alleged that the Government was the guarantor to the alleged loan and, hence, the loan validity, irrespective of whether there was KMC Board approval or not. Subsequently, the NBK took the KMC Board to court. That matter is, therefore, before the court for determination.

Mr. Speaker, Sir, two, with regard to the KMC creditors, I wish to inform hon. Members the following:-

The Mitsubishi Corporation UK Ltd. loaned Kenya US\$3.3 million for the purchase and installation of machinery and equipment for manpower training. The loan was secured through a registered debenture over the machinery and equipment, and it remains outstanding to date.

Secondly, at different times the Government advanced KMC funds towards various activities, including the purchase of livestock during drought spells, rehabilitation of buildings, infrastructure and so on. The loans advanced by the Government currently stand at Kshs1.3 billion. Most of the debts owed to known unsecured creditors have been settled with funds provided by the Government.

Thirdly, with regard to the role of the Attorney-General in this matter, I wish to inform hon. Members that after a meeting between the Solicitor-General, the Permanent Secretary in the Ministry and members of staff on 8th March, 2004, it was concluded that National Bank was not a

valid debenture holder to the extent that there are no legal charges on KMC property for the alleged borrowing. Despite this, the National Bank of Kenya took the board of KMC to court. So, the matter is still pending in court.

Mr. Speaker, Sir, fourthly, may I inform the hon. Members that there are two receiver managers at KMC, namely; Mr. Nelson Njoroge from the National Bank of Kenya, and Mr. Duncan Kamau Keriro from the Ministry of Education, Science and Technology. Both of them are paid by their respective employers. I, therefore, have no details of their pay packages. The receiver managers are currently providing security and paying insurance for the KMC assets, as well as collecting rent from leased premises and houses. The rent collected is about Kshs600,000 per month.

Mr. Speaker, Sir, in conclusion, I want to assure hon. Members that my Ministry has resolved to revive the KMC as soon as the above matters are put to rest.

**Mr. Wario:** Bw. Spika, wakati Serikali ilishtakiwa na National Bank of Kenya, kwa nini Serikali haikutuma wakili wake kuitetea kortini? Je, kuna uwezekano kwamba hii Serikali imepanga njama ya kunyakua pesa hizo kiasi cha Kshs2.7 milioni?

**Mr. ole Metito:** Mr. Speaker, Sir, now that the Minister has confirmed that there was no Government guarantor during the award of the loan, does that invalidate the loan that the National Bank of Kenya gave to KMC? Secondly, the rent that is being collected by the receiver manager from the KMC estates, is it being used to service the alleged loan that KMC owes the National Bank of Kenya?

**The Minister for Livestock and Fisheries Development (Mr. Muniyao):** Mr. Speaker, Sir, if I can begin with the latter question, when a receiver collects money, it is a normal legal practice which needs to be looked at. First the receiver never states how much he is spending and how much he is collecting. Currently, the receiver is collecting rent from KMC premises and other sources. The money is used to service whatever activity the receiver is engaged in, for example, insurance and other matters. So, with regard to the question about any interest that might be accruing to our benefit, that is for the receivers to determine.

With regard to the issue of guarantors, this loan is purported to have been given out to KMC. Historically, KMC was only given Kshs160 million by the National Bank of Kenya. The money was secured by the various assets that KMC owned. When the loan was given out, I presume there was no bond at all.

My colleague, the Shadow Minister, wanted to know whether the Kshs2.7 billion is for other uses or not. The provision of Kshs2.7 billion in the Vote for my Ministry - and I stated it very clearly when introducing the Vote - was meant to help in the revival of KMC. Through the revival of KMC, the Ministry can get more money to pay back. Otherwise, up to now, we are clean.

**Mr. Wario:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to dodge my question? I asked him why the Government was not represented in court.

**The Minister for Roads and Public Works (Mr. Raila):** Mr. Speaker, Sir, that is a bad procedure. Hon. Wario originally asked his question in Kiswahili. Now he has reverted to the use of English. Is that allowed by the Standing Orders?

**Mr. Speaker:** Well, that was a different speech from the one he is making now.

**Mr. Sirma:** On a point of order Mr. Speaker, Sir. Given that there is a board of directors of KMC whose chairperson is Mr. Masika contrary to the recommendations by the Public Investments Committee (PIC) that he should not hold any public office, is the Minister in order to appoint such a man?

**An hon. Member:** That is not a point of order!

**Mr. Speaker:** I do not know. Anyway, is it relevant to the matter concerning the opening of

KMC?

**Hon. Members:** Yes, Mr. Speaker, Sir!

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, hon. Wario, who is the Shadow Minister for the Ministry of Livestock and Fisheries Development, asked why the Government was not represented in court. The Government was, in fact, represented. When the Ministry appointed the board of directors, the board had to be represented in court. There was some representation.

In as far as hon. Sirma's "point of order" is concerned, I think that the Chair could provide some time and space so that hon. Members can be taught how to raise points of order in the House. We should set aside a room in Continental Building where hon. Members like Mr. Sirma can gather to be taught Standing Orders. That will help us very much.

**Mr. Onyancha:** Mr. Speaker, Sir, is the Minister in order to refer to Mr. Wario as his "shadow" when we know that Mr. Wario can only be a Shadow Minister?

**Mr. Sirma:** Mr. Speaker, Sir, what I raised was a valid question in relation to KMC. It is not in order for the Minister to dodge that question.

**Mr. Speaker:** Order, Members! All of you are now getting it wrong. I must now bring you back to order. You are under the wrong impression that it is now Question time. It is not Question time. The Minister was reading a Ministerial Statement and what you are entitled to is to seek clarifications. That is all. If he has clarified or not, that ends the matter now.

Next Order!

## BILLS

### *First Reading*

#### THE APPROPRIATION BILL

*(Order for First Reading read - Read the  
First Time - Ordered to be read  
the Second Time today)*

**Mr. Speaker:** Order! Before I call the Minister, hon. Members will realise that in the Order Paper, Order No.7 is the Appropriation Bill for First Reading. Order No.8 is Appropriation Bill for Second Reading and Order No.9 is Appropriation Bill, Committee of the Whole House. This is because unlike other Bills, all the three stages of the Appropriation Bill can be undertaken in one sitting. So, you can have a First Reading, Second Reading, Committee Stage and read it a Third Time the same day. Unlike other Bills, it is the only one exempt.

Proceed now.

### *Second Reading*

#### THE APPROPRIATION BILL

**The Minister for Finance** (Mr. Mwiraria): Mr. Speaker, Sir, I beg to move that The Appropriation Bill, 2004, be read a Second Time.

Mr. Speaker, Sir, let me start off by thanking hon. Members for passing the Bills in this House during the debate that "Mr. Speaker Do Now Leave the Chair." This Bill seeks statutory

approval by Parliament of Government expenditures contained in Estimates of the financial year 2004/2005. The Estimates for Recurrent and Development Expenditures were laid in this House on 10th June, 2004, and the House approved the Vote on Account on 23rd June, 2004. Since then the Government has been disbursing funds on the basis of that authority.

The 50 per cent approved on the 23rd of June, 2004, is nearly exhausted and the enactment of this Bill will enable the Government to access the balance for continued provision of services without interruption. I need to emphasise here the fact that some of the projects have been moving faster than anticipated, but they cannot pay until we approve the second 50 per cent of the Budget to enable Accounting Officers to disburse the funds.

Since this House approved the Vote on Account, few events have taken place. This includes the re-organisation of Government for efficient delivery of services to our nation. It also includes the long Somali peace process that culminated in the inauguration of the President for Somalia. It also includes the escalation of famine situation, which we have had to finance during the period from June. These events have involved substantial expenditure on the part of the Government.

In the re-organisation of the Government, two additional Ministries were created, namely, the Ministry of East African and Regional Co-operation and the Ministry of Information and Communications. However, this re-organisation had minor impact on Government expenditures since they were funded through re-allocations. The current financial constraints have been aggravated by circumstances beyond our control, principally, the famine situation and the worldwide increase in oil prices.

Mr. Speaker, Sir, the Guillotine Motions included the two Votes and re-estimates have been reorganised to reflect the new structure of Government. Despite the heavy business schedule, this House managed, during the allotted time, to discuss eight Votes as follows: 1. Vote 01 - Office of the President

2. Vote 05 - Office of the Vice-President and Ministry of Home Affairs
3. Vote 07 - Ministry of Finance
4. Vote 11 - Ministry of Health
5. Vote 12 - Ministry of Local Government
6. Vote 13 - Ministry of Roads and Public Works
7. Vote 19 - Ministry of Livestock and Fisheries Development
8. Vote 31 - Ministry of Education, Science and Technology.

The rest of the Votes were approved through the Guillotine procedure in accordance with provisions of Standing Order No.142, paragraph 7.

The Appropriation Bill, 2004, contains details of supply for each Vote and the amount to be applied as Appropriations-in-Aid. Clause 2 of the Appropriation Bill, 2004 provides for the issue out of the Consolidated Fund of the sum of Ksh251,997,187,474 and to appropriate the funds for the various services and purposes during the year ending 30th June, 2005. This sum includes the amount authorised by the National Assembly on 23rd June, 2004 by Vote on Account and under Section 101 of the Constitution of Kenya Act.

Clause 3 of the Bill makes provision for sums to be applied as Appropriations-in-Aid for various services and purposes. Included in the supply of Kshs251,997,187,474 are allocations for the following services: Recurrent Expenditure, Office of the President - Kshs2 billion has been allocated for maize for famine and disaster relief. Ministry of Finance - Kshs3.4 billion for harmonisation of Kenya Civil Servants Salaries. Ministry of Finance has also got Kshs4.4 billion as a grant to the KRA for tax administration. It is important to emphasise here that this amount is part of the 1.5 per cent which we pay annually to the KRA. The Ministry of Health - Kshs70 million for purchase of ambulances. Ministry of Foreign Affairs, Kshs400 million for expenses of Somali Peace

Talks.

Mr. Speaker, Sir, on the Development Vote, the Ministry of Finance has also been allocated Kshs4.5 billion for Constituency Development Fund (CDF). I think it will be appropriate for me to add that this figure was based on our earlier estimates. Indications are that this figure will rise up to Kshs5.6 billion given the increase in revenues we have collected during the first four months of this year.

*(Applause)*

The Ministry of Roads and Public Works has been allocated an additional Kshs1 billion to meet the cost of stalled projects. Having briefly appraised the hon. Members on the objects and reasons for bringing this Bill, I now call upon them to pass it in order to authorise the issuance of funds from the Consolidated Fund from time to time to meet expenditure as contained in the Recurrent and Development Estimates for the 2004/2005 Financial Year. Mr. Speaker, Sir, allow me to thank all the hon. Members for their full engagement on issues of public expenditure, management, very constructive and informative contributions and their constructive criticisms of the Government where they are warranted. I fully appreciate their contributions during the debate and in the Committee of Supply, and look forward to working together for the good of this nation.

In summary, the Bill before the House is intended to approve the remaining 50 per cent of the Budget, so that the Government's estimates of expenditure, both Recurrent and Development, will be available for use.

Mr. Speaker, Sir, with these few remarks, I beg to move.

**The Minister for Roads and Public Works** (Mr. Raila): Thank you, Mr. Speaker, Sir. I beg to second the Bill.

The hon. Members who spoke, first, during the debate on the Budget and thereafter during the Vote, were all in unison in congratulating the Minister in the way he has handled his docket since he took over sometime last year. This is a very difficult docket because it is the heart of the Government. Mr. Speaker, Sir, the Bill we are discussing today is like a ritual. The Government cannot function if the House does not pass it. That is why, first, we are very grateful to the House for approving the Vote on Account on 23rd June, this year. This has enabled us to move this far. We all know that we are actually managing a shoe-string Budget because of the state of the economy today. We are determined to do our best within the limited resources at our disposal to provide services to the people of this country.

As the Minister for Finance has said, my Ministry has been allocated an additional Kshs1 billion in the Development Estimates basically to jump-start the process of completing some of the stalled projects which dot this country. Some of the projects, as we know, were started without any intention of being completed, but merely as avenues for fleecing public funds.

We are trying to live up to the promises which we gave to the people of Kenya during the campaign of 2002. Every Ministry of the Government is trying its level best in this country. Whether it is the Ministry of Education, Science and Technology, the Ministry of Health or the Ministry of Gender, Sports, Culture and Social Services, it is striving to provide services to Kenyans. That is why I do not intend to take a very long time contributing on this Bill.

Mr. Speaker, Sir, with these very few remarks, I beg to second.

*(Question proposed)*

**Mr. Speaker:** Order, hon. Members! I wish to give the House guidance. As the hon. Minister for Finance and the hon. Minister who has seconded him have said, the policies in relation



to this Bill have been discussed since June, 2004, beginning with the Budget Speech and then the Committee of Supply. So, in an Appropriation Bill, you do not re-open debate on questions of policy, but concentrate on how the Government will use the money that you will approve because you have already approved half of the money. It is the other half that is at issue.

**Mr. Billow:** Thank you, Mr. Speaker, Sir. I will restrict myself not to the policies, but to the utilisation of the money. It is always interesting to see Government Ministers congratulate each other on their performance. However, this House is being asked to authorise an expenditure of Kshs252 billion. While that is a ritual we have performed for many years in this country, it will not be wise if we do not express the concern of Kenyans over the manner in which the money will be utilised this year.

Concern has been raised by Kenyans over prudent management of our resources or financial discipline in this country. Kenyans are no doubt, in spite of the congratulations by the Ministers, getting disillusioned in the manner in which resources are being utilised today, as indeed, they were in the past. We expect the Government to utilise the resources which we will approve for the purposes for which they have been voted for. The Government should know that, as Parliament, we are not here to merely vote for money, and when the Ministers leave this House, they spend the money the way they want and on expenditures which have not been authorised by this House.

*[Mr. Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, it is important that we send the message across that Kenyans are today watching carefully to ensure that the Government spends the money strictly on the Votes which we have approved. This is because we have seen money being spent on projects and programmes which Parliament has not approved. The off-budgetary expenditures or reallocations of funds which have been voted for specific items to other items should not be allowed in this country. This is the source of the problems we have in this country. The poverty we experience in this country and the glaring inequalities which have been reported in this country are not only because of the bad economic policies we have had, but because of the mismanagement of the little resources we have. I agree that this is a shoe-string Budget, but if we are not careful in the way we spend the money, the little we have will be wasted and Kenyans will only get poorer.

Mr. Temporary Deputy Speaker, Sir, I would like to urge the Minister to be prudent in terms of the priorities when allocating or disbursing funds. Exchequer releases is one of the main trouble areas in this country. Even after being voted for by this House, they are being allocated to Ministries sometimes on criteria that are not clear. A Ministry that is very important does not access money from the Treasury, yet another Ministry, which might not be that important, accesses huge amounts of money in terms of the actual disbursements from the Exchequer. We are told that this is largely as a result of the patronage and the influence peddling that we have seen in this country, and because of other factors. We want this Minister to develop specific criteria for the disbursement of money.

Mr. Temporary Deputy Speaker, Sir, I am saying this because today as we speak, you will find projects for which money has been voted in this House and in a whole year, there is no money that ultimately gets to that project, and we are told that the funds are not available. In this regard, I want to mention that one of the problems that we are facing today, if you go to the districts, is liquidity problem. I think it is important that the Government acknowledges that there is serious liquidity problem. Districts are not able to get money for projects which have been approved.

Today, we are almost in December and many of the projects which have been approved for funding this financial year have not commenced. It will probably be in January when this Government will start releasing money for development projects, and by March, we will be told that the Government has to start winding up and districts also have to start winding up. So, in effect, we only have three months in which to start spending money, and that is not enough, and ultimately, you will always hear that--- When you go through the Public Accounts Committee reports, you will find that huge amounts of money are being returned to the Treasury.

Before I go into that issue, I want to mention the issue of liquidity. Now, the liquidity problem is a serious matter. We are, indeed, being informed that as late as, in fact, October, there were difficulties even in paying salaries for some of the Ministries in the Public Service. This was because of the inability of the Government to raise money from the bond auctions. Throughout most of October, the Government was not able to raise money from the bond market and we are being told now that, in fact, in this month of November, the Government is, in fact, moving away from the bond auctions and shifting to Treasury Bills. I do not want to discuss policies; the implication of this is very important on the financial markets in this country because we are being told that the reasons why the banks or those players in the money market are not going for the bonds is because of the low interest rates and that they are, in fact, pushing for interest rates above 7 per cent.

We have read reports and we understand that our donors, particularly the International Monetary Fund (IMF) and the World Bank, have been pushing for a higher interest rates regime, and I think the impact of that on the economy of this country is going to be disastrous as we have seen in the past. The reasons given by IMF are not necessarily acceptable reasons. The reasons that if we do not raise our interest rates, there is going to be a capital flight from this country into countries in the region that have got higher interest rates is not acceptable. The IMF is steeped in traditional economic policies which have been rejected in many parts of the world. We do not invite investors simply to invest in our money market. We want investors to invest in the productive sector of our economy. Those are recessionist policies and they are not going to help us. By investors merely coming in to invest in the capital market is not going to be useful, and I want the Government to stand firm for the benefit of the poor in this country and for the benefit of the---

### QUORUM

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, there is no quorum in the House.

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, there is no quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members! Order! We have a quorum now. You may proceed, Mr. Billow!

**Mr. Billow:** Mr. Temporary Deputy Speaker, Sir, I was talking about the issues of liquidity and the problems that the Government is facing in raising money from the money market because of the perceived low rates of interest. I also mentioned the pressure that is being exerted on this country by IMF and others to push up the interest rates so that we do not have capital--- I had mentioned all that. I also mentioned that the Government should stand firm against the pressure to raise interest rates in this country. The fact that our interest rates are low does not mean that there is going to be a capital flight from the country. The World Bank and IMF are worried about the low interest rates because it discourages the Government from the borrowing from them, and because there is also pressure from the major foreign banks that are in this country, which are pushing these

international institutions for higher rates. This is because they make higher profits when interest rates are very high.

I also want to express my concern regarding the Treasury. At the end of the day, most of the money that we are going to authorise today will not be spent. It will not be spent because there will be no money, but because of the bureaucracy that exists in the process of Exchequer releases and the disbursement of money to the districts. We have seen this and we have, in fact, also read reports of concerns by the donors today that because of the Government's inability to spend money or to disburse money quickly, donors are thinking twice about whether they should give money to this country or not; we have read about that. This is a matter that hon. Members have raised time and again through Questions in this House. We want the Ministry of Finance to come up with new ideas on how to spend money quickly, especially the disbursements for development projects; the Exchequer releases. That process is cumbersome, slow, and it really discourages many of us who are always pushing for more money. When you hear about money being returned to the Treasury, it is not because those people in the districts were not able to spend; it is because the money comes very late and there is no time to utilise it.

Mr. Temporary Deputy Speaker, Sir, lastly, I want to mention that in approving these Votes, there are concerns that the Treasury needs to address the issue of debts. A short while ago, during Question Time, questions were raised regarding the validity of some of the debts. Before the Ministry of Finance approves any debts in the Printed Estimates, they must take time to determine the validity of that debt. We have debts which are questionable today which have been included in these Votes, and we are going to authorise the Ministry to spend, yet these are matters which are in court. For example, the one of the Ministry of Livestock and Fisheries Development; Kenya Medical Research Institute's (KEMRI) money - Kshs500 million - is doubtful. The Ministry of Health is not willing to pay. Much of the Kshs12 billion worth of debt that is to be written off through the Ministry of Finance is doubtful, including the one for the Agricultural Finance Corporation (AFC). I think it is important that the Ministry of Finance establishes the validity of any debt before it puts it in the Budget.

Additionally, I must also mention that one-third of the money that we are going to authorise here is, in fact, going to be spent on redemption of debts. Some of the debts which have been included in the Printed Estimates are doubtful. These are debts relating to institutions such as not only Anglo Leasing and Finance Company, but also Silver Sonic, and several other of those type of companies. We are being told that those debts are not going to be paid. But once a debt has been included in the Government's debt redemption schedule, there is a likelihood that the Debt Management Department is going to approve and Central Bank will remit that money. It is important that the Ministry takes care not to produce those kind of figures, unless they have been verified in the Estimates.

Lastly, we are being asked to authorise Kshs252 billion. I have no doubt that a significant portion of this money is going to be spent through the process of procurement, which happens to be the main avenue through which much of the pilferage that we have seen in our resources has taken place. Treasury is extremely weak in terms of the procedures that we have in procurement. You can see that from the appeals that have been lodged with the Public Complaints and Review Board in the Treasury. I have figures to show that more than half of the tenders that have been advertised by this Government in the last two years have been subjects of appeal by that board. That is alarming. Even the process of appeal itself is flawed. You cannot allow the Permanent Secretary, Treasury, to sit on the Appeals Board when, in fact, he is one of the executive officers who are involved in that procurement process. Those are some of the things we need to look at.

Otherwise, with those remarks, I beg to support the Bill.

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): On a point of order, Mr. Temporary Deputy Speaker, Sir. With all humility, you heard when the Minister for Finance was introducing this Bill, the way it was seconded, and even the way the Shadow Minister for Finance has contributed, most of the issues were covered in the Finance Bill. It is, therefore, not likely that there is anything new that will come up. Since the Minister for Finance would like to get over this so that the Constituency Development Fund (CDF) money which also affects you as the Chair, is passed, would I be in order to request that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Munyao! The Chair must give time to some two or three more Members, at least, to make comments.

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): They will just repeat!

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Munyao! Mr. Omingo!

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the chance to contribute in support of this Bill in the national interest.

This is an issue where Parliament must release the funds, and as a matter of necessity, oversee its use. I want to support this Bill but with the following comments.

Once we spend Kshs1 billion on stalled projects, I want the Minister for Finance to relook into the viability of reviving these white elephants. Somehow, Kshs1 billion spent on reviving stalled projects which have no value is as good as throwing good money after bad money. I would suggest that the Minister should sieve and revive those that are viable, and sell out those that are not viable. For instance, you cannot be able to revive the stalled buildings next to Wilson Airport, which are actually a danger. That would be a bad investment. It is time this Government runs its affairs in a business-like manner. We want to invest for the wellbeing of taxpayers.

That brings me to the other point; that of tax rates. The entire bit of this money we are spending under Appropriations-In-Aid is coming from taxes. Our tax rates are almost the highest. It is important that taxpayers, who are our employers, get proper value for money. Mr. Temporary Deputy Speaker, Sir, I will not stop before I say something about procurement and the policy issues in terms of controlling expenditures from the Treasury. Being the overseer and distributor of resources, it is important that the Treasury follows up and gets returns from the Ministries which they supply money to, and they need to have a checklist. It is important to release money. You can release money, for example, about Kshs20 million for buying vehicles. But you will find that one item of vehicles takes the entire allocation, because the accounting officer can buy one vehicle as opposed to 20 motorcycles.

On that issue of policy in line with efficiency, the Treasury should introduce a checklist for all the Ministries, which will, in turn, pass the list back to the Treasury for purposes of evaluation, and if possible, Parliament, in accounting procedures, will be able to oversee. It is time that this Parliament also regulated and even denied some particular Votes to particular Ministries which are reckless, so that we can help the Minister improve efficiency and take service delivery to where people deserve.

With those remarks, I want to support this Bill, hoping that our CDF money will be on board.

**Dr. Godana:** Mr. Temporary Deputy Speaker, Sir, I am surprised there seems to be a conspiracy on the Government side. It is their turn to contribute and none of them is standing up to catch the eye of the Chair.

*(The Minister for Co-operative  
Development and Marketing)*

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

It is too late!

Mr. Temporary Deputy Speaker, Sir, the opportunity of the Appropriation Bill is one of those rare occasions where Members have an opportunity to comment on matters touching on the financial management and, indeed, the general management of the economy at large. Obviously, it is the tradition of Parliament to approve the Appropriation Bill. So, as much as I criticise, I stand to support the Bill.

Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to state that the Government must understand that this country is in a difficult economic and financial situation. I have no doubt that Mr. Mwiraria understands this, particularly when I recall his comments during the seminar on the proposed National Social Health Insurance Scheme (NSHIS) that was recently held in Mombasa. I know there have been speculations by the media that the International Monetary Fund (IMF) is about to release funds in December. I bet, it will be a repeat of the same old story with the KANU regime, where the margin of the mirage kept on shifting. Come December, we will be told the funds will come in March. In March, we will be told to wait until June. So, it is time really we planned on the basis of whatever we can raise, rather than on the basis of windfalls from outside.

Mr. Temporary Deputy Speaker, Sir, we, as a country, were really disturbed and embarrassed by the inability of this Government to close its ranks on major policy issues. The recent fiasco of the NSHIS Bill in which Ministers attending the same seminar were speaking at cross-purposes, with the Minister for Health standing there and telling us: "This Bill has been approved by the Cabinet unanimously; the Minister for Finance stood up to say: "We cannot afford the major financial outlays- which are real-that the Bill proposes." The Government seems to be still acting as a loose coalition of different political parties. Mr. Billow talked much about inordinate delays in the Treasury, for which I do not blame Mr. Mwiraria. I think this is part of a tradition; unfortunately, a very bad tradition.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on the ongoing demonstrations on the Moyale-Isiolo Road. Last year, hon. Members of Parliament from North Eastern Province visited the President of the Republic and we were asked to give our priorities. We said priority number one was to put some allocation to that road. We had insisted that Mr. Mwiraria attend that meeting. He promised he would look into that. When the Budget came, nothing happened. We are now told that the African Development Bank (ADB) is ready to start tarmacking this road. This is an old story. In the year 2000, the European Union (EU) funded Spanish engineers to do a final evaluation, design and cost analysis of the project. They came up with an estimate of US\$187 million and the ADB said they were prepared to tarmac the road up to Merille, a quarter of the distance, in the hope that other donors and the Government would chip in with the remainder. That issue was shelved in the context of donor freeze on aid to this country.

In July last year, the Minister for Roads and Public Works, Mr. Raila, showed me in his office a letter he had received from the ADB headquarters, which said: "We are prepared to pursue and to really commit our funds to the road up to Merille." Indeed, the Minister was upbeat that within two to three months, the tenders would be out. It is 16 months now and nothing has happened. When people decided to march, protesting the poor state of the road--- Yesterday, I saw a young middle-aged Kikuyu man from Nyeri who said he was part of the team that constructed that road in 1972 and he cannot understand how, to date, it has not been completed. He has joined people from our province to march all the way from Moyale to Isiolo. When this matter came up, we were told again by the Minister that the contractors are already on site. To the best of my

knowledge, no contractor is on site. I would be very glad if the Minister will enlighten us on exactly what the real situation is.

Mr. Temporary Deputy Speaker, Sir, the inordinate delay on the release of funds for development projects is an old story. Donors do not make real their threats. They are looking for excuses to tighten the noose on the Government. I hope Mr. Mwiraria really understands this. In particular, in view of the fact that the NHIF Bill had been opposed by them, maybe, he has won some mileage by managing to manoeuvre to have it withdrawn.

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

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, I would like to second the Motion moved by Mr. Munyao in view of the time---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Ndwiga, you cannot second the Motion! Put your own application!

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, may I move that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Mr. Khamasi): That is in order now. I will now put the question to your request.

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

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, let me briefly refer to some of the remarks made by hon. Members.

First and foremost, I would like to refer to the remarks made by the Shadow Minister, Mr. Billow. It would have been very useful when he said that there are items which are not in the Budget, but financed by the Government, if he had given one example. We have done our best since we took over to ensure that there will be no Presidential jet and Eldoret Airport.

**Hon. Members:** Even Anglo Leasing!

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, we have even wiped out the Anglo Leasing scandal outside the map of this country!

The second item is that he talked about patronage in voting funds. Let me repeat; I do not know how many times I will do so. The NARC Government is very open; we are very transparent. We do not decide at the Treasury how much money to give to what Ministry. What we, as a Government, have decided to do is to have clusters of Ministries; for example, those offering social services and those dealing with infrastructure. We put together the Permanent Secretaries of the different clusters to choose their own chairman. That committee of Permanent Secretaries shares out the amount of money which the Treasury has promised to make available to them. So, the question of patronage has been out since I took over.

**Mr. Ngoyoni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not want to cut the Minister short, but is he in order to say there is no patronage in the Civil Service where, as we know, Permanent Secretaries who sit together are from one region, and they do not understand other regions; therefore, whatever they decide just concerns particular areas?

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, having civil servants from one area and voting monies because you like Minister "x" or "y" are two different questions. I hope the hon. Member now understands that I was not answering his latter question.

Mr. Temporary Deputy Speaker, Sir, let me deal with the third point raised by Mr. Billow; namely, that we have had liquidity problems. It is true that we have experienced these problems, but

for a very different reason. This is because, since June, we have had to find over Kshs4 billion which was not budgeted for to feed hungry Kenyans. I am sure that hon. Members in this House would have supported us fully in using the funds from the contingency fund to feed poor Kenyans who had no food. That meant, of course, withdrawing money from elsewhere, or not giving it while we fed the poor.

Mr. Temporary Deputy Speaker, Sir, regarding the question of cumbersome disbursement procedures, the answer is yes. I admit that some of the donors, even some of our own Government procedures, may be cumbersome. However, at the same time, and this is really something that we, as Kenyans, must admit, some of the Ministries are told that there is money from donor "x" that we have negotiated, the money is available, please, spend it and nothing happens. This is an issue I must say we, as a Government, are addressing to see how to increase capacity for consuming funds through Parliament's Votes. I hope that in the near future, the story will be different. We have, for instance, introduced Integrated Financial Management Systems (IFMS), whereby we want to computerise the budget and expenditure in all Ministries. We will have all the Ministries put together, so that the Permanent Secretary at Treasury, sitting in his office, can call for information on expenditure of funds, for example, in the Ministry of Agriculture by Item and know what is being spent or not, and then he can ask from the Treasury: "Why is this money not being spent?" This will help us avoid the crime of not spending funds when we desperately require services for our own people.

Mr. Temporary Deputy Speaker, Sir, on the issue of stalled projects, which was raised by Mr. Omingo, I would like to say that the NARC Government is trying to complete projects which were started and would have been of great value to this country had they been completed. These are projects such as health centres and university buildings, which were supposed to expand facilities. We are completing these projects because, unless they are completed, they will end up representing money which was literally thrown away. The stalled projects are not benefiting anyone, and that is why we are completing them.

On procurement processes, we have revived the Procurement Bill which was here six months ago. It is now being re-printed with amendments. I appeal to hon. Members to read the Bill critically when it comes back here, and help us pass it because it will make a great difference to whether or not we spend Government money properly.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by commenting on hon. Godana's demonstration about the Isiolo-Moyale Road. Let me give this House facts. About three weeks ago, I sent a team to Tunisia, the new headquarters of the African Development Bank. The team signed an agreement for a loan to do the first-quarter of the Isiolo-Moyale Road. I informed hon. Members from the region, including Dr. Godana, that we had got the money. When I saw the demonstration going on, several things went through my mind. First, I thought that if I were in the Opposition, I would have probably been part of the demonstration team to show that I was the one pressing for the construction of the road. I want to impress upon hon. Members that the NARC Government is not telling tales. This is not another KANU Government. Hon. Godana worked as a Minister in the KANU Government and could not do anything about the situation of the road. Now that there is work being done on it, do we really deserve a demonstration?

With those few words, I beg to move.

*(Question put and agreed to)*

**COMMITTEE OF THE  
WHOLE HOUSE**

*(Order for Committee read)*

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

IN THE COMMITTEE  
*[The Temporary Deputy Chairman  
(Mr. Khamasi) took the Chair]*

THE APPROPRIATION BILL

**The Temporary Deputy Chairman** (Mr. Khamasi): Hon. Members, we are now in the Committee of the whole House to consider The Appropriation Bill.

*(Clauses 2 and 3 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Appropriation Bill, and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*[The House resumed]*

*[The Temporary Deputy Speaker  
(Mr. Kagwima) in the Chair]*

## REPORT AND THIRD READING

THE APPROPRIATION BILL

**Mr. Khamasi:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Appropriation Bill and approved the same without amendment.

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report. **The Assistant Minister for Finance** (Mr. Katuku) seconded.



*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Appropriation Bill be now read the Third Time.

**The Assistant Minister for Finance** (Mr. Katuku) seconded.

*(Question proposed)*

**Mr. Maore:** Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for having the Appropriation Bill passed, but we will ask him to go and analyse the schedule of developments. The Development Vote is very important for us to show, as leaders in this country, that we are serious about delivering development and all the money which they have asked for, Parliament has given. So, we are going to take them to task next year to see what they have done with it.

**The Assistant Minister, Office of the President** (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I would also like to congratulate the Minister for Finance for the passage of this important Bill. I only want to put it on record that it is really very unfortunate that the bulk of the Opposition, including some of the hon. Members of the ruling party, Liberal Democratic Party (LDP), are not here for this historic occasion because the money that is being voted will go a long way towards paying for Constituency Development Funds which are for services to our constituents. However, I am sure during the next Appropriation Bill they will be present.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for taking this bold move and he has promised this House that really he is going to spend the money for the purposes intended. The only caution I want to make and I know he is honest in this regard, please, I beg you that let us not factor our budget with donor funding. That thing is going to strangle our economy. We are going to be dependent. These guys will twist us round. Please, try and budget, if you can, within our means. Sometimes, we can do without these guys. They have really messed us up over and over again. Let us not factor the donor money before we know it is coming.

**The Minister for Water and Irrigation** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I beg to support and I have only one comment. Yes, we agree that Parliament must continue in its role as a watchdog over Government spending, but let hon. Members also behave in a manner that will enable them to carry out their role as watchdogs. Let them stop threatening and pressurising civil servants if, indeed, that has occurred; even in recruitment, to take more than the number required. We will do our bit, but let hon. Members of this House do their bit; otherwise you cannot pose as holier than thou when you are helping to break the rules and mis-apply money.

I beg to support.

**The Assistant Minister, Office of the President** (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, indeed, I will be very brief. I want to congratulate the Minister for the passage of this Bill. However, I want to draw his attention to the frustrations Members of Parliament are getting from the district accounts offices when they are trying to enact their projects.

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, this is not a formal reply but I want to take the opportunity to just say two things. The first one is that I spent the whole morning today working on the circular on procurement for constituency development funds.

*(Applause)*

That circular is either on its way to the districts or will be leaving very soon. I know that for sure. I called from here and I was assured it was ready for distribution.

Mr. Temporary Deputy Speaker, Sir, the second point is that some hon. Members are preaching to the converted when they talk about our relationship with the donors.

Thank you.

*(Question put and agreed to)*

*(The Bill was accordingly read  
a Third Time and passed)*

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

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

*Second Reading*

THE BANKING (AMENDMENT) BILL

*(The Minister for Finance on 17.11.2004)*

*(Resumption of Debate interrupted  
on 17.11.2004)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Tarus, when we interrupted the debate you still had 27 minutes to contribute.

**The Assistant Minister for Local Government** (Mr. Tarus): Thank you, Mr. Temporary Deputy Speaker, Sir. Indeed, I began first of all, by thanking the Minister for Finance for bringing the Banking (Amendment) Bill to this House. One of the reasons I cited was that there is a lot to reap in having an autonomous Central Bank in the country. I did say that the aim of this move, other than being a principal adviser of the Government, the Central Bank also will be able to ensure that it manages to evolve policies that will ensure that Kenyans do not suffer in the process.

Mr. Temporary Deputy Speaker, Sir, we have seen that, in the past, with regard to the issue of money supply and I do not think Kenyans would like to see a scenario again where there is skyrocketing inflation--- So, with an autonomous Central Bank, we are guaranteed the ability of re-organisation to tame inflation. Secondly, the other advantage of having an autonomous Central Bank is that it is able also to oversee more vigorously the other institutions in the banking industry. We have seen situations again where banks flout the rules of banking. For the better part of last year, we heard of banks which were formed politically and public institutions were made to deposit funds in those institutions. To date we know that savers in those banks and those same institutions did lose substantial amounts of money. So, we reckon that the direction the Minister for Finance has taken will ensure that Central Bank of Kenya is strengthened and given a leeway to be able to manage and oversee the banking institutions.

Mr. Temporary Deputy Speaker, Sir, the other very important issue brought out by this Bill is the issue of the significant shareholders. Many a times, people have entered this industry and in a very short time we have seen these banking institutions collapse, causing immense losses to the people who have saved their resources in these particular banks. So, I hope that Central Bank of Kenya will stick to these regulations and ensure that political considerations do not in future get into this industry because those who have saved in these banks that collapsed know the pain and, in fact, it has sent the wrong message that, unless one is very sure of local banks, many people would shy away to put substantial money in these banks for the very fear that you never know how long the banks will survive. These kinds of considerations, and the idea that the history and integrity of those who will be managing these institutions should be unquestionable, are going to bring a sense of trust among Kenyans and give those who want to invest in this industry an opportunity.

Mr. Temporary Deputy Speaker, Sir, the other issue which I also think is useful relates to loans. Previous speakers have pointed out that, those who borrowed from banks in the past have lived tormented lives. Many of them have had all their properties auctioned, and some of them have been declared bankrupt. Therefore, it is important that we take care of the interest of Kenyans by, at least, introducing some sense of discipline in the industry. Banking institutions should not unnecessarily charge exorbitant interest rates that will eventually discourage people, who have good intentions of investing, from dealing with the industry. I like Clause 6 of this Bill on previous borrowers, especially non-performing loans. In an environment where the economy is on its knees, and is struggling to survive, it is important to develop appropriate mechanisms to ensure that previous borrowers have an opportunity to repay the money. Banking institutions should not necessarily pursue them and sell their property. They should have a more positive approach. Given a good legal system and policy framework by the Government, it is possible for those people who borrowed from these banks to start repaying their loans.

I know that when the Minister for Finance read his Budget Speech in June this year, many people were elated by his proposal that banks will not be allowed to exceed certain levels of interest rates. This is the right time to do that! I know that many borrowers have been making inquiries; to find out whether what the Minister promised during his Budget Speech has come to effect. Some have even been contacting hon. Members. This is, in fact, a very useful proposal.

I have also noted that the Minister has proposed that there will be a provision for voluntary liquidation. This is good but, in future, more information should be provided to borrowers by the banking industry. This will ensure that where it becomes difficult for institutions to go on with business, they can take advantage of this particular provision and voluntarily liquidate themselves. This is an important proposal, because we know of institutions that have been taken over by receivers and their properties disposed of at throw-away prices. This proposal is, indeed, going to be very useful in managing debts owed by institutions to banks.

With those few remarks, I beg to support the Bill.

**Mr. Maore:** Mr. Temporary Deputy Speaker, Sir, I want to say a few words. Reading the memorandum of objects and reasons of the Bill, you will find that very useful amendments are intended. However, I have a very genuine problem with the deletion of a section that required the Minister for Finance to approve---

## QUORUM

**Archbishop Ondiek:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in this House!

**The Temporary Deputy Speaker (Mr. Khamasi):** You are right! There is no quorum. Ring

the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Order! We now have a quorum! Mr. Maore, you can continue!

**Mr. Maore:** Thank you Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill.

We are calling upon the Treasury not to abdicate its role by setting out the interest rates due to pressure either from the International Monetary Fund (IMF) or the World Bank, and other donors. We know that the interest rates in the United States of America (USA) and the Bank of England are the ones which set interest rates. The Federal Reserve Chairman is very famous for showing up when there is any hiccups with the interest rates in the banking system. So, we cannot have the same hypocrites coming here and screaming from the rooftops and forcing the Kenyan economy to be liberalised.

In the early 1990s, the interest rates shot up to more than 70 per cent, and it was mainly the British pensioners who came and made a kill. We cannot transform our own economy and financial system into a banana republic for the sake of appeasing the British and American investors, who regulate their own interest rates but do not want our Treasury and the Central Bank of Kenya (CBK) to set the limits on the interest rates. We do not want a scenario whereby we are having a free-for-all, by law. That should be left as an administrative matter, and at the discretion of the Minister. If we remove the role of the CBK to set interest rates, and remove the Minister's powers, I do not know what kind of an economy we want to run; unless we want to be a colony again for those hunting cowboys in the wild west. They come, set up their interest rates or financial institutions and do what they want.

Another issue that we need to raise with the Government, is the issue that the Deposit Protection Fund (DPF) only insures up to Kshs100,000. We want the Government to come up with a mechanism whereby they should be able to insure a minimum of Kshs5 million. This would help, because small savers and employees are the biggest victims of the mismanagement in our financial sector. This mismanagement emanates from weak regulators who are mainly the Central Bank and the Treasury. We would wish to have a proper legislative framework put in place so that the DPF should be able to cover a minimum of Kshs5 million of the depositors.

Mr. Temporary Deputy Speaker, Sir, another issue that we need to raise is, that since the Minister wants to run away from limiting the bank charges, we would want the banks to tax a minimum of 50 per cent of those bank charges, especially if they are not remitted to the interest on loans. Any other penalty or charges the bank may charge, the Government needs to make money out of them so that it does not become a lucrative avenue where the banks are able to make very heavy profits out of penalties. If this is done, it would not be exciting for banks to charge, for example, Kshs1,000 to Kshs2,000 or even Kshs3,000 on a returned cheque. If they charge Kshs3,000, the Minister for Finance should go and get 50 per cent out of that penalty or any other bank charge that is not related to interest on loans.

Mr. Temporary Deputy Speaker, Sir, another point about the requirement of making the issue of issuing bouncing cheques a crime. That, you do not just get penalised, but you actually get some civil sentence in a court of law. I know in the last Parliament, a lot of hon. Members were very jittery when this law was introduced. For us to have a stable and predictable economy, people must be able to respect those papers called cheques.

Another issue that we need to take note of is that after giving licences to forex bureaus, it is

possible that some of them are practising under-hand dealings by taking deposits and even doing some transactions that would amount to money-laundering. This needs to be checked. The Banking Supervision Department in the Central Bank needs to be updated on the latest behaviour. This is because, under the current era of terrorism and money-laundering, the Central Bank needs to go high-tech. You cannot use stone age inspection technics or systems to monitor electronic transfers of money by people who are even using e-mail and e-banking. You sit in New York and you start operating your account at any bank branch on Moi Avenue or Kenyatta Avenue. It is an era that calls for modern legislation and modern inspectors at the Central Bank. We want an up-to-date Central Bank which has personnel and equipment to monitor, regulate and supervise our banking system and make it up-to-date.

Mr. Temporary Deputy Speaker, Sir, from these amendments, the Minister for Finance will not be responsible for a lot of things that will be going on at the Central Bank. It is for this reason that we want an enhanced legislative requirement over the members of the Board of Governors of Central Bank, because they are going to take a higher responsibility than they have been having before. Let us say that a lot of clearances, consultancies or contracts needed the approval of the Minister for Finance. With this amendment, it will be the sole responsibility of the Board of Central Bank of Kenya (CBK). It is for that matter that I wish to plead with the Minister to scrutinise and upgrade the calibre of people who will be appointed as governors of the CBK. It is a major and serious role and we cannot have everybody as a governor of the CBK.

With those few remarks, I wish to support.

**The Assistant Minister for Foreign Affairs** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I would like to support the Bill. First of all, I would like to make some observations relating to the new Clause 44(a). The In Duplum rule has been long overdue. The fact that we have found it fit to bring it as a statute is, in very many ways, a very serious indictment on the performance of our Judiciary. The In Duplum Rule has its origin in judicial interpretation within certain jurisdictions that have judges that are really proactive in terms of interpretation. The origin of the rule is the equitable principle of unconsumability and that is a legal principle that has been expanded in certain legal circles to come to that particular rule.

Mr. Temporary Deputy Speaker, Sir, for a long time, cases have been argued in our courts regarding the unconsumable nature of the interest rates in this country. But our Judiciary has failed to rise to the occasion to give a proper interpretation. The Minister has had to borrow from other jurisdictions to bring it by way of a statute while, in fact, in many other jurisdictions, the principle has been observed as part of the judicial interpretation to ensure that one does not enrich himself by merely advancing a small loan of Kshs1,000 and getting Kshs10,000 out of it. That is a rule that is quite fair in terms of ensuring that banks do not continue to enrich themselves from the savings and borrowings of their customers.

Mr. Temporary Deputy Speaker, Sir, I am concerned about Clause 44; the fact that it does not address the historical injustice that we have been subjected to as bank customers. In essence, Clause 44 draws a line that, with effect from the time the law comes into force, any previous borrowings would have to be treated under the principal and interest owing. That is Clause 44, Sub-clause 6. People do not benefit from the new rule. It is going to be a very unfortunate situation; to have two categories of customers for the bank; one bound by a previous contract which has been questioned through this particular amendment, and another situation where we have customers who benefit from this amendment. It is really important to appreciate that the Constitution gives this House power to make retro-active legislation, as long as it is not of a penal nature. The Minister should look at that in the Third Reading, so that we harmonise the past borrowings with those that are going to take place after the law has been enacted. It is only fair that we have one regime that is

going to be put into force. We will have a situation where borrowers who borrowed under the oppressive regime that we are now trying to rectify, having their property and collateral sold, while those who benefit are those who will borrow after the law has been put into force. I call upon the Minister to revisit this issue and see whether we can harmonise the past situation with the one that we want to put into force.

Mr. Temporary Deputy Speaker, Sir, our Judiciary has to cultivate a culture of judicial activism. It will not have been necessary to bring this legislation if we had a Judiciary that was proactive and vibrant in terms of interpreting the law to meet the burning challenges of the moment. It is really commendable that certain judicial decisions, in other jurisdictions, are what we are borrowing, and they are not coming through our judicial interpretation. They are coming from the legislation that the Minister has had to put in force.

Let me comment about money as business. The fact that we are allowing foreign banks to operate in this country and to lend money, that is the meagre savings of our citizens, should not go without some check. Today, we are aware that the big multinational banks that operate in this country lend only to their multinational clients. More often than not, those particular multinational banks have no place for a local customer; the ordinary *mama mboga*, who goes to borrow Kshs10,000 from a bank. They have no place for such people. One can see this from the minimum deposits that they ask for, which are as high as Kshs10,000 and sometimes as high as Kshs20,000. This means that a large section of our people who wish to promote their small businesses cannot maintain accounts in those banks. Mr. Temporary Deputy Speaker, Sir, there is a lot of difference between the local banks that are dealing with micro-financing like the Equity Bank and the Family Finance, which are the darling of our small business people, who do small businesses to survive, and the multinational banks in terms of the collaterals that are asked for. While the multinational banks ask for very heavy collaterals that are not affordable by the ordinary people, the micro-finance institutions that are locally based, do not ask for such collaterals.

We have a situation where a customer is asked to stand surety for another customer; using his deposits. That has facilitated disbursement of funds from these local banks. The multinational banks will not allow that to happen. Given the fact that the base for trading in money is the savings that people make, we should have a nationalistic approach to the banking business. We are borrowing too much from our donors who ask us to open our doors to anybody to come into the money business, while we realise that the capital upon which they operate is our own savings. We must have a way of protecting the local banks *vis-a-vis* the multinational banks.

Mr. Temporary Deputy Speaker, Sir, the variations in interest rates, for example, that are obtained in the West, where you can borrow money at 1.5 per cent or 2 per cent from a bank, and given the fact that our lending rates are at 11 per cent when they are very low, encourages some offshore borrowing. For example, somebody can go and borrow money from the West at a rate of 2 per cent and bring that money here and lend it out at an interest rate of about 11 per cent, thereby making a huge profit of 9 per cent. There is importance in appreciating that unless we are able to provide affordable interest rates for our people, we will not succeed in our strategy for poverty eradication. The prevailing interest rates in the West compared to our interest rates here, despite the fact that we have made major steps to reduce the former interest rates of about 20 per cent to about 10 per cent, the gap is still too big. We should look forward to assisting the micro-financing institutions and that can only be done by the local banks. This will require a lot of support from both the Government and also the small customers that they are able to keep.

May I say something about the donor support. A lot has been said about donors. I am equally concerned that at a time like this in the world politics when the Arab countries are pulling out of the West, more particularly from the United States of America, because of the global war

against terrorism, they are looking for places where they can put their money. I think they are looking forward to Africa, where they can come and put in their money as an investment.

We have not been very encouraging in policies to invite investors from the Middle East and the Arab world generally. This is because we have put very stiff conditions in terms of providing visas. We know situations where, for example, investors have to wait for as long as six months to have their visas processed and all they want is to come and survey the possibilities of putting their investment in Kenya. There is no investor who is going to wait for even two weeks to have his or her visa processed when he or she can put money in another direction. I think that we need to make use of this opportunity to tap the resources that are being diverted from the West into our economy.

It is also notable that, in fact, the Middle East countries and more so the Arab world, give soft loans. They do not go for high-interest earning. I think that is in line with their religious belief; not to charge very high interest rates. Usually their rates are very modest and the grace period can be as long as ten years. I think we should now focus on the Arab world in terms of inviting investments to our economy, so that we can make use of the funds that are being diverted from the West and to channel them here.

Mr. Temporary Deputy Speaker, Sir, I would like to say something about cheques. It was anticipated that there will be provisions to criminalize cheques that are referred to drawer. I think we have to be extremely careful here. We know that today, most banks are now computerising. Therefore, it should be quite easy to clear a cheque within hours, or perhaps, minutes. I think the current situation where you have to wait for about five working days to get an upcountry cheque cleared, for example, in Nairobi, tempts the customer to write another cheque to pay out, in which, the chances are that it will be referred to drawer because the clearance period of five days is likely to create problems. So, really, if we are to create a criminal offence out of a situation like that, that will not be tenable. So, I propose, given the trend we have taken to computerize our banks, that the clearing period should be reduced to at least one day, so that, that removes the criminal elements from the normal business transactions. This will ensure that a customer who issues a genuine cheque in the belief that it is going to be paid out is not penalised for a mistake that is really that of the bank in terms of the time that it takes to clear the cheque.

Mr. Temporary Deputy Speaker, Sir, the question of money-laundering cannot be left out when we are discussing about banks. I do hope that, in the fullness of time, and fairly soon, the Ministry of Finance should be able to bring an anti-money laundering Bill. This is because we have situations where drug traffickers and other people who want to inject dirty money into our banking system are finding their way into this country. I think we need to tighten the loopholes to ensure that the money that comes into this country is actually clean money. One remembers about two years back, where some Kshs2 billion was deposited in a local bank and within a span of one hour when a court injunction had not been extended, that money disappeared into the thin air. It was taken to some other direction. Drawing from the experience we have had in the last ten or 15 years, and now that we have this inquiry on the Goldenberg scandal going on, we know that dirty money has in the past been injected into our system. We need to have a recovery system so that we can recover money from somebody who benefits from money-laundering. That legal framework will only be provided for if we introduce an Anti-Money Laundering Bill. I am very concerned about what we are reading about the Goldenberg Inquiry, and the recovery attempt being made by the Government to try and trace the monies, whichever direction they could have gone. I can see that there will be serious shortcomings as far as the legal framework is concerned. We have not provided for a mechanism of recovery of dirty money that is put into our banking system. I hope the Minister for Finance will make it a priority matter, to ensure that an Anti-Money Laundering Bill is published as soon as possible.

Mr. Temporary Deputy Speaker, Sir, while on that, we cannot forget that we need a Micro-Financing Bill to be put in place, so that local banks that would like to promote the welfare of our people by lending to small traders and the hawking fraternity, will have a particular framework within which they can disburse funds to our people. It is most important. I am quite aware that multinational banks are not in a position to deal with issues of micro-financing. They basically focus on big clients and multinational companies who go for big money. However, they are not in a position to look at the welfare of our people who are basically small traders trying to survive on small businesses.

Mr. Temporary Deputy Speaker, Sir, I would also like to join hands with those who said that we need to re-look at our relationship with the donor community. It is quite right that no country has been able to industrialise by following the prescription of the multilateral donors. If you at look the histories of China, Japan, Korea and Malaysia, they have never followed the path prescribed for them by the multilateral donors. As long as we think that multilateral donors are going to create wealth for us, we will remain in that vicious cycle of poverty. I agree with those who propose that, despite the fact that we have only 12 per cent budgetary support in our Budget, we should look to a situation where we can do totally without any provision for donor assistance. We need to be self-dependent, so that we can pursue policies that do not have strings attached.

Mr. Temporary Deputy Speaker, Sir, you recall that in the early 1990s and late 1980s, the multilateral donors came with the Structural Adjustment Programmes (SAPs). After it was put to test for ten years, it was found wanting. They had to depart from that. But how many economies were ruined by the Structural Adjustment Programmes? So many of the developing countries! No country was able to industrialise by following the prescriptions of the SAPs. Now, we have new prescriptions that are coming with globalisation, liberalisation and privatisation. All those are in the interest of the donor countries. They are not in the interest of the developing countries. I think we will really be making a serious mistake to think that, if we follow the prescription of having to retrench our employees and privatise the public sector, we are going to get out of the death trap that we are already in.

Mr. Temporary Deputy Speaker, Sir, the World Bank and the International Monetary Fund (IMF) have already published a report showing that, in the last 40 years, the African countries have borrowed about US\$300 billion from them, and they have been able to pay US\$585 billion. They are still being asked to repay, by way of further interest, US\$298 billion. We have already repaid the principal amount almost twice and they are still asking us to pay twice as much. Now that we are discussing this principle of interest, it is important that it should be extended even in dealing with the multi-lateral donors. If we are going to borrow US\$10 million from them, there is no reason why they should ask us to pay more than US\$20 million. I think the same principle should be extended to them.

But my point, Mr. Temporary Deputy Speaker, Sir, is this: We have to look to another direction, other than that of the multi-lateral donors, if we want to break away from the vicious cycle of poverty and industrialise this country. There is no way the World Bank, IMF and WTO prescriptions will make us break from that cycle. The lessons we have learned from China and Japan, for example, are that they never agreed to open up the element of the liberalisation we are being told about. They have constantly protected their domestic industry. It is that history of Japan and China that, even today, the West is putting in its investments. They have protected their domestic industries jealously. The banking industry is such an industry given that what we have in that sector is what we earn out of our hard sweat. We should be able to protect our indigenous banks. In the 1980s and 1990s, so many of our banks wound up and the deposits belonging to the ordinary people went down the drain. Those are lessons we should learn and, in fact, enact



legislation with such a background in mind. We need our indigenous banks so that they can protect our savings.

Mr. Temporary Deputy Speaker, Sir, at the end of the day, when a multi-national bank shares out the huge profits it has made, the money is not ploughed back to our economy. Instead, it is taken back to their home economy. Therefore, the multi-national banks will be taking away our sweat to develop their own economy. There is need to protect our indigenous banks. Let us not follow the blind prescription we are getting from World Bank, World Trade Organisation (WTO) and other foreign institutions. Their advice will only serve to ensure that we are permanently in bondage and we will never be able to stand on our own. We will all the time remain as producers of raw material as the West continues to industrialise at our expense. We must rethink our strategy on investment. This is the time to look at other directions. The Government, I am happy to say, is now looking more towards the East rather than the West. The lesson we have learnt from the West is that as long as you follow their footsteps, you become a permanent dependant upon them.

Mr. Temporary Deputy Speaker, Sir, let me also observe that this particular Bill improves on the governance of our financial institutions. It is important to make the Central Bank of Kenya (CBK) a very independent institution by giving the Governor of CBK constitutional independence which will ensure that he or she is not manipulated by political forces. This Bill proposes that the powers be transferred from the Minister for Finance to the Governor of CBK. I will be happy to see a situation whereby the independence of the Governor of CBK is properly entrenched in our Constitution so that he or she is able to operate professionally without political manipulation. The lessons we have learnt from the Goldenberg Scandal are that the CBK was manipulated by the political operators of the day and that is why we lost billions and billions of shillings. So, I welcome the Minister's proposal that seeks to introduce a situation where the CBK is left to operate independently and the Minister relinquishes his powers in terms of management of finances to the CBK.

With regard to the directors of the CBK, I think it is a major step in the right direction because it ensures that the people who will sit in that board are professional people, rather than people faced with bankruptcy. Having unprofessional people in the board will increase the risk and temptation of those people enriching themselves from the savings of customers. The Bill also proposes measures that will ensure that the directors of CBK are not persons with a record of conviction and that they are, generally, people of high moral rectitude. That is a significant development in terms of improving governance in the management of our banking institutions.

Mr. Temporary Deputy Speaker, Sir, I also note that the Bill introduces the element of a significant shareholder who will be subjected to a similar test and criteria as the directors. We know that significant shareholders can make all the difference in a company. Most of them can actually use their majority shares to run a company and create a facade in a public company when in essence the control and majority shareholding is exclusively in their hands. They are able to make decisions that suit their own interests.

The provisions relating to the Deposit Protection Fund are most welcome. We are now vesting the powers that rested with the Minister for Finance in the Chief Executive of the Central Bank. This will enhance accountability since we shall be assured of the safety of the Deposit Protection Fund.

Mr. Temporary Deputy Speaker, Sir, we have been talking about reviving our economy. The measures that have been proposed in this Bill are very encouraging. We hope that, in the fullness of time, the Minister will be able to look into other areas too. I am concerned about the Clause on voluntary liquidation. This is a practice that has really been abused. There are also provisions in the Companies Act with regard to voluntary liquidation. That, somebody scoops monies from the bank

which are deposits of customers and, at the end of the day, they file a voluntary winding up. The customer ends up losing the deposit while they are left with the wealth. I think the measures under Clause 34(A) that are being introduced are most welcome. That is a step in the right direction.

Mr. Temporary Deputy Speaker, Sir, I hope that in the future we will be able to have clear regulations and guidelines on the operations of receivers and receiver-managers. This is another area of abuse which has not been addressed; where companies voluntarily wind up or appoint receiver-managers and, at the end of the day, the assets of the company or the bank are sold out at a throw-away price to the disadvantage of the customers.

On that note, I beg to support.

**The Assistant Minister for Regional Development Authorities** (Mr. Oduyo): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to add my voice to some of the positive sentiments and comments made by my fellow Members of Parliament. A Minister of Finance has two main tools for intervening in the economy on policy matters. These are the fiscal aspects which relate to taxation and the monetary aspects which relate to banking, the amount of money and the banking interests.

The Banking (Amendment) Act, 2004 Bill specifically refers to the monetary aspects. It has attempted to do several things that our Minister has spoken about and has been true to for the past ten years. I know this because the Minister and I were Members of the Departmental Committee on Finance, Trade and Planning in the Eighth Parliament. I know that as early as that time, the Minister spoke about many of the policies that he is implementing today.

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

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

Let me start with the policy relating to the addition under Clause 44(A) of the Bill. A new section has been added to Clause 44(A) that limits the total interests an institution can charge or recover on a non-performing loan. The total interest cannot exceed the amount of the outstanding loan. In financial jargon it is called the *in duplum* rule. That is to say if I borrow Kshs10,000, the bank cannot charge me an interest exceeding Kshs10,000.

Many Kenyans today who took mortgage in the 1980s and early 1990s are today languishing in poverty because banks charged interest almost ten times and others 15 to 20 times what the original loan was. Many of the cases today of poverty and bankruptcy can be traced back to that period when banks went wild in the Kenyan economy. The *in duplum* rule is a valuable law which is meant to protect a small economy like ours. I am fully in support of the interests and vision the Minister has for this country on that particular aspect.

This particular Bill also intends to strengthen the CBK. I will put a few question marks because the Central Banks in the West are very independent while those in Africa have been said to be not too independent. I know we have talked about the Goldenberg saga as a good example. One of the reasons why perhaps full autonomy for the CBK may be questioned is because of the supporting institutions.

Mr. Temporary Deputy Speaker, Sir, during the Eighth Parliament, I had an opportunity to visit the United Kingdom (UK) with Mr. Angwenyi and the current Minister for Finance. As Members of the Departmental Committee on Finance, Planning and Trade, we were invited to the UK over the Central Bank (Amendment) Bill. We had an opportunity to talk to the Ministry of

Finance officials, several commercial banks and also the Central Bank. The interest rates in the UK are influenced by the Central Bank. The influence is such that the Central Bank sets a base rate and expects every bank to follow it. That can be plus or minus 1 per cent or 2 per cent. That works in the UK because of the supporting financial institutions in the market, the range of products and the number of intermediaries in the financial market. The strength of what I would call the "middle ground" in the financial market is such that the risks which may arise from a bad decision by the Central Bank or by the Minister for Finance are minimised. This is because the intermediaries bring stability to the financial market.

In Kenya, we have a deficiency. The important middle part is weak and is controlled by multinationals. I do not have the exact figures, but I can say that 60 per cent of the proceeds in this country are controlled by multinationals. Therefore, one may assume that the multinationals also control 60 per cent of the advances. For that reason, one may argue that the Minister for Finance, with all the good intentions he has, many of his policies can be frustrated or may not be implemented because the multinational banks control the money in this country. These banks include, Barclays Bank of Kenya, Standard Chartered Bank, Stanbic Bank, Citibank and several others which have closed down, including ABN and AMRO, which has re-located to the United States of America (USA).

*[The Temporary Deputy Speaker  
(Mr. Angwenyi) left the Chair]  
[The Temporary Deputy Speaker  
(Mr. Khamasi) took the Chair]*

The weakness of the important middle ground in the financial market in Kenya, East African and many other African countries is such that the Central Bank of Kenya (CBK) should not be given the 100 per cent autonomy which is envisaged in this Bill. A case in point is Malaysia. In that country, certain Western *matajiri* or multibillionaires took the opportunity to go and buy Malaysian currency---

**Mr. Omingo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is *matajiri* an English word or another invention of the hon. Assistant Minister?

**The Temporary Deputy Speaker (Mr. Khamasi):** Mr. Odoyo, what is that?

**The Assistant Minister for Regional Development Authorities (Mr. Odoyo):** Mr. Temporary Deputy Speaker, Sir, the word *matajiri* is a Kiswahili word which means very wealthy people. I will stop speaking any more Kiswahili I know!

In the case of Malaysia, Western private capital came on board to destabilise its economy. They went and bought the Malaysian currency in bulk and then started to dump it in bulk. As a result, Malaysian currency became unstable. After that, the *gurus* in the International Monetary Fund (IMF) went and told the Malaysian Government that it should devalue its currency. If you bought the Malaysian currency, as the case was, at one dollar for ten Malaysian currency, when you devalued it, one dollar bought 25 or 30 Malaysian currency. The intention of the Western countries colluding with the donors was to weaken the high performance economy of Malaysia.

Mr. Temporary Deputy Speaker, Sir, at that particular point, the Government of Malaysia stepped in and said: "No, we shall not devalue our currency, rather, we shall fix an exchange rate!" The result was that a fraud and a fallacy was exposed. This fraud and fallacy is, today, inherent in our Banking (Amendment) Bill 2004, specifically through the deletion of Section 44 of the Banking Act. This Section now requires the Minister to cease forthwith to set or guide the interest rates charged by commercial banks. My good friend, hon. Maore, has already spoken about this point;

while my good friend from Nakuru, hon. Mirugi, has pointed out the legal ramifications on this issue, and I wish to point the financial and economic impact of the removal of Section 44 from this Bill.

Mr. Temporary Deputy Speaker, Sir, I have pointed out the poverty and bankruptcy that has been expanded, expounded, multiplied, factored to the value of ten, and the complete destruction that has been caused by the unwarranted, unchecked and uncalled for super profit levels by the banks of yester-year. We must protect our citizens against the continued greed of these Western banks, which is unlimited. These people will chain us, and these chains are no longer iron chains! These chains have been bound and put together by financial notes which have been bound together over and over, and because they are so many, they are strong enough to tie our hands and legs and we are unable to remove them. A time has reached when we should say: "No!" I will move an amendment to this particular Section, so that the Minister is given adequate opportunity to protect citizens. Up to and until that time when---

**Mr. Omingo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not too sure whether the Assistant Minister on the Floor is really in order to tell us that he is going to move an amendment. He is an Assistant Minister of the Government! So, he should tell us that he is going to persuade his colleagues to move an amendment. Let us use the rules and procedures of this House properly.

**The Assistant Minister for Regional Development Authorities** (Mr. Odoyo): Mr. Temporary Deputy Speaker, Sir, I fully take cognizance of the issue which has been raised by my colleague, who I had the opportunity to visit up to his home. I contributed over Kshs200,000 for his Harambee and his continued good performance in this House was fully applauded by the citizens on the ground.

*(Laughter)*

But on this particular occasion, I do admit his ability to point out to a Government Assistant Minister, my emphasis would be to persuade the Minister and other hon. Members of Parliament that, on his way home as he passes Rongo and Kisii proceeding towards the Tanzanian border, on his way back, he should assist to draft a possible amendment which can be inserted into this particular Clause 44 in order to give the Minister the opportunity to protect us from---

**The Temporary Deputy Speaker** (Mr. Khamasi): You are right, you will not bring any amendment here!

**The Assistant Minister for Regional Development Authorities** (Mr. Odoyo): Thank you, Mr. Temporary Deputy Speaker, Sir. I know that other people would like to contribute to this Bill, but let me finalize my contribution.

Clause 44, which will bring poverty to this country, unless we give the Minister powers to regulate interest rates, should be re-activated. I know that the so-called liberal economists insist that it should be removed and free interest rates. But I repeat that until we control 80 per cent of the banking sector in Kenya, we cannot freeze interest rates, because we shall be risking capital flight from this economy.

Mr. Temporary Deputy Speaker, Sir, I know that several Members have written notes for me. It is not within my powers to say that I will grant five minutes to the Minister for Finance or any other Member.

With those remarks, I beg to support.

**Mr. Angwenyi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Bill. Unfortunately, I wanted to contribute more, but I will not be here next week; I will be outside the country on official business.

This Bill should have been brought here last year. But, first, I want to thank the Minister and his officers in that Ministry, who have been able to manage run away interest rates that were in this country before they took over. We have saved this country in excess of Kshs20 billion in interest expenses, by reducing interest rates that are charged. By reducing, they have even saved more for our people by accessing affordable funds in financial institutions.

Mr. Temporary Deputy Speaker, Sir, for the first time, after a long while, financial institutions are advertising, seeking to market the sale of their money. So, the customers have got a choice as to whether to take money from one institution or the other. Now, that credit activity by the Minister is being curbed by the removal of the excess interest rates which were being charged. When the *In Duplum* rule is applied, as it is intended by this Bill, I am sure Kenyans will appreciate and give thanks to this Minister and his officers. It is, in fact, unfortunate that we sent away the former Permanent Secretary, Mr. Magari, who initiated these measures. We must recognise that he contributed substantially towards this state of affairs which is benefitting Kenyans.

Mr. Temporary Deputy Speaker, Sir, like my colleagues said, we travelled to the UK, USA and South Africa and we found that interest rates are controlled with some measures by Government agencies, for example the Federal Reserve Bank in USA, Bank of England and Bank of South Africa. We even found out that South Africa has not been forced to liberalise or to privatise, so to speak, every institution, like they are trying to tell us to do in this country.

We keep saying that we must do this because of IMF and the World Bank. But how much support did they give us last year in our Budget? It was less than 3 per cent. Their implementation rate is not even that great. So, we can do away with them. I believe we can do away with them if we manage our funds properly.

Therefore, I want to support this Bill, and I hope that the Minister will be empowered to intervene where he finds some of these financial institutions are behaving like shylocks. You know, there was a time when these financial institutions could come and sell your property; your savings. You save, you get your pension, you purchase property, you want to put it as security so that you can do business, and because of the state of the economy, they come in and sell all your savings. These institutions end up condemning a lot of Kenyans into debts and abject poverty. However, we must empower the Minister and the Central Bank of Kenya (CBK) to come to the rescue of Kenyans and make sure that the application of financial resources is for the benefit of the citizens of this country through development projects.

Mr. Temporary Deputy Speaker, Sir, I know there are some of my hon. friends who would like to contribute to this Bill, albeit for a short period and with those few remarks, I beg to support the Bill.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I would like to thank you and Mr. Angwenyi for realizing the anxiety I had in my heart to contribute to this very crucial Bill.

I would like to start by saying from the outset that I support the Bill. However, there is need for some serious amendments that the Minister really needs to come up with. Most importantly, I would like to make an observation that the Minister has technically run away and said: "I would like this business to be managed professionally by a professional lender of the last resort; the CBK." However, we also know that the CBK works very closely with the Ministry of Finance in administration, advice, investigation and fiscal and monetary management of the economy. Unfortunately, the CBK also failed us very miserably at one time during the collapse of banks. A case in point is Trust Bank which was allowed to open a branch. Unfortunately, in two weeks' time, that bank went under. That was a shame! Even one Minister tried to give them impetus to operate. Please, there must be some safeguards! For instance, the Governor must be given protection for abuse against political forces. This House needs to approve the appointment of the Governor of

CBK who will help the management of this economy. The Governor must, as a matter of necessity, be vetted by this House. It is important to note that even when the banking sector was going down, banks collapsed and the CBK with the investigative team could not advise the Ministry to manage the issues fairly. Mr. Temporary Deputy Speaker, Sir, during my rounds of investigations in the Public Accounts Committee (PAC), the CBK, through political influence, used the dividends meant for the Government of Kenya to redeem a bank instead of putting the money in the Treasury where it belongs. These are abuses we must stop by actually separating political influence; by insulating the Governor through the proper procedure of nomination, vetting and protection constitutionally, if possible. There are very basic things we need to know. There is no way you can say that the CBK did not know some banks were being run down. I think they sat on the fence or, most probably, they were actually participants instead. It is one lady at the CBK, Mrs. Mwatela who stood firm against Goldenberg and she suffered immensely.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Omingo! You still have 25 minutes to contribute when debate on this Bill resumes.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Members, it is now time for interruption of business. The House is, therefore, adjourned until Tuesday, 23rd November, 2004, at 2.30 p.m.

The House rose at 6.30 p.m.