

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 18th October, 2007

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### VIDEO RECORDING OF HOUSE PROCEEDINGS

**Mr. Deputy Speaker:** Order, hon. Members. I just want to draw the attention of the hon. Members to the fact that there is a camera across there; it is recording the proceedings of this House. This camera is not from the media, but from Parliament. It belongs to you. So, relax, as it rolls around. This is for your information.

Next Order!

### QUESTION BY PRIVATE NOTICE

#### KILLING OF MR. WILSON ISUMBA

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, although I have not received the written reply, I beg to ask the Minister of State for Administration and National Security, the following Question by Private Notice.

(a) Under what circumstances was Mr. Wilson Isumba gunned down on Saturday, 6th October, 2007 at Hamisi District headquarters?

(b) How many suspects have been apprehended in connection with the incident?

(c) Could the Minister assure the House that proper investigations will be conducted to ensure that the perpetrators of the killing are brought to book?

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

(a) The circumstances that led to the gunning down of Mr. Wilson Isumba at Hamisi District Headquarters on 6th October, 2007, are still not clear. Inquest Files No.2 of 2007 and No.942 of 2007, have been opened and investigations are ongoing.

(b) Two suspects have been arrested and are assisting the police with investigations.

(c) As stated in part "a" above, investigations are still going on and the suspects will face the due process of the law once investigations are complete.

**Mr. Deputy Speaker:** May I ask that a copy of the answer be availed to the hon. Member as it is the requirement of the Standing Orders of the House?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, it is unfortunate that after dodging answering this Question for a whole week, this Assistant Minister comes up with the kind of answer that he has given to this House this afternoon. This clearly shows the lack of seriousness by this Government

in protecting the lives its citizens. Yet, protection of the lives of Kenyans is its cardinal duty. At this rate, I am afraid the family of the late Wilson may not get justice in this matter if this Government remains in power. The perpetrators of this crime are known. I do not know what inquest he is talking about. People were arrested and released the following day. Could he explain in what circumstances they were released? These are murder suspects!

**Mr. Munya:** Mr. Deputy Speaker, Sir, in my answer, I said that two suspects were arrested and they are still in police custody. So, the issue of suspects being released is not true. They are in police custody. The matter is still under investigation. Once the investigations are complete, the law will take its course.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, the person who had four Administration Police officers attached to him and who it is alleged may have shot at random and that the bullets may have hit this young who lost his life, has been going around with a lot of Government protection. Could the Assistant Minister tell us what special position one Stanley Livondo holds in this country that he is protected by four Administration Police officers wherever he goes? Could he also tell us if Mr. Livondo is licensed to carry a firearm which he had on that day?

**Mr. Munya:** Mr. Deputy Speaker, Sir, under Section 14 of the Police Act, the police are allowed to provide armed security to any individual in Kenya whose life may be in danger of attack. Under these circumstances, Mr. Livondo is a candidate in Langata Constituency running against a very prominent person; in fact, a presidential candidate who admitted in this House that Livondo's life is in danger. That is why Mr. Livondo has been provided with armed security. Mr. Livondo does not own any gun. He is not armed, but he is entitled to security just like many MPs in this House who have armed security provided to them by the State.

**Capt. Nakitare:** Bw. Naibu Spika, asante sana kwa kuniruhusu niulize swali kuhusu maisha ya watu wa Kenya. Bw. Waziri Msaidizi amesema ya kwamba washukiwa walishikwa na wako korokoroni. Bw. Khaniri anasema kuwa washukiwa waliachiliwa na wako huru. Je, hawa washukiwa waliachiliwa baada ya kupelekwa kortini au waliachiliwa kama wale washukiwa waliouwa watu kule Kinyoro na Matisi katika sehemu yangu baada ya polisi kusema waachiliwe? Washukiwa hawa waliachiliwa huru kwa sababu gani? Wahasiriwa waliowapoteza mmoja wao wanawaona hawa washukiwa kila siku. Je, Serikali inafikiria nini kuhusu mambo haya?

**Mr. Munya:** Mr. Deputy Speaker, Sir, I have already explained that the suspects are still in police custody. I do not know why hon. Members want to insist on believing that they have been released. They are still in police custody. If I may explain the circumstances here, there was a big group of youth that attempted to physically attack Mr. Livondo. They were demanding money from him. He was not able to give them money. They were physically trying to either get money from him or attack him. His bodyguards shot in the air. There were also claims that there were other people in that group who had guns, who actually shot at him. We are investigating to find out whether the gun that shot Mr. Isumba belonged to the bodyguards or from the crowd. Until that is established, we cannot give any conclusive answer. If it is found out that it is the bodyguards who shot Mr. Isumba, then we will look at the circumstances under which they shot him. The information we have is that they shot in the air. They never shot directly at anybody. There was also somebody within the crowd who had a gun who was also trying to shoot at Mr. Livondo. That is why we are saying that the police are investigating the incident. Once the matter is conclusively investigated, the law will take its course.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, with this kind of attitude that these Ministers are exhibiting in this House, I do not see the family of the late Isumba getting justice. It is my prayer that Kenyans vote out this Government come next election, so that in January we will pursue the killers of this young man because we know them. The Assistant Minister says that the Government has opened an inquest file. This is not the first time we are hearing about inquest files. During the

referendum people were shot in Kisumu; even a school boy was shot. The Government assured us here that they had opened an inquest file. However, up to now, nothing has happened. Could he tell us when we will get the report of the inquest file that he mentioned?

**Mr. Munya:** Mr. Deputy Speaker, Sir, if I was Mr. Khaniri I would worry about coming back to Parliament myself before I worry about the entire Government. To me, that is what is concerning me right now. When circumstances of a crime are not known, it is normal to open an inquest file and then let the matter be investigated to conclusively decide under what circumstances a death took place. We have a shortage of magistrates to deal with these matters; that is why sometimes they take long. I cannot conclusively tell you when this matter will be resolved because we have a shortage of personnel to expedite the matter and there are so many other cases that are pending in our courts.

**Mr. Deputy Speaker:** Next Question!

### ORAL ANSWERS TO QUESTIONS

#### *Question No.327*

#### NON-PAYMENT OF DEATH GRATUITY TO LATE ALANG'O DEPENDANTS

**Prof. Olweny** asked the Minister of State for Administration and National Security:-

(a) whether he is aware that Mr. Stephen Okuto Alang'o, P/No.01792019087, who was the Assistant Chief of Wang'aya II Sub-Location, Miwani Division, Muhoroni Constituency died on 29th October, 1997;

(b) whether he is also aware that death gratuity and benefits of the deceased have not been paid to his family; and,

(c) what efforts he is making to ensure that the benefits and death gratuity of the late Stephen Okuto Alang'o are released to his wife, Mrs. Jane Juma Alang'o.

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

(a) I am aware that the Assistant Chief Stephen Okuto Alang'o died on 29th October, 1997.

(b) I am not aware that the death gratuity and benefits of the deceased have not been paid to his next of kin.

(c) The Ministry can confirm that the Treasury released the deceased's benefits to the Public Trustee, Kisumu. The next of kin are advised to report to the office of the Public Trustee, Kisumu, for collection of their dues.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, in August this year, I contacted the Ministry and Mr. Alango's files were still lying there. By last weekend when I was home, the widow had not been informed that her benefits were already in Kisumu. Who is supposed to inform her officially that the benefits have been released? There must be an official way of informing the beneficiaries.

**Mr. Munya:** Mr. Deputy Speaker, Sir, if there is a forwarding address for the widow, then a letter would normally be written to her to inform her that the benefits have been released. But now that the hon. Member for the widow knows, he can go ahead and inform her that she has been paid vide cheque No.370347, dated 1st October, 2007. The payment file number is APN/GC53902.

**Mr. Ahenda:** Mr. Deputy Speaker, Sir, I knew the Assistant Minister was dodging something, but it has come out without him knowing. He did not want to say the exact date when this claim was paid. When he was reading the cheque number, he forgot and mentioned the date of

the cheque, which is the 1st of this month. This was after this Question was already put.

This Government has a tendency of rushing to do things when such Questions are asked. They even issue cheques. This cheque must not even have been received at the Public Trustee's office in Kisumu. Could the Assistant Minister specifically tell us when the cheque was sent to Kisumu Public Trustee?

**Mr. Munya:** Mr. Deputy Speaker, Sir, I have confirmed that the cheque is with the Public Trustee in Kisumu. I have given the cheque number and the date the cheque was released. That is sufficient information to answer this Question.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, from time to time, Questions of this nature are brought to the Floor of this House. When officers are alive, they are paid their salaries without a problem. When they pass on, it becomes a big problem to pay their gratuities and other benefits. This means that there is something wrong within the Government system.

What is the Assistant Minister doing to ensure that cases of this nature are adequately addressed when somebody passes on?

**Mr. Munya:** Mr. Deputy Speaker, Sir, when I answered a similar Question last time, I said that right now, we are computerising the systems so that the business of looking for documents and misplacing files can end. That is already in top gear. These delays are going to be history once we are up to date in computerisation.

**Mr. Deputy Speaker:** Of course, Mr. Assistant Minister, these are delays. Yesterday we had the same matter. I think Mr. Rai had a Question of this nature. It strikes me that this is ten years ago. That just goes to show the seriousness of this matter. I hope somehow, this matter will be resolved. For ten years, this widow has been without her husband's benefits. It is terrible! Is it not?

**Capt. Nakitare:** Bw. Naibu Spika, nimeshangaa kwa sababu huyu Waziri Msaidizi katika Afisi ya Rais anahusika na mambo ya polisi. Mwizi akifanya makosa, wanamtafuta haraka sana hadi hata Muhoroni. Leo, Waziri Msaidizi anasema kwamba wanataka kuingia kwa mambo ya komputa. Ni nini kinachomzuia kutumia machifu na naibu wao ambao wako chini yake kumtafuta huyu mjane na kumpatia marupurupu yake?

**Mr. Munya:** Mr. Deputy Speaker, Sir, the problem in this case was not failure to trace the next of kin. The information I have is that there was a delay on the part of the next of kin to forward the relevant documents to the Ministry for payment.

As you have said, this does not justify this very long delay. So, I really would like to apologise on behalf of the Ministry for this very inordinate delay. We are saying that things will improve once we are up to date in terms of computerisation.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, as you have said, this man died ten years and 28 days ago. I still insist that the Assistant Minister should tell us the official way of informing this lady that the cheque has been released. I shall go and tell her as her Member of Parliament. Who is supposed to officially inform her that she is supposed to go to the Public Trustee? It is not me. That is not my business. I am not even a messenger.

**Mr. Munya:** I have said that usually, we would communicate to her directly where there is a forwarding address. We also use the Provincial Administration, namely, the chiefs and the assistant chiefs to also communicate this information.

*Question No.045*

DISMISSAL OF MR. ALOIS LESINGIRAN  
FROM POLICE FORCE

**Mr. Lesrima** asked the Minister of State for Administration and National Security:-

(a) why No.36367 P.C Alois Ripalat Lesingiran was dismissed from the Police Force in 1990;

(b) why his appeal, in a letter dated 7th November, 1990, was never heard; and,

(c) when he will be reinstated.

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

(a) The ex-Police Constable was dismissed because of repeated cases of indiscipline, which made it untenable to retain him in the police service.

(b) The ex-Police Constable Alois R. Lesingiran was given the requisite seven days period to appeal against his dismissal, but failed to utilise this opportunity. Following his failure to appeal within this stipulated period, he was dismissed with effect from 20th September, 1990.

(c) Due to his poor record in the police service at the time of his dismissal, he will not be reinstated.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, this policeman was given seven days to appeal at a time when communication was so bad in Samburu District. His home is 680 kilometres away from Nairobi.

How could the letter reach Samburu within seven days? It is very unlikely that he ever received that letter within the seven days. Since the only crime he committed is not to reply to the letter, could the Assistant Minister consider this case for reinstatement?

**Mr. Munya:** Mr. Deputy Speaker, Sir, this is a trained police officer and he knew that he was entitled to an appeal even if the letter never reached him. He was supposed to know that he had seven days within which he could appeal. The letter was posted to him using the normal address that he had given. If I were to read his record in the police service, it is deplorable. I do not think I can guarantee the hon. Member that this officer will be reinstated.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, since this officer served the Public Service doing very dangerous and daring jobs as a policeman, putting his life on line for the safety of Kenyans, could the Assistant Minister consider paying him some dues since he had served for 12 years?

**Mr. Munya:** Mr. Deputy Speaker, Sir, according to regulations, once you are dismissed from service, you lose your benefits.

*Question No.174*

TSC'S FAILURE TO IMPLEMENT  
NANDI NORTH DEB'S  
RECOMMENDATIONS ON RECRUITMENT

**Mr. Sambu** asked the Minister for Education:-

(a) whether he is aware that the Nandi North DEB recommended to the Teachers Service Commission (TSC) on 7th August, 2006, that the following be recruited as primary school teachers: Kiplimo Nicholas, Mabwai K. Charles and Kipngetch David, all from Emgwen and Kongwalei Jepotip, Jepkorir Charity, Maiyo Kipkoech, Boen Sarah, Rotich Dorcas and Tuwei Salina from Mosop;

(b) whether he is also aware that the TSC recruited the following as primary school teachers on 27th September, 2006: Jepkoech Evalyn, Tallam P. Kiprotich, Kerich C. Mercy, Kiprotich Julius, Chumba David, Chelagat Getrude and Sang Elizabeth from Emgwen and Kemboi Silas and Lagat K. Gideon from Mosop; and,

(c) why the TSC disregarded the recommendation of the DEB and what

steps he is taking to ensure that employment opportunities for teachers are distributed fairly to all constituencies.

**The Assistant Minister for Education** (Mrs. Mugo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the Nandi North District Education Board (DEB) recommended the following seven applicants for employment by the TSC, but they were not employed because the guidelines were not followed.

(b) The TSC did not disregard the recommendations of the DEB, but noted the anomalies in the way the recruitment process was carried out in Nandi North District. This was communicated to the Secretary and the DEB and after the anomalies were corrected, the TSC then selected the applicants on merit.

The seven had scored as follows: Mabwai Kipkorir, 23 points; Charity, 23 points; Kipkosgei, 24 points; Sarah, 24 points; Dorcas, 24 points; David, 24 points and Salina, 24 points. They were replaced by the following: Paul Kiprotich, 17 points; Mercy, 17 points; Julius, 20 points; David, 20 points; Getrude, 22 points; Elizabeth, 22 points and Gedion, 22 points. Also, their Kenya Certificate for Secondary Examination (KCSE) grades were much higher than those of the others.

(c) Sometimes if the guidelines are not followed and some candidates are left out who believe they have done better than those who have been taken, they make representations and complaints and as a way of being transparent, the TSC, then takes action. These teachers were replaced by people from the same region, namely, the two constituencies.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, regions do not yet apply because *majimbo* is yet to come. We have districts. Within Nandi North District, we have two constituencies. The ones who were dropped were from Mosop Constituency. I am asking this Government, because this is three years in running. Even this year, they dropped out again ten teachers from Mosop Constituency and brought others from outside. Are we within Kenya or the Ministry and the TSC have decided that Mosop is not within Kenya? If we are within Kenya, will you employ teachers from Mosop?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, we have teachers recruited from Mosop even from this list. When I talked about the region, I did not mean the federalism or the *majimbo* regions, because we do not have those and they cannot work in this country. I meant the same locality.

When we employ, we look at merit and not so much the constituency. But, of course, the merit and the constituency are all important. You cannot interview people in the same place and take people with less qualification. If the ones who are left out then protest, my Ministry has to listen.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say things which are a little bit different from what should be done by the DEB in Nandi. The DEB is supposed to be the eye of either the TSC or the Ministry.

Why has this Ministry changed what was recommended by its eye? The Ministry implemented what was not recommended by the DEB. For example, the DEB, Bomet, recommended that some schools be funded by the African Development Bank (ADB), but the Ministry changed this completely. Why has the Ministry changed the recommendations that have been made by the DEBs in Bomet and Nandi North?

**Mr. Deputy Speaker:** Madam Minister, the question is: Why are you allowing your eyes to be closed?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, our eyes are wide open! That is why, if there any complaints--- The Teachers Service Commission (TSC) is the overall employer of teachers. Although we devolved and gave that responsibility to District Education Boards (DEBs), it is my responsibility to ensure that the guidelines are adhered to. Should there be any complaints, the TSC

has a right to re-open the matter. However, we still consult the DEBs. It is not done outside the DEBs. It is this House and Kenyans who demand transparency and fairness. They want us to base our employment on merit and qualification.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, TSC decided to give the responsibility of employing teachers to DEBs and Boards of Governors (BOGs). If the TSC gave that responsibility to DEBs, and the DEBs recommended names of certain teachers to be employed, why did TSC disregard that responsibility and employed other teachers separately? If the TSC cannot employ teachers, it should leave that responsibility to DEBs!

**Mr. Angwenyi:** That is a good question!

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, Kenyans are demanding devolution. That is one area where we have devolved---

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

**Mr. Deputy Speaker:** Order, Mr. Bifwoli! Will you sit down! You have just asked a question. The Assistant Minister has a right to reply! If you have a further issue, raise it after she has replied!

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, as I was saying, the responsibility of education in this country still lies with the Ministry. When we give guidelines, we expect DEBs and other agents to follow those guidelines. You cannot tell me that when they are not followed to the letter, the Ministry cannot reverse the position in consultation with DEBs!

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

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

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead the House that TSC employs teachers in consultation with DEBs when, in fact, the Question is very clear? The DEB was never consulted. Could she correctly say that if you recruit through DEBs, there will be no way of exchange of money to get those positions?

**Mr. Deputy Speaker:** Mr. Angwenyi, I did not get your point of order! What is your point of order, Mr. Angwenyi?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, my point of order is: Is she in order to mislead the House instead of saying that they have got to recruit at the headquarters so that they can get some under-hand money, corruptly?

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, could the hon. Member substantiate who gets the money under the table? My Ministry is not aware!

**Mr. Deputy Speaker:** Mrs. Mugo, the Chair will help! Mr. Angwenyi, you have not really brought out your point of order properly. I have not got it. Therefore, it is not a point of order!

Now, let me give this chance to the hon. Member for Olenguruone!

**Mr. Cheboi:** Mr. Deputy Speaker, Sir, it is Kuresoi Constituency! Olenguruone is where you were a District Officer (DO)!

**Mr. Deputy Speaker:** Yes, I remember! That was 35 years ago!

Proceed and ask your question!

**Mr. Cheboi:** Mr. Deputy Speaker, Sir, my problem is with the issue of consultations. If there was an anomaly in the recruitment of those teachers, why did the Ministry not consider sending the list back to the DEB to correct the anomaly and recruit teachers with sufficient direction from the DEB?

**Mr. Deputy Speaker:** That is a very reasonable question!

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, it was done in consultation with the Secretary of DEB. We correspond with the DEB Secretary. You cannot assume that we did not bring that issue to the notice of the Committee. That is the procedure.

**Mr. Deputy Speaker:** Last question, Mr. Sambu!

**Mr. Sambu:** Mr. Deputy Speaker, Sir, it is not the question of DEB not following the written instructions from TSC. I attended--- We were in the DEB going through the final list. The procedures were followed to the letter. The issue is: The TSC and the current officials in the Ministry have a reason! I do not know what it is! To just despise--- Or they do not want to do justice or equitable distribution to Mosop Constituency. Will they now give us the 15 chances that we missed in 2005, 2006 and even this year? Shall we get our 15 chances? Yes or no? Are we getting our 15 chances? If not, then we are going to the box!

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, is that a threat? May I inform the hon. Member that Mr. Kemboi Silas and Mr. Lagat K. Gideon were employed and they are from Mosop Constituency! I have that here on record.

I also want to reiterate that the policy of my Ministry is that employment will be given on merit. Those who score the highest marks will get the first priority. That does not, by any means, say that others will not get an opportunity next time. But we have employed some people from Mosop Constituency.

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

**Mr. Deputy Speaker:** Now, what is your point of order?

**Mr. Sambu:** Mr. Deputy Speaker, Sir, would I be in order to bring to the Assistant Minister proof that even people with low qualifications from the same area were employed?

**Mr. Deputy Speaker:** Mr. Sambu, that is a point of information. You should have asked that. In any case, it is not done during Question Time!

Next Question, Mr. Choge!

*Question No.492*

NON-PAYMENT OF NSSF BENEFITS  
TO MR. KIPTENAI ONDIEK

**Mr. Choge** asked the Minister for Transport:-

(a) whether he could confirm that Mr. Kiptenai Ondiek (M No.202259412) was employed by Kenya Railways Corporation and stationed in Kisumu between 1966 and 1975 and retired from service in 1976; and,

(b) when the benefits owed to him by NSSF will be paid.

**The Minister for Transport** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I cannot confirm that Mr. Kiptenai Ondiek was employed by Kenya Railways Corporation (KRC) and stationed in Kisumu between 1966 and 1975, and retired from service in 1976. Based on the little information provided, the management of KRC is unable to establish whether he was an employee of KRC. The name does not appear in their records of past and present employees.

(b) If Mr. Kiptenai Ondiek was, indeed, an employee of KRC, I request the hon. Member to advise him to report to the management with the following particulars:-

(i) Letter of appointment;

(ii) National identity card;

(iii) Departmental details;

(iv) Letter of retirement; and

(v) NSSF registration card or number.

Mr. Deputy Speaker, Sir, that information will also assist in identifying his contribution schedule and computing the monthly contributions, if any, for payment by NSSF.

**Mr. Deputy Speaker:** Mr. Choge, what is all this about? Could you clarify with a



supplementary question?

**Mr. Choge:** I beg your pardon, Mr. Deputy Speaker, Sir?

**Mr. Deputy Speaker:** I want you to ask a question because I am surprised by the Minister's answer.

**Mr. Choge:** Mr. Deputy Speaker, Sir, could the Minister confirm whether the file number on the answer is correct?

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, KRC went to its archives and it could not establish that number. It did not also find Mr. Kiptenai Ondiek's name in its list. So, he should report to KRC with any documents that he has to assist the management to establish the validity of this claim.

**Mr. Deputy Speaker:** Hon. Members, these are issues that we all deal with everyday. Mr. Choge, if he was a contributor of the National Social Security Fund (NSSF), why all the fuss? Where is his NSSF card? I think the Minister challenged you to produce either the NSSF card or number. What is the position, Mr. Choge? We do not want to spend a lot of time on this Question.

**Mr. Choge:** Mr. Deputy Speaker, Sir, while I agree with you that the Minister has tried his level best to give us a correct answer, I also want him to confirm that the details that are on the answer are correct so that I can ask the beneficiary to supply all the details that are required.

**Mr. Deputy Speaker:** It looks to me that this is a matter that the hon. Member needs to do a little bit more investigation. Mr. Ndolo, could you shed light on this because I am in the dark?

**Mr. Ndolo:** Mr. Deputy Speaker, Sir, this is not the first time that this kind of Question is coming up in this House. The Minister himself knows very well that he is part of the family which was brought up by the Kenya Railways Corporation. It is not only Mr. Ondiek who has not been paid. At the moment so many people are loitering around the Kenya Railways headquarters waiting to be paid their dues. The last time this issue arose, he promised that they would be paid, but up to now they have not been paid. What is the Minister doing to make sure that those employees who were retrenched ten years ago are paid their dues because he is part of that family?

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, even though that is a different Question altogether, I would like to assure the House that due process is being taken and the people are being paid. It is a long process and I am satisfied with what the Kenya Railways Corporation is doing to solve that problem.

**Mr. Deputy Speaker:** But on the particular person covered by this Question, Mr. Choge, what is your last word?

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No! I will not waste more time of the House on a matter that the ball has been thrown to the court of Mr. Choge! Do you have Mr. Ondiek's NSSF card number?

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, it is here on the Order Paper!

**Mr. Deputy Speaker:** Order! I am asking you whether you have Mr. Ondiek's NSSF card number! This is his file number! Mr. Choge, what do you have to say?

**Mr. Choge:** Mr. Deputy Speaker, Sir, I said that I am satisfied with what the Minister requires. But I want him to confirm that the details that appear on his answer are correct, especially as regards the file number.

**Mr. Deputy Speaker:** The Minister responded and said that they have gone to the archives and he cannot confirm that Mr. Ondiek was an employee of the Kenya Railway Corporation. Therefore, I think you have agreed that you are satisfied with this matter and I know that you are happy with it. You only need to go and do more research and get more information, and I am sure Mr. Ondiek will be assisted. Is that okay, Mr. Choge?

**Mr. Choge:** Mr. Deputy Speaker, Sir, I still want the Minister to confirm that the file

number is correct. He has not said that it is correct. I want him to confirm.

**Mr. Deputy Speaker:** Mr. Minister, you know that Mr. Choge is a lawyer and he will not let you free until you satisfy him.

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, yes, the information given or the answer as presented is correct. But I would like to add that I did not rule out the possibility that Mr. Ondiek was an employee of the Kenya Railways Corporation. I am only telling the hon. Member that the past and present records that we have cannot establish that he was an employee. However, he should go to the management of the Kenya Railways Corporation with the details that I have given in the second part of the answer.

**Mr. Deputy Speaker:** Mr. Choge, are you happy?

**Mr. Choge:** That is okay, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Thank you, Mr. Choge!

Next Question by the Member for Kinango!

*Question No.494*

POSTING OF NURSE TO  
M'KANG'OMBE DISPENSARY

**Mr. Arungah,** on behalf of **Mr. Rai,** asked the Minister for Health:-

(a) whether he is aware that M'Kang'ombe Dispensary, which was opened on 26th October, 2006, does not have a nurse; and,

(b) when a nurse will be posted to the dispensary.

**Mr. Deputy Speaker:** Is the Minister for Health not here? Your Excellency the Vice-President and Minister for Home Affairs, the Minister for Health is missing!

*(Dr. Kibunguchy entered  
the Chamber)*

**An hon. Member:** The Assistant Minister is here!

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, since the Assistant Minister for Health is here, I have really no responsibility on this matter.

**Mr. Deputy Speaker:** Dr. Kibunguchy walked into the Chamber as I was calling His Excellency the Vice-President and Minister for Home Affairs. Yes, Dr. Kibunguchy!

**Dr. Kibunguchy:** Mr. Deputy Speaker, Sir, for the information of the House, yesterday I got a letter terminating my services in the Ministry of Health!

**Hon. Members:** *Pole! Pole!*

**Mr. Deputy Speaker:** You see, Dr. Kibunguchy is no longer the Assistant Minister for Health! Your Excellency the Vice-President and Minister for Home Affairs, apparently you are not aware of that.

*(Laughter)*

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, in the circumstances, I will ask either the new Minister for Health or the new Assistant Minister for Health to answer the Question on Tuesday next week.

*(Question deferred)*

**MINISTERIAL STATEMENTS****STATUS OF CONTRACT OF ATHI  
WATER SERVICES BOARD CEO**

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, on 16th October, 2007, the Member for Kilome Constituency, Mr. J.M. Mutiso, sought a Ministerial Statement from my Ministry concerning the Chief Executive Officer (CEO) of Athi Water Services Board whose contract expired on 30th September, 2007. I wish to state as follows:-

The CEO was competitively recruited by the Board on 1st October, 2004. He was given a three-year contract, which expired on 30th September, 2007. The CEO is paid a salary of Kshs441,000 and not Kshs556,000. This was negotiated with the Board when he was employed on 1st October, 2004. A Board meeting was held on September, 2007, whose agenda was to review the performance of the CEO and the chief managers and make a decision on the contracts. The Board resolved that their contracts be renewed for another term of three years with effect from 1st October, 2007. However, the renewal of the CEO's contract is subject to the approval of my Ministry. The Board resolved that the CEO and chief managers continue under the current terms until their terms and conditions, as proposed by the Board, are approved by my Ministry and the State Corporations Advisory Committee. When the request was made to my Ministry to renew the contract for the CEO, the Board was advised to re-negotiate his salary as per the guidelines issued by the Office of the President under Circular No.OP/CAB/9/21/2A/L11/43 of 23rd November, 2004. Under the guidelines, Athi Water Services Board is operating under Category PC3C, whose salary ceiling is lower than that paid to the CEO.

Mr. Deputy Speaker, Sir, it is not true that the salary paid to the Chief Executive Officer (CEO) is illegal as the Board has agreed to continue with the contract before any other decision is made. The Board is due to meet today to agree on the way forward which will be either to review the salary as per the guidelines or terminate his contract.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, clearly, the Minister has admitted that the CEO of Athi Water Services Board has been paying himself over and above the recommended salary of a CEO of Class "PC3C" whose basic salary should not be more than Kshs380,000. The Ministry has been fully aware about this illegality. I do not know why the Minister is saying it is not an illegality. I would like to ask him the following questions. Is it possible for the Ministry to recover the extra over Kshs100,000 which this CEO has been drawing since he was given that contract? The said Parastatal Advisory Board which approves according to the State Corporations Act stipulates clearly that a CEO cannot start at the highest level of salary payment. In his class, the lowest paid CEO should earn Kshs150,000 to Kshs380,000. However, it would appear the Board approved the salary of the CEO on the highest scale which, again, is contrary to the provision of the said advisory Board. Is it possible also for the Minister to call for a probe by the Kenya Anti-Corruption Authority (KACA) to look into the operations of that Board?

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, it is not true that the CEO has been earning what he does not deserve. He negotiated for the contract with the Board and---

**Mr. J.M. Mutiso:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. M. Mutiso! I gave you time to seek clarification. Please, allow the Minister to respond!

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, the CEO

negotiated with the Board for his salary and he was given a letter of offer by the Board. However, what the hon. Member is talking about arises from a circular from the Office of the President which came later after than he had agreed to work with the Board and when he had signed the contract. The circular he is talking about gave a leeway which if you may allow me, I will quote what it says on this issue. It says:-

"Existing contracts of CEOs, Chairmen and Directors whose terms are above the limits set by the guidelines may be allowed to run for the course, but will re-negotiate if the appointing authority intend to renew the contract."

So, the circular came after the officer had been engaged. It gives leeway to the Board to negotiate with the officer if they need to renew his contract. So, it is not true that he has been earning an illegal salary. However, when they came to re-negotiate in order to renew his contract, they recommended to me to have his contract renewed. However, I advised them through a letter to look at that issue of negotiation. Incidentally, they are meeting today over the same issue to negotiate on the same because that contract is above. If you allow me, I will quote the same in a letter written on 27th September, 2007 which I wrote to the Chairman of the Board. I did indicate that there is need for them, before they renew the contract, to negotiate with the CEO. If he does not want to negotiate, they can re-advertise the job. That is the position. I have a letter to that effect in which I have directed them to do so. They are doing it.

**Mr. J.M. Mutiso:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, M. Mutiso! The purpose of Ministerial Statements is for Ministers to state positions and for the hon. Members to seek clarifications. It is not a Question and Answer Session, neither is it for debate. Therefore, once clarification has been given by the Minister I expect the matter to be over.

**The Assistant Minister for Agriculture** (Mr. Muiruri): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. Muiruri, what exactly do you want to do?

**The Assistant Minister for Agriculture** (Mr. Muiruri): Mr. Deputy Speaker, Sir, the Athi Water Services Board covers Machakos, Thika and my constituency. The man they are talking about has done a very commendable job.

**Mr. Deputy Speaker:** Mr. Muiruri, will you sit down! You are out of order! This is a matter addressed by Mr. M. Mutiso to the Minister for Water and Irrigation and you cannot purport now to be standing there, to add to what he said. The Ministerial Statement was issued by the Minister and I do not think he requires any reinforcement of it.

Proceed, Mr. J.M. Mutiso!

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, let me further seek this clarification. Could the Minister inform me of any rare and special skills that the CEO of Athi Water Services Board has to warrant to be paid over and above the recommended rate of salary by the Parastatal Advisory Board?

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, I do not know why hon. M. Mutiso is agitated. I have stated facts here; unless he is not telling us what he wants to achieve with this matter. The CEO is an engineer and he was recruited by the Board. He went through a competitive recruitment exercise and he won the contract. He negotiated for a salary for which he agreed with his employer. He subsequently signed a contract of which I have a copy. By then, there was no issue of ceilings. The issue of ceilings came later on. The advice given by the Office of the President was that for anybody who was above the ceiling when the contract is being renewed, he must either come down to the same level where the ceiling is or re-negotiate. The Board then recommended for the renewal of the contract because the officer is doing a good job. I have looked at all audit reports and there is no issue being raised on this by the Auditor-

General (Corporations). When I noticed that, I wrote personally to the Chairman of the Board to look at that matter. That was on 27th September this year as I have explained. I advised them and I may quote one section of this. It says:-

"According to the existing contract, the CEO, Chairman of the Board will be required to re-negotiate with the appointing authority on such matters. If the Board has decided to renew the contract of the CEO, then it must negotiate the new salaries within the guidelines issued by the Government. This matter is not negotiable. Therefore, they should take the necessary action."

That is what the Board is doing. So, I do not know what problem hon. M. Mutiso has with the CEO. If he has a personal issue with the CEO, he should say so.

**Mr. Deputy Speaker:** Next statement!

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

Sit down, Mr. Ojode!

#### INSECURITY IN SONDU AREA

**The Assistant Minister, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, on 16th October, 2007, Mr. Keter rose on a point of order to request for a Ministerial Statement concerning insecurity in Sondu Area.

On 14th October, 2007, at around 2.00 p.m., the Officer in charge of Sondu Police Station received a report that a large number of Kipsigis youth armed with bows, arrows, *pangas* and other crude weapons were proceeding to Sondu Trading Centre, about two kilometres west of the police station. The security personnel were immediately mobilised to avert any possible breach of security. The security officers who comprised of both regular and Administration Police officers numbering 35 men were ordered to secure Sondu Trading Centre due to the impending attack. On arrival, they encountered about 200 heavily armed youth burning houses.

The houses that were set on fire belonged to the following: Messrs. Joel Nyarando, Elisha Atebe, Zablon Gekara and four other thatched houses belonging to Messrs. Ondiek, Yekara and three other houses whose owners are not yet known.

Mr. Deputy Speaker, Sir, attempts by the security officers to scare away the youth was promptly met by fierce resistance. The youth began shooting at the police officers with bows and arrows forcing them to call for reinforcement from the Officers Commanding Stations (OCS), Pap Onditi and Oyugis. The skirmishes escalated, forcing police officers to fire several rounds of ammunition in the air as a warning. However, the situation worsened with the youth terrorising members of the public and law enforcement officers.

Mr. Deputy Speaker, Sir, in the ensuing skirmishes, the following people were injured: David Omondi who was injured on the left shoulder, Mary Kwamboka who was injured on the right leg, somebody known only as Monari who was injured on the left shoulder and Julius Ombao who was injured on the chest. A police officer, Hassan Ali, who was hit and injured on the forehead.

Mr. Deputy Speaker, Sir, the following arsonists were shot and killed during the skirmishes: David Chepkwony, Victor Kiprono and Johana Chepkwony. This was at Kabutii, Makuti and Pembo petrol stations, respectively. The bodies were later collected by police officers and taken to Pap Onditi Hospital Mortuary and not Kisumu, as claimed. Two suspected arsonists were arrested, namely, Philip Ng'etich and David Maritim, both Kipsigis male adults aged 20 and 25 years, respectively.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, investigations into the incident commenced and the matter is still under investigation by the police. However, it is suspected that what caused the incident; the imminent attack, were political utterances by politicians who were talking of creating *majimbo* after the elections. That is what we have found out from our preliminary investigations.

**An hon. Member:** *Uongo!*

**The Assistant Minister of State, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, it is important to note that police officers are authorised to use live bullets to protect lives and property if the same is under threat. It is the discretion of the police to take bodies to the nearest health facility.

Thank you.

**The Temporary Deputy Speaker** (Mr. Khamasi): Who raised the matter?

*(Mr. Keter moved to the Dispatch Box)*

Order, Mr. Keter! Is it you who raised the matter?

**Mr. Keter:** Yes, Mr. Temporary Deputy Speaker, Sir. After listening to the Assistant Minister giving that explanation, I want him to clarify the following. He has said that there were 200 hundred armed people. Houses were set on fire and people ran to check what was happening. One of the victims who was shot is a Standard Seven pupil who was shot while running away. All the three people were killed around 6.00 p.m. People who went to check saw them lying down until the next day. It is unfortunate that the next morning, these people were found with bows and arrows next to their bodies which means the police themselves or somebody else did that.

I really want to know why the police shot at these people because these were not violent persons. I also want to know what the Government intends to do with the property that was destroyed.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to clearly state to this House whether or not this Government is capable of providing adequate security to its people wherever they might be; whether or not they are in their own ancestral land or in lands where they have settled through willing seller-willing buyer agreements.

I would like the Assistant Minister to tell us exactly for the last one month since this issue started, how many houses have been burnt? Where are the people who lived in those houses? Is the Government going to allocate resources from the emergency kitty for those people to re-settle on their land that they had purchased and settled and compensate them for the loss of property and any other valuables that they may have lost in that incident?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I just need a further clarification. The Assistant Minister has mentioned that it was utterances to introduce *majimbo* that caused those fracas. When we are dealing with a serious issue like this one, I think we should not play around. There has never been any hon. Member or politician who has come out and said that we are going to introduce *majimbo*. We said that we are going to have new *majimbo* which means that devolving funds, just like the Constituencies Development Fund (CDF).

**An hon. Member:** Wacha kutuambia hivyo! Hii sio kampeni!

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, could you protect me from these---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Sit down, Mr. Ojode! We shall

be orderly! Mr. Ojode, you were standing to seek clarification from the Assistant Minister's Ministerial Statement. It is not your duty now to start debating other issues which are completely unrelated to the Statement of the Assistant Minister.

*(Applause)*

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, what we are undergoing as we speak is very bad. You are aware that a Standard Seven pupil has been shot dead. The Assistant Minister is replying saying that these fellows were enticed; they were politically motivated, which is not true. You remember even in Kisumu when they were holding a meeting at Kisumu Stadium, they went and shot dead about seven people, four kilometres away from the scene, a majority of whom were students.

If this Government cannot protect the lives of its people, it has no business being the Government! We want this Parliament to be dissolved so that ODM can take over!

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Ojode! Sitting here, I have not as yet, understood what type of clarification you want from the Assistant Minister. Order! Your statement was the last one.

Yes, Mr. Sungu!

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir---

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

**Mr. Sungu:** Thank you, Mr. Temporary Deputy Speaker, Sir. Mine is a very serious issue.

Mr. Temporary Deputy Speaker, Sir, this country has gone through a turbulent period, particularly when one Government is threatened by the Opposition in terms of losing power. Our experience of 1992 tribal clashes, which were politically instigated, comes into our minds. I want the Assistant Minister to be very honest and frankly assure this House, as he responds to these clarifications. Those communities have been living at peace with each other for a long time. I went to Nyabondo Secondary School, which is very close to Sondu. I know that the Kisiis, Luos and Kalenjins in that area have always lived in peace. I was nearly caught up in the skirmishes the other day, when I was driving home. I came across a large crowd in that area and it was armed. Fortunately, because I am a politician, I escaped with my life. I was with my family.

I want the Assistant Minister to take this matter very seriously! Could he assure this House that those escalating incidents of violence, which are becoming inter-communal, are not politically-instigated by the Government to ensure that the people fight so that they do not vote for the Orange Democratic Movement (ODM).

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, Mr. Assistant Minister!

**Dr. Manduku:** Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Assistant Minister! Dr. Manduku, do you have something to say?

**Dr. Manduku:** I have something to say, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Khamasi): The last one!

**Dr. Manduku:** Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, those skirmishes have been going on for the last two weeks. We want the Assistant Minister to clarify whether that matter has ended. The information we have is that there were skirmishes last night and two people were hospitalised in very critical condition at Kaplong Hospital. Could he clarify whether that situation is getting out of hand? When a situation gets out of hand, what happens?

Thank you.

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, Mr. Ligale!

**Mr. Ligale:** Mr. Temporary Deputy Speaker, Sir, when this matter was raised on the Floor of this House, the substantive Minister made a statement to the effect that those skirmishes were politically-motivated. That was before any investigations was carried out. That made me rather worried. As far as we know, no investigation had been carried out to establish the cause of those skirmishes. Now, the Assistant Minister who has given the Statement says that police officers got a report that some 200 armed youths were on the rampage. They were going to attack. Surely, has the Government established what could have led to those 200 youths to---

**An hon. Member:** Expound!

**Mr. Ligale:** Mr. Temporary Deputy Chairman, Sir, if we carry on this way, we are not going to get to the root cause of this matter. I am just asking! I am not involved in that community! But I am a concerned Kenyan. We want to get the truth of this matter. Those 200 armed youths could not just begin to arm themselves without any motivation. Has anybody got into the root cause of that motivation? What could have motivated those youths to arm themselves and go to attack? Who were they attacking? As somebody has said before me, those communities have lived together in peace for a very long time. Why have they suddenly become insane? Have we got to the root cause of it?

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Temporary Deputy Speaker, Sir, I will start with Mr. Ligale's clarification. The Minister receives routine reports. He does not need to have a Ministerial Statement requested from him to know what is happening across the country. He is briefed on a daily basis on what is happening in relation to security across the country. So, when he was giving a preliminary statement yesterday, he already knew what was happening. That is why he said that he needed more time to bring a more comprehensive statement with details of who was killed and what happened. But he already knew that, that was a politically motivated incident.

**An hon. Member:** How?

**The Assistant Minister, Office of the President (Mr. Munya):** How could 200 youths armed with arrows go to attack other people residing in a market and selectively burn houses belonging to people who do not belong to their community?

If you look at the names of people whose houses were burnt, they were, specifically, Kisiis!

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

**The Temporary Deputy Speaker (Mr. Khamasi):** Order! Order, all of you! We cannot have a shouting match here!

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker (Mr. Khamasi):** Mr. Ojode, I am presiding over this House! You will play by your own rules.

Mr. Assistant Minister, have you finished replying to all the issues that were raised?

**The Assistant Minister, Office of the President (Mr. Munya):** Thank you, Mr. Temporary Deputy Speaker, Sir. I was explaining that the armed youths were carrying bows, arrows and *pangas*. They were going to attack other citizens of this country who have lived and resided in that area. They had already burnt houses. I have given names of the owners of the houses that were burnt. So, there is no dispute that those youths were there. They did what we are talking about. Specifically, if you look at the names of those who were attacked, you can see that there is an ethnic angle in the entire matter. Our investigations and intelligence has informed us that the talk that is going around of *majimbo* is what is making other Kenyans---

Mr. Temporary Deputy Speaker, Sir, some Kenyans are already implementing those



*majimbo*s by burning other citizens' houses. That is why I want to take this opportunity to ask the politicians who are in this House, and those who are outside this House to restrain themselves. That is because their utterances can cause a lot of problems in this country. They should go along doing their campaigns. But they should restrain themselves from inciting citizens to attack other citizens.

Mr. Temporary Deputy Speaker, Sir, we are still investigating that particular incident. Those who have been arrested are already in custody and will be taken to court. We have also beefed up security in that area to protect other citizens who may be attacked. We are telling the people there to be calm because the Government will provide adequate security to protect their lives and property.

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

**The Temporary Deputy Speaker** (Mr. Khamasi): I think I want to end that matter there!

**Mr. Keter:** On a point of order, Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! You will listen to the Chair! I am saying that I am ending this matter because it is not intended to be a debate! Period! We are not going to make this a debate.

**Mr. Keter:** Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Keter! You know, if you are not satisfied with what the Assistant Minister is doing, we have got provisions within our Standing Orders on how you can follow up this matter. You cannot finish it today! We cannot make it a debate. That is it! Any other matters, I would like to attend to it. That is if you have got the permission of the Chair.

## POINT OF ORDER

### OPERATIONALISATION OF PEOPLE WITH DISABILITIES ACT

**Mr. Weya:** On a point of order, Mr. Temporary Deputy Chairman, Sir. For over a month, this Government has been asked to bring a Ministerial Statement on the issue of the operationalisation of people with Disabilities Bill. On Tuesday, the Chair clearly said that the Minister must come here on Thursday and bring that statement. It seems that this Government is not interested in people with disabilities, neither does it respect this House. It also does not respect the Chair. So, I think we need to take this matter very critically because people with disabilities are not in this House. They need representation.

**The Minister for Water and Irrigation** (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Katuku! First of all, sit down! I want to know what happened on that day. The Chair gave direction that the Minister in charge should come and explain. I would like to know from the Government side what happened. Mr. Katuku, could you be having an answer to that issue?

**Mr. Weya:** Mr. Temporary Deputy Speaker, Sir, the Leader of Government Business promised that he will make sure that the Minister comes to this House to explain when the Bill will be operationalised. The matter has taken over a month. People with disabilities need to be represented because they are about three million.

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Weya, you have already said that!

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I was here when the issue was raised and hon. Chelaite undertook to issue a Statement today, Thursday. Unfortunately, she is not here. I will, however, get in touch with her to find out what the problem is. We will have the Statement issued on Tuesday, next week.

**Mr. Sungu:** You are buying time!

*(Mr. J.M. Mutiso stood up in his place)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. J.M. Mutiso, are you standing up on a point of order?

**Mr. J.M. Mutiso:** No! No, Mr. Temporary Deputy Speaker, Sir.

VIDEO RECORDING OF HOUSE  
PROCEEDINGS

**The Minister for Water and Irrigation** (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to draw your attention to a gentleman who seems to be recording the proceedings of Parliament live. I do not know whether you are aware or not. What is the position?

**The Temporary Deputy Speaker** (Mr. Khamasi): I will respond to that. I am aware and the Chair has already communicated to the House. So, perhaps, your coming late has disadvantaged you. What is going on is well known.

RECRUITMENT OF MILITARY  
CADET OFFICERS

**Mr. J.M. Mutiso:** Mr. Temporary Deputy Speaker, Sir, on Tuesday, I also sought a Ministerial Statement on the recruitment of military cadet officers which was carried out on 12th October, 2007, where recruits from Kibwezi were sent away on a basis we do not understand. The Minister of State for Defence promised to bring a Statement today. I do not know whether there is any information towards that.

**The Temporary Deputy Speaker** (Mr. Khamasi): Could the Leader of Government Business, or any person from the Government side, respond to that?

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I also want to confirm that I was present when the matter was raised and the Minister undertook to issue a Statement today. Unfortunately, he is not here also. I will undertake to get in touch with him and ensure that the Statement is issued on Tuesday, next week.

REQUEST TO THE CHAIR TO RULE  
ON OPERATIONALISATION OF PERSONS  
WITH DISABILITIES BILL

**Mr. Weya:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Khamasi): What is it now, Mr. Weya?

**Mr. Weya:** Mr. Temporary Deputy Speaker, Sir, I would like the Chair to make a ruling on the issue of the operationalization of the People with Disabilities Bill. This is because that Bill has not been operationalized and people with disabilities are disadvantaged.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Weya! The Chair is here to

preside. We have asked the Government side to tell us what the situation is. The Minister concerned is not here. The Chair cannot carry the Minister from wherever he is to bring him here. So, Mr. Katuku has told us that he will get in touch with the Minister and, on Tuesday, a Statement will be issued. That is the fact I got from the Government side and I do not think you can go further than that.

**Mr. Weya:** Mr. Temporary Deputy Speaker, Sir, when the Speaker made a ruling here that the Minister should issue the Statement today and yet the Minister is not here to do as the Speaker ruled, it shows that this Government has no respect for the Chair!

**The Temporary Deputy Speaker** (Mr. Khamasi): Next Order!

### MOTION

#### NOTING OF DEPARTMENTAL COMMITTEE REPORT ON EQUITY BANK

**Dr. Oburu:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, this House notes the contents of the Report by the Departmental Committee on Finance, Planning and Trade on Equity Bank laid on the Table of the House on Tuesday, 16th October, 2007.

Mr. Temporary Deputy Speaker, Sir, this Report arose out of a concern which was raised on the Floor of this House. The first one was on 10th July, 2007 by hon. Dr. Khalwale and a letter containing very serious allegations about Equity Bank was tabled. Subsequently, there was an audit Report which was also tabled here in the same month by a Member of Parliament. Another letter also containing very serious allegations by Ms. Wanjiku Mugane was tabled here.

The concern of the Committee was that Equity Bank, being an indigenous bank and one of the most important banks in this country, once mentioned on the Floor of the House, the consequences could be serious. The seriousness of the consequences have been witnessed here before; where serious allegations were made on the---

*(Mr. Weya consulted loudly)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Dr. Oburu! Mr. Weya, you are breaching the rules of the House! You had better note that you do not need to do that. If you want to consult, please, pull your friend aside and consult in low tones. You are holding a meeting here and standing with your back facing the Chair!

Proceed, Dr. Oburu!

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, when allegations are made about institutions, particularly banks, on the Floor of the House and they become public immediately, the consequences in the market are serious. It can lead to a run on the bank, which might consequently lead to the collapse of the bank. That could have reverberating effects on the economy of this country. Because of that, we thought that, as a Committee empowered by this Parliament to look at matters of finance, it was our responsibility to investigate those allegations and bring them to the attention of the House so that we could verify the veracity of the allegations tabled on the Floor of the House.

Mr. Temporary Deputy Speaker, Sir, the allegations made by a Mr. S.K. Patel, whose letter was tabled on the Floor, could not be authenticated because, first, the so-called S.K. Patel is an anonymous person who cannot be traced. Therefore, the allegations which he made could not be verified from him. We could not tell where he got those allegations. Nonetheless, we tried to look

at them because the letter must have been written by somebody who is a Kenyan and, perhaps, one who is afraid of giving his name out. We wanted to find out whether they were proper or malicious claims.

Mr. Temporary Deputy Speaker, Sir, on all the issues that were raised by Mr. S.K. Patel after interviewing the management of the bank itself, the Central Bank of Kenya (CBK) and the people who were working with Equity Bank as per the minutes attached to our Report, we found out that there was no substance in most of those allegations; in fact, in almost all the allegations which were given in that letter by a Mr. S.K. Patel. There was also a special report which was tabled here on the Floor. This was purportedly an audit report instigated by the bank itself to exonerate itself from the allegations which were flying in the eyes of the public.

Mr. Temporary Deputy Speaker, Sir, looking at that Audit Report and also on checking with the Governor of the Central Bank of Kenya, who appeared before the Committee, he confirmed to us that, that particular report was not by Equity Bank. It was actually initiated by the Central Bank of Kenya (CBK). The reason it was initiated by the CBK was that there was a lot of allegations, particularly based on some of these anonymous letters written by Patel and others. The CBK did not take it lightly. They thought it was necessary to do some investigations on the issues, even though the letters were anonymous. Again, that report did not exonerate the bank from the allegations. I want to confirm here, that, that report was not made by Equity Bank, but it was a report by the CBK on the issues raised.

Mr. Temporary Deputy Speaker, Sir, the other report which was tabled on the Floor of this House was by a Ms. Wanjiku Mugane who was a director of Equity Bank. The Committee invited her to appear before it and explain some of the issues which were raised. On interviewing her, it came out clearly that Ms. Wanjiku did not want to discuss with us those issues. As far as she was concerned, she was raising those issues in good faith because she was a director of the bank. All that she needed was clarifications. Those issues she was alleging were mere allegations which she actually just wanted clarified to her. It was unfortunate that, that letter became a public document. Therefore, she was not quite willing to discuss with us some of those issues.

Mr. Temporary Deputy Speaker, Sir, the other issue which we put to Ms. Mugane was why she resigned from the Board of Directors of Equity Bank if there was nothing wrong with the bank. Again, there was an insinuation that the issues in Equity Bank were so serious that one of the senior directors had to resign from the bank. From our discussions with Ms. Wanjiku and the directors of the bank who also appeared before the Committee, it was our conclusion that there was an issue of conflict of interest. Ms. Mugane had sold her shareholding in the bank to the Standard Chartered Bank which is a competitor of Equity Bank. Therefore, there was a likelihood that she was, at the same time, associating with a very serious competitor of the bank while she was a director. Therefore, the bank decided to relieve her of her directorship. The polite way to do so, was to get her resign as a director.

Mr. Temporary Deputy Speaker, Sir, there were serious allegations in respect of the Managing Director of Equity Bank. One of them was that he had violated the requirement by the CBK that no director should hold more than 5 per cent of shares of a bank. On investigation by the Committee, it was found out that when Equity Bank applied to be admitted to the Nairobi Stock Exchange (NSE), the Capital Markets Authority (CMA) insisted that the bank must give an undertaking that none of the major shareholders were to offload their shares within the following two years. Therefore, they blocked those shares. This was to protect members of the public from people who might want to offload their shares in the market while they know something and then decide to sell them immediately to dupe members of the public.

Mr. Temporary Deputy Speaker, Sir, when they did this, the CBK was not involved. When CBK discovered that there was such an arrangement, they objected to it. The CBK was not happy

that a director was allowed to hold 7.3 per cent shares. However, on discussions with the CMA, the CBK decided to give a reprieve of two years to this particular director to hold 7.3 per cent shares until after two years which ends in 2008. After that, he shall be required to off load the extra shares. Our observation, as a Committee, was that there should be more coordination between the CMA and the regulator, so that we do not have an anomaly. That is one of the issues where the competitors are arguing that Equity Bank is getting some special treatment whereas in the market where they are competing, there is supposed to be some fairness.

Mr. Temporary Deputy Speaker, Sir, there was also an allegation that their employees were holding very big shares. It was not clear how these employees could have acquired shares. It was possible that these employees were actually holding the shares on behalf of some directors or big people. The Committee looked into this allegation and facts were presented on each of the employees. They were more than ten. The history of how they acquired the shares were clearly presented to the Committee. The shares were built up over a number of years through bonus share. That is what brought the shares to that level to where they were. They looked big, but started from very humble beginnings. Some of them started with Kshs50,000 and they are now owning millions worth of shares. Mr. Mwangi himself only invested Kshs2 million. All the facts were tabulated. Right now, his shares are amounting to about Kshs1.5 billion. Midway, he only added Kshs200,000. It is not true that there was Kshs200 million which he brought with him from the Trade Bank as alleged.

Mr. Temporary Deputy Speaker, Sir, we looked at all the other issues like allegations on the high turn over of staff. We felt that this was an administrative matter which, perhaps the bank could address.

Mr. Temporary Deputy Speaker, Sir, when we looked at Equity Bank, it started off about 24 years ago. It was established as a building society in 1984. Up to 2004, it was still a building society. Looking at the facts as they are, it appears as if Equity Bank grew very fast.

Mr. Temporary Deputy Speaker, Sir, looking at the facts as they were, Equity Bank grew very fast. The speed at which this bank went into the Capital Market, that is, between 2004, when it formally became a commercial bank and 2006 when it off-loaded its shares into the stock market for public purchase, was a point of concern. That was a very short period of time and perhaps there were some risks which might have required more scrutiny in order not to put the public at risk because two years is a very short time within which to move into the Capital Markets Authority. So, we have observed that there needs to be more regular supervision of the banks in order to protect the public. We are not talking about Equity Bank only, but in future, we want the regulation to be more strict so that eyebrows are not raised. We also noted that the problems of Equity Bank started when it wanted to off-load its shares in the Capital Market. As we are all aware, and some of us are business people, we know that when somebody is foraging into your territory, you become jittery. It appears that some of the issues which are arising because of competition. But we would like to encourage fair competition.

Mr. Temporary Deputy Speaker, Sir, our other concern is on the protection of the local investors. When we talk of investment in this country, we should not only be talking about foreign investment. The most sustainable investment in any country which can sustain development is the local investment. There is no country in the world which has developed without protecting its own investors. We cannot have a sustainable economy without encouraging our investors. Sometimes, our Committee has not been in good terms with the Minister for Finance because we sometimes think he is being a bit insensitive to the local investors, particularly the industrialists. We would like to appeal to him to look at local investors with a lot of care because we want to encourage our own people to invest.

Equity bank is a local bank and it is competing against the multinational banks like

Barclays, Standard Chartered and so on. These are good banks but with a smaller shocker, those people can run away from us at any time. Therefore, we must encourage our own investors. A few years ago, these multinational banks started closing their branches and, therefore, leaving our people without any banking facilities. If Equity Bank did not come into the market, those people would not be going back. But now they are rushing back to the same markets which they had abandoned. That is a serious matter which we must look into because we want people to come out of poverty.

Mr. Temporary Deputy Speaker, Sir, you cannot come out of poverty if you do not have access to credit and you cannot have credible institutions. We know that this bank is expanding. We are not here advocating for them but in this Parliament when we make statements, let us verify them first. We might not know that we are a very powerful institution. Whatever statements that we make on the Floor of this House, vibrate into this country and could destroy. Therefore, I would like to appeal to my colleagues that in future, we should be more careful when we are making statements about our local institutions. We want to protect businesses.

Mr. Temporary Deputy Speaker, Sir, the Nairobi Stock Exchange (NSE) is a very important instrument in spreading development in this country. I understand that some people are saying that it is not a fish market. I know that it is not a fish market but even a fish market has some rules. It also obeys the law of supply and demand. Just like the NSE, it also sometimes fluctuates. In every year when there are elections, the value of stocks fluctuates. It is never a constant thing. We hope that those in charge of the economy will look at the issues of NSE more favourably.

I do not want to make any more statements. I would like the Chair to give guidance as to whether I need a Seconder.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, you will need a seconder.

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, I will invite Mr. Angwenyi to second.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, thank you for allowing me to associate myself with this successful Kenyan entrepreneurship. I second the Report on the grounds that this institution has caused essential reforms in the banking industry in this country. Before the advent of this institution, as a commercial bank, Kenyans were being treated like slaves by foreign banks. People should have banking services.

If you can recall, foreign banks had closed their branches throughout the country and migrated to the main cities like Nairobi, Mombasa, Nakuru and Kisumu. I can recall that when I was a young boy growing up, my father used to bank in Standard Chartered Bank in Kisii but in the 1990s the bank closed its branch in Kisii. Therefore, if you wanted the services of Standard Bank you had to go to Kisumu or Kericho. That is 100 kilometres away from Kisii town. This is replicated throughout the country. These banks were closing up their branches even when they were making profits which were expatriated to foreign lands. As they were closing, they were retrenching the local staff and paying hefty salaries to the foreigners. So, they were trying to make every penny that they could in this country and taking it into their countries of origin.

Mr. Temporary Deputy Speaker, Sir, when Equity Bank became a commercial bank, they have since established 65 branches in the country. So, in every district headquarters, you can find a branch of Equity Bank where you can access banking services. In the process, it has employed 2,198 Kenyans from all communities. I could even cite how many people from each community have been recruited:

Borana 18; Embu 86; Gabra 3; Giriama 3; Kalenjin 189; Kamba 274; Kikuyu 895; Kisii 102; Luhya 156; Luo 148; Maasai 48; Meru 162; Miji Kenda 21; Pokot 3; Samburu 21; Somalis 39; Taita 23; Teso 4; and three Turkanas.

Mr. Temporary Deputy Speaker, Sir, there is no bank in this country which can boast of

achieving this kind of spread in employment. This bank was the first bank to remove all ledger fees for their services. It is the first one to reduce the fees you pay for a bankers cheque to Kshs100. It is the only bank which reduced the minimum amount that you must have in a bank account. I remember one time when I was teaching at the university, closing my account at Barclays Bank because they demanded that I must have, at all times, Kshs10,000 which was about 60 per cent of what I was earning at the university. So, I could not maintain that account. So, I had to open an account in our rural SACCO to access banking services.

So, Mr. Temporary Deputy Speaker, Sir, that is a bank that has really brought reforms in the banking sector. It is a bank that has taken up its corporate social responsibility very seriously to assist our people. For example, every year, the best performing girl and boy in the Kenya Certificate of Secondary Examination (KCSE) from every district in this country is awarded full scholarship to pursue university education! Considering the rate at which districts are mushrooming today, the bank's corporate social responsibility is also expanding.

Mr. Temporary Deputy Speaker, Sir, that bank is strong. That has been determined by the Central Bank of Kenya (CBK) and the International Monetary Fund (IMF). They have, in fact, taken some shareholding in it. That bank is very successful. It has decided that, that success will be enjoyed by many more Kenyans. That is why it offered its Initial Public Offer (IPO) about one and half years ago.

So, Mr. Temporary Deputy Speaker, Sir, what I am saying is that, that bank, together with similar institutions, should be supported. That way, we can develop our own people by providing them with employment. We can provide an efficient service to our people. We can also retain and invest whatever profits that are made in our own country.

Mr. Temporary Deputy Speaker, Sir, I urge the Government to provide incentives to that type of entrepreneurship, so that it could be duplicated in all the other sectors of our economy.

With those few remarks, I beg to second.

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

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, everybody! Even before I propose the question, I was listening to Mr. Angwenyi while he was seconding this Motion. I wanted him to tell us more about the contents of the papers that were laid on the Table of this House on 10th July, 2007, and their legitimacy or otherwise. I never heard him say anything about that! But, all the same, I will propose the question.

*(Question proposed)*

Proceed, Mr. Kagwe!

**The Minister for Information and Communications** (Mr. Kagwe): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion and, more importantly, to congratulate the Departmental Committee on Finance, Planning and Trade and, particularly, the Chair of that Committee, Dr. Oburu. As you know, I was, indeed, the Chair of that Committee. Having worked in that Committee, I am quite conversant with the ability of the Members.

Mr. Temporary Deputy Speaker, Sir, I, particularly, want to applaud the Committee for clearing the Equity Bank issue, which is very important. That has already been spelt out by Dr. Oburu. Two things are enemies of development and, indeed, enemies of business in this country. One of them is basic jealousy! Just pure, clean jealousy where people will stab each other and suffer from a disease which is popularly known as "PHD Syndrome" - Pull-Him-Down-Syndrome.

That basically means that, as people do well, there is no appreciation of success in this country. Success is assumed to be theft, corruption and all manners of ills, except hard work!

Mr. Temporary Deputy Speaker, Sir, from the Report that we have read here, it is clear that Mr. Mwangi and his team, having worked for over a period of 20 years, have build a viable bank. It is one of the most successful and competitive banks in Kenya. The allegations as laid here in this House were clearly out of malice, jealousy and, probably, from competitors who are fearing the kind of in-roads that, that bank is making across the country.

Mr. Temporary Deputy Speaker, Sir, multinational corporations will continue, day in, day out. They must try to bring down local investments. The general rule is that multinational corporations can only go up if there are no Kenyans. But it has been made clear by the success of Equity Bank that local investors can succeed only if:-

(a) We support them.

(b) We are aware that there will exist enemies of those who are in business and those who will be supported by this country.

Mr. Temporary Deputy Speaker, Sir, I agree with the Committee that we must encourage indigenous persons to start businesses. Indeed, it behooves this House to protect the businesses where Kenyans are involved. After all, we are representatives of those people. I agree completely that we must protect, appreciate and, indeed, support with everything we can, local enterprises and businesses. In so doing, I agree that we must protect the banks. It is right that we do so. We must, indeed, protect industries right across the country.

Mr. Temporary Deputy Speaker, Sir, it is true that the allegations we make as Members of Parliament can, sometimes, be extremely detrimental to the industries that we are referring to. I would also like to say that, as we protect the entrepreneurs, one of the areas of enterprise that we must protect are the landlords. That is people who have built houses - small little houses in ghettos and other places. Therefore, anybody suggesting that such a person should not be paid rent is out to destroy small entrepreneurs in this country! Consequently, that is no way to build the country! That is not the way to build our institutions! Therefore, I want to thank Dr. Oburu for having, within him, the idea of appreciating local businessmen, protecting them and ensuring that they thrive. I am thankful to the Committee. I hope it will continue to protect each sector of our community and business people.

Thank you very much, Mr. Temporary Deputy Speaker, Sir. I beg to support.

**Mr. Sambu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I was present when Dr. Khalwale laid that letter on the Table of this House. He was going round making serious allegations against Equity Bank and certain individuals in that bank. I contributed and I said that the Departmental Committee on Finance, Planning and Trade should do its job of certifying the truth or otherwise, of those allegations.

Mr. Temporary Deputy Speaker, Sir, I want to thank the Departmental Committee on Finance Planning and Trade for doing its work. When there are allegations like those, even the ones regarding investments and other sectors of our lives, the work of a Departmental Committees is to investigate.

Mr. Temporary Deputy Speaker, Sir, I want to say that I am happy because the Committee immediately took up that matter and went ahead with its work. It has been able to report by October. So, it only took August and September. We have had problems where a Departmental Committee or a Select Committee is constituted to look into a mater and it takes too much time until, sometimes, the life of that particular Parliament is over.

I do not want to refer to the allegations in the letter, but I want to concur with my colleagues, without being seen to be repetitive, because our thinking is more or less the same, that it looks as if the allegations made were based on the success of this bank and the rate at which it



was growing. For many years, as my colleagues have said, the international banks were exploiting our people. Their charges on people who had accounts with them were excessive. Their ledger fees, cheque book fees and bankers cheques were very high. Sometime ago, when some schools decided that their fees would be paid using bankers cheques, when schools opened, the banks would be minting money from parents. So, I am happy that this bank and other indigenous banks have come up. Since they have grown up in similar conditions as Kenyans, they understand the conditions Kenyans go through.

The big international banks are not only jealous but--- A bank is not an investment --- These banks only get a building and meet the requirements and regulations on the deposits and then they go into business. They grow by using money that belongs to indigenous people of Kenya. At the end of their financial year, when they have made their profits, nearly all the profits are remitted to their countries. You will find that nearly all these banks are listed in the stock exchanges of their countries of origin. That means that Kenyan depositors or borrowers are sustaining those people who have invested in those banks in Europe, among other places. I am happy when I see a Kenyan indigenous bank grow at the rate at which Equity Bank has grown. I also like the fact that Equity Bank has put up good competition. As my colleague, who spoke earlier said, international banks had closed their branches in areas such as Kapsabet. The Standard Chartered Bank and the Barclays Bank had closed their branches there and people were forced to travel to Eldoret to seek banking services. When they later realised that the Equity Bank had opened a branch in Kapsabet, they are now rushing back to open branches there. One would wonder why. Are they not going to meet the same people who operated accounts with them? What the Equity Bank is doing is good. It is promoting competition because it has made those who had run away to come back because they have seen that there is good business to be done even in the smaller towns.

Mr. Temporary Deputy Speaker, Sir, we should support our indigenous banks and industries. I want to end by saying that any allegations, which are made and affect an indigenous investment, should be thoroughly investigated by the departmental committee and a report prepared and tabled here so that it can be debated. I want to thank the Committee for what they have done by coming up with this Report because we can now discuss that letter which was allegedly signed by the said Mr. Patel because it is fraudulent. If it is investigated and found to be so, whoever started it should be arrested and charged in a court of law.

With that, I want to thank the Committee.

I beg to support.

**Mr. J.M. Mutiso:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance. I would like to say, first of all, that I am a Member of the Finance, Planning and Trade Committee which deliberated on this Report. I was part of the team. Therefore, I think it is important that I declare that.

The issue of Equity Bank is characteristically what I would call a hate campaign against indigenous Kenyan banks. You know very well that with the collapse of the banking sector between the years 2002 and 2007, when this country was visited with conditions by the International Monetary Fund (IMF) and the World Bank and the donors stopped lending this country money, the banking sector got a shock. Therefore, the indigenous banks - I remember the Rural Urban Bank and other small microfinance institutions - were completely wiped out because of donor conditions which stipulated that the core capital and provisions of banking be raised. Little did this country know that this was part of a larger conspiracy of the "big boys" or the big banks who have trodden over the globe using their monopolistic powers to try and kill indigenous banks and assert their supremacy because of their historical strengthen in banking.

Mr. Temporary Deputy Speaker, Sir, I am proud to say that, today, we have a very vibrant banking sector. We also have a very vibrant institutional capacity in the name of the Central Bank

of Kenya and the Capital Markets Authority (CMA). Therefore, I think there is no cause for alarm as to the functioning of our banks and microfinance institutions or small institutions. I think that Equity Bank has gone an extra mile to cater for two million unbanked Kenyans. If you look at this Report, on page 7, you will see that the tremendous growth in advances, deposits and loans is attributable to the deposits by 4,000 new accounts opened daily. This is a record. Four thousand new accounts are opened daily in this country! What does that tell you? It means that 4,000 people who are unbanked are given the services of saving and also operating financial services in this country. Initially, it was the reverse. The big banks were rolling back and closing branches in the rural and peri-urban areas and leaving very few banks to a few elites only.

If we look at the performance, again, with regard to the Central Bank audit, a bank is known by its capital base. If you look at page 8 of the Report, you will see that the bank's capital is adequate. If you look at No.VIII, you will see that the bank has made adequate provision for non-performing loans from Kshs381 million in December 2006 to Kshs655 million in June, 2007. There is no risk as to the non-performing portfolio of the bank. As you know, most banks mal-perform because of non-performing loans. The standard benchmarks of non-performing loans for most banks is pegged at slightly over 7 per cent.

Mr. Temporary Deputy Speaker, Sir, as I speak, Equity Bank asserts its strength in the area of non-performance of loans, having reduced its non-performing loan portfolio from 11.2 per cent in December, 2005, to 5.5 per cent in June, 2007. That is a very healthy bank with no possibility of non-performing loans building up the portfolio of the bank.

Regarding the issues we looked at and which were particularly shared by the Capital Markets Authority (CMA), as to the shareholding capacity or the requirement of 5 per cent, as a Member of the Committee, I was convinced that the differential in shareholding capacity was occasioned by operationalisation of the bank. Inherently, by itself, it was not a speculative holding by the chief executive. As the Chairman said, the chief executive has superintended this bank when it was a building society. That was ten years ago when it was a micro-finance institution. Now, it is a bank. Therefore, there is no cause for alarm because Mr. Mwangi has a long history with the bank. Therefore, it was prudent for the CMA, which actually regulates the secondary market, to approve the shareholding of Mr. Mwangi for a period of two years.

Mr. Temporary Deputy Speaker, Sir, the adverse publicity towards Equity Bank was occasioned by competition, which resulted in Equity Bank "eating up" the profits of the big banks. The big banks, particularly foreign banks, have very unusual ways of doing business. In September, 2007, when we were reviewing the monetary policy relating to the Central Bank of Kenya (Amendment) Act, we had to compare the monetary policy of the United Kingdom (UK) with the anticipated changes in our own country's policy. One of the banks we visited in the UK was Barclays Bank PLC international headquarters. The chief executive officer of that bank said that their most profitable branches overseas were in Africa. In Europe, banking was not a profitable business. He said that the return on investment in that country was below 2.3 per cent. He told us their most profitable bank is based in Kenya, on Nairobi's Wabera Street. That is the most profitable centre they have globally. Therefore, what would you expect? Equity Bank comes in, encroaches on that market and eats up that profit. The parent holding company issues instructions to its local bank management that they should go flat out and take these people head on, including launching a hate campaign against them. This is a foreign agenda. I am happy that today, the Departmental Committee on Finance, Planning and Trade has stood up to say "no" to this foreign agenda.

Mr. Temporary Deputy Speaker, Sir, I know that my colleagues want to contribute to this Motion. Therefore, I will just leave it at that and say: Let us own our own home-grown financial institutions. There is the syndrome that whatever is foreign is good, and that if it is local, then it is

bad, or it is tribal. We should outgrow the culture of making things look as if they are tribal. Equity Bank is not a tribal bank. It is a bank which has complied with all the requirements of the CMA, just like any other bank. Therefore, I urge that the culture of demonising our own institutions, and particularly in this august House by hon. Members, should cease.

With those few remarks, I beg to support.

**Mr. Sungu:** Thank you, Mr. Temporary Deputy Speaker, Sir. A lot has been said about this Motion. Therefore, I will support it in very few words.

The Motion, very clearly, wants us to note the contents of the Report by the Departmental Committee on Finance, Planning and Trade on Equity Bank. The history of Equity Bank is well given in the evidence at item 7.0. It was started only in 1984 as a building society. It became a micro-finance company in 1993. Most of us who were around then will remember the collapse of numerous locally-owned banks and building societies because of political interference. The people who suffered most are not the owners of those banks, but rather the poor people of this country who had put their money in those banks.

Mr. Temporary Deputy Speaker, Sir, as Mr. J.M. Mutiso said, it is important that we protect indigenous businesses. Equity Bank has had a phenomenal expansion and success. In 1993, it was micro-finance institution. In 2004, it became a bank. In 2006, it was enlisted at the Nairobi Stock Exchange. That was when the problem started. We must ask why. My colleagues have stated more than clearly. The Chairman stated that, in fact, it is because of jealousy. Somebody was seeing a local bank getting somewhere. I have seen the evidence of Mr. Peter Munga and Dr. James Mwangi, who are chairman and chief executive officer of the bank respectively, as well as the evidence of Prof. Njuguna Ndung'u, the Governor of the Central Bank of Kenya (CBK), who okayed the business being carried out by Equity Bank. The CBK was satisfied that with the operations of Equity Bank.

Then one of the bank's former Directors, Ms. Wanjiku Mugane, came in and started making complaints, having offloaded some of her shareholding to a competitor of Equity Bank. So, we need to look into the question of how, we, as a people, nation, country and Parliament, can support local businesses. It is often disturbing to note that Government Ministers side with big businesses. They side with the East African Breweries (EAB) Limited as opposed to Keroche Industries Limited. They side with the British American Tobacco (Kenya) Limited as opposed to Mastermind Tobacco Limited. They side with Standard Bank and Barclays Bank of Kenya as opposed to Equity Bank; just because these are small companies, and are not able to give them the benefits that they may obtain from those big banks, that we do not know about. This is a shame to us.

Mr. Temporary Deputy Speaker, Sir, if I am in my right mind, I will always support my own brothers. The fact that Dr. Oburu, the Chairman of the Departmental Committee on Finance, Planning and Trade, is the one who has brought this Motion to the House speaks volumes. Some people on the Government side have accused some of us on the Opposition side of not being pro-business. We are pro-business. We want to make sure that businesses succeed in this country. The way forward is to make sure that local businesses are given opportunity to prosper, so that they can become the basis on which we can create employment and help our people to find the way forward in terms of economic growth. We do not want to record a double digit economic growth figure, based on investment by foreigners, who will take away their money, anyway.

I do not know what happens to people when they get into Government. The pretext that these people use is that big companies, like the EAB Limited, pay a lot of money to the Government in form of taxes and so they must be protected. This is selective support. We want the Government to make sure that there is no discrimination against locally-owned companies. I am looking at the question of alleged financial malpractices, which are well covered in this Report. The main issue that Ms. Wanjiku Mugane raised was that she had serious problems with

governance issues. Governance issues are amorphous. She should have come out with very specific areas in which she disagreed. If this bank was not managed well, and if it was not viable, how come she was able to sell her shares to Standard Chartered Bank and British American Insurance Company? These are big companies.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to quote from the banker of the poor, one Prof. Muhammad Yunus. He said:-

"If we consider ourselves as passengers in this spaceship called earth, we will find ourselves riding in pilot-less, route-less, map-less and destination-less journeys. If we can convince ourselves that we are actually the crew of this spaceship, and we are here to take this spaceship to a specific socio-economic destination, then we will continue to approach this destination even if we make mistakes along the way, or are forced to take detours. We need to know the destination if not in a precise way but, at least, in a broad way. We must continue to search for the precise destination and build up a consensus about it. If we do a good job in identifying our precise destination, more innovation and changes will take place to help us reach it, before we actually translate something into reality. We must be able to dream about it. Any socio-economic dream is nothing but mapping out our destination."

If we do not support our local business; if we do not have an idea or vision of where we want to go, the mission to go about it and the way to go about it then, as a nation, we will never get anywhere!

Mr. Temporary Deputy Speaker, Sir, on that score, I want to support the Departmental Committee on Finance, Planning and Trade and tell this Government that, it is time it gave preference to local businesses as opposed to foreign-owned businesses which often take their money abroad. Those businesses do not give our people the kind of employment that we want. They do not employ people in large numbers because they like machine-oriented things like computers. But our local banks prefer our people.

I want to declare my interest! In fact, I have an account at Equity Bank---

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Sungu, you should have started with that!

**Mr. Sungu:** Mr. Temporary Deputy Speaker, Sir, it is not in any way affecting my debate on this Motion! But the minimum balance is so low! It is actually a poor man's bank in this country!

With those remarks, I beg to support.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, let me first of all thank the Committee for doing a good job. You can see this is an extension of "big brother syndrome".

For a long time, before NARC took over this Government, there were many problems affecting the banking industry. We had banks whose officers were arrogant. There was a lot of corruption in banks at that time because there was no competition. As has been said here before; most of the branches in the rural areas were closed. So, there was no banking going on in the rural areas. We know very well that banks that were operating at that time drained the Kenyan economy. They were making large profits and gains. Most of that money was being taken out of the country. We know that there was no money in circulation. People were experiencing poverty because there was no money. No business was going on. If any, it was very little. We know that those banks were so arrogant. They had even stopped accepting collateral. They could not even accept title deeds. They could not accept anything as collateral for loans. It was very difficult to get loans. We also know that a lot of property was sold by those banks. That property belonged to genuine businessmen. Many business people became very poor. In fact, some of them even died out of

shock, after their properties were sold by those banks.

Mr. Temporary Deputy Speaker, Sir, the attack on Equity Bank was a very well-calculated conspiracy by major banks which wanted to dominate the banking industry. We know that, for a long time, some people have been feeling that Africans cannot manage any business. They feel that Africans cannot even manage their countries. We have seen that, even after the development that has been achieved by the Kibaki Government, some foreign powers are not happy with it. They would not like to see an African manager managing and developing a country. That is because they do not want any competition from Africa. They know that once Africans wake up and start competing with them, the competition will be rough. That is because Africa, at this time, is dependant on its industries. Africa, in fact, is the one which employs people from other continents. All the money that we have, we buy what they have produced. If we stop buying from them, employment in their countries will be very difficult. That is why they have tried all along to ensure that we are dependent on them.

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

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

Mr. Temporary Deputy Speaker, Sir, I am happy that the Committee noted very major achievements of Equity Bank. Citing from one of the reports in the evidence, it says that for two successive years, the bank has been voted the third overall best bank in Kenya. It has been voted the best retail bank by the Reputable Market Intelligence Survey in 2005, 2006 and 2007. Which competitor will be happy to face such a bank, which has attained such an achievement within a very short time? It also says that the bank is the current holder of the Global Vision Award 2007, an honour bestowed upon the bank and the people of Kenya by the G8 Summit for its effort in eradication of poverty and bringing dignity to humanity through financial empowerment.

Mr. Temporary Deputy Speaker, Sir, Equity Bank has done very well. It has introduced to Kenya the saving culture. Almost every Kenyan, who is close to Equity Bank, knows how to save. Every Kenyan can open an account with whatever amount he or she has and start saving. That bank has helped Kenyans to start small businesses. In fact, industrialisation and trade is picking up because of that bank. That is why those other banks, for sure, cannot be happy with what Equity Bank is doing.

The bank, as it is stated here, was named the best bank in Kenya by the Euro Money Award for Excellency, 2007. Imagine, that is the type of bank Mr. Patel and company are casting aspersions against! We know that people are jealous. This is not even jealousy! It is malice and sabotage! The intentions of the authors of that document and the manufacturers of those allegations want to ensure that people withdraw in big numbers from the bank, so that it collapses. But shame on them! Their intentions did not work! Whatever they wanted did not bear any fruits! The Report also says that the bank was awarded the best microfinance institution in Africa and third best worldwide in 2007 by Micro-Capital.

Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to congratulate Dr. James Mwangi, who is the Chairman of the bank, and other workers in that bank, for making Kenyans proud. We would like to be identified with that institution. We would like to support that institution. We shall fight to ensure that nobody interferes with that bank. We have seen all along not only banks but even other industries which are locally initiated and managed by our brothers being sabotaged by other foreigners. We have seen this in the cigarettes and beverage industry. We

had people like Mr. Kuguru who could not make it because they were fought by "major brothers" who wanted to monopolise this economy. We have also seen it even in the alcohol industry and all over the country. These global giants who want to monopolise the global market have literally been likened to scavengers who are trying to ensure that whatever is introduced by the indigenous people does not develop. We should watch out for these people and support our own people.

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

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

*[The Temporary Deputy Speaker  
(Mr. J.M. Mutiso) took the Chair]*

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute and support this Report.

It is true that courtesy of the "big brothers" from the international community who keep on dictating terms to us, it is important that we appreciate, regardless of who owns a bank or enterprise, that when there is reason to appreciate, we simply must appreciate in the true spirit of nationalism and patriotism. For sure, this is a young bank that has grown. The only thing that an accountant like me would worry about is the pace of growth. The Committee having gone through this Report and the evidence given confirming that the bank is of sound financial standing, I have no reason to appreciate the spirit of the Kenyans having developed themselves. One thing that has worried me over years is that an African or a Kenyan will always look at the other Kenyan with some prejudiced mind, with a view that we cannot do it unless a white man does it. As a result of that, Kenyans and Africans have suffered in the hands those autocratic people who deal with Kenyans with contempt. I have an experience from one of my relatives - I withheld his name - who was working in a bank. They were treating Africans like dogs. They do not care or have regard for anybody but actually "milk" the employees and they repatriate all the profits abroad. The spirit of the Equity Bank having come into play is critical, that we need to support our indigenous banks, so long as there is that assurance that the regulatory systems are upheld. Of course, we know that there are political banks. They are favoured depending on who sits in the board and who wants what share. But, above all, we have regulatory mechanisms by the Capital Markets Authority (CMA) to admit them in the Nairobi Stock Exchange (NSE).

We also have the Governor of the Central Bank of Kenya (CBK) who must at all times, ensure that Kenyans do not lose their money in terms of the investment that the banks will collapse with. The issue that is so critical to us all, as Kenyans, is to embrace that which is reasonable and good for Kenya.

A bank that has grown over two years with this particular magnitude and with an account holding of Kshs1.6 billion is not something that anybody can downplay. It is this competition that, over time, has given us a fair share of treatment in terms of banking services. We have space to actually operate. I remember, with monopoly to the Kisumu route, the Kenya Airways used to change fares as and when they felt it was important to fleece a little more money from the customers. At the advent of competition, this time round, the customer gets value for his money. This is a warning, and I want to agree with the previous speaker, that no competitor will appreciate the growth of another competitor who is successful. What I need to emphasis here is the fact that we should not, at any time, kind of do what is called window-dressing in accounts, that is kind of managed in terms of financial prowess, so that people can be hoodwinked to invest in such kind of banks which can easily go down with the investments of Kenyans.

Anybody would worry that within a spell of two years, a bank would grow and be listed in the NSE. I would worry about that as an accountant because what happens usually is that for an investor to make an informed decision, there has to be a comparative figure of the audited accounts for the previous minimum five years. This bank operated within two years and it was listed in the NSE. Of course, we know that when Uchumi Supermarkets Limited was going down there was a bit of insider trading that actually caused Kenyans to lose money in that kind of shareholding. We know that some people sold their livelihoods to invest in Uchumi Supermarkets Limited which went down. What is of critical concern is information to the investors. We need to display and expose all the information to the intended shareholders or those holding shares so that they can continue with the investment or change the investment portfolio. Therefore, I think the concern must have been genuine. I want to commend the Departmental Committee on Finance, Planning and Trade which actually took this initiative and restored confidence in Kenyan banks that, perhaps, it is important to continue holding shares in Equity Bank, or continue to invest in it and support it.

*[The Temporary Deputy Speaker  
(Mr. J.M. Mutiso) left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Sungu) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, the multinationals actually collude. This is because it is ironical that in some banks, you must keep a minimum deposit. I am informed that in some of the indigenous banks, you do not have to keep huge deposits with them. These multinational banks keep on trading with that money and when you go to borrow money, the interest is always not near what they give you as savings in terms your deposit. That is critical! I want to commend the Governor of the CBK for instilling this kind of discipline in the banks. I want to commend the Governor of the CBK for displaying the cost of borrowing in our local banks some time ago, when they actually gave a report on which is the most expensive bank to borrow money from. It is critical that, this is appreciated and that information is valuable for the interest of the investors and those who want to borrow money. For example, if you deposit a cheque today in some of these multinational banks, the money leaves your account almost instantaneously upon deposit. But on the other hand, you will be told that the cheque will be cleared after four days. Therefore, somebody somewhere is enjoying--- If you look at the total statistics of cheques in transit, about Kshs500 million is circulating in cheques. It is not in your bank account or the recipient bank but some monies hang around. This is where the "big boys" have eaten from us. It is high time now that we actually need to insist that, with the information technology; where you can press a button and get your money from the Automated Teller Machine (ATM), when you deposit a cheque using internet connectivity and other forms of information technology, the money should be credited out there instantaneously. The Kshs500 million that is being traded amongst banks is actually fleecing Kenyans and making super-normal profits. That is why they will always fight tooth and nail to make sure that nobody else comes to eat into their share so long as they are enjoying that great loot from innocent Kenyans who are unaware of the on-going. It is, therefore, important - and I wish the Minister for Finance was here - that the Governor of the CBK issues some guidelines; that we need to have a cheque deposited and credited the following day, because it is nonsensical to wait for four days when they know that you have money and---

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Omingo! Please, note the terms of the Motion. We are just noting the contents of the Report of the Departmental Committee

on Finance, Planning and Trade on Equity Bank. Try to limit yourself to the Report.

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will be irrelevant if I do not draw reference to those ones who are competing with Equity Bank, who are most likely to have had bad faith in terms of negative publicity for our local banks. I am not shying off. From the outset, I said that I do not care who owns the bank or who the shareholders are but the truth has to be said.

I will now come back to the Equity Bank itself. Let us also have uniform treatment to all our customers. We have information also, as much as we appreciate their network that, if you hold a particular account or if a bank is from a particular region, therefore, there are no stringent measures to borrow. Sometimes you access money as soon as they see your face and others must go through some rigorous process. Therefore, I will expect, in the spirit of nationhood, and by supporting this Motion as it is and noting the contents of this Report, that the face of Equity Bank also should be reflective of Kenya. Their laws and conditions of borrowing and accessing money should be Kenyanized, so that Kenyans can access their facilities.

Mr. Temporary Deputy Speaker, Sir, of course, we appreciate that this bank is now networked almost across the country. If that is the case, and we are kind of persuaded to support this kind of reality, let us then also enjoy nationwide support and treatment, devoid of regional inclinations or the language anybody speaks.

Mr. Temporary Deputy Speaker, Sir, as I wind up, I will not stop talking about multinationals. These institutions are dangerous vices to this country in terms of financial management. They keep on declaring huge profits in terms of billions of shillings. However, they also lack corporate social responsibility. They are so mean to spend on Kenyans who are making them enjoy that kind of loot. In parallel with what we see in our local banks, we need to see them have a corporate social responsibility. We want them also to come up with good scheme of service for their employees. It is a pity that they have two categories of employees in terms of pay packages. A whiteman's allowance for his dog meal is more than the allowance earned by a bank clerk. They must change their thinking. They should stop abusing our people and appreciate what they do for them. As I said earlier, Equity Bank is well networked across the country. They can achieve a lot, if they harmonise provisions and regulations of service.

Mr. Temporary Deputy Speaker, Sir, in a nutshell, without repeating myself, I thank the Committee and embrace the recommendations of its report on Equity Bank. As I said, regardless of who runs and manages it and its shareholders, this is a noble idea. I request the bank and its management to also show nationalism and have a Kenyan face and give equal treatment to all their clients.

I beg to support.

**Prof. Maathai:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to support this Motion. I thank hon. Dr. Oburu and his Committee for doing a good job on this assignment.

Mr. Temporary Deputy Speaker, Sir, when this matter first came to Parliament, I felt ashamed and cried to myself all over again. I could not believe that Equity Bank had fallen into the same fate that so many of our indigenous banks had fallen into in the past. I wondered whether there is any way that we, as African people, and the citizens of this country, can truly do an honest job and succeed. So, it is with a certain amount of pride that I want to thank the Committee for having looked into this matter quickly, so that we could hear the truth about the bank and have an opportunity to congratulate its management and urge them to uphold their commitment to integrity and hard work, so that they can give us something to be proud of in this country.

Mr. Temporary Deputy Speaker, Sir, one of the other reasons that I was seeing a certain amount of shame is because I knew that I had been a witness of the corporate social responsibility



of the bank. The Green Belt Movement, of which I am associated, sends literally thousands of shillings every month to small farmers and groups of women throughout the country. Equity Bank came to us and told us that they will be quite willing to send this money to our people without charging us commission. This was extremely welcome. We normally give out cheques with very little amount of money. Therefore, when the ordinary banks charge their commissions on them, very little money is left for the women and the people are paying. So, this amounts to literally thousands of shillings, perhaps in a year, millions of shillings and they do not take a penny from this service. So, I was really feeling that after doing such good work for an organisation that is also giving service to the country, that they had fallen into this mishap. So, I want to thank them for this service and congratulate them for having a very deep sense of corporate social responsibility and to encourage them to continue doing that and supporting the small farmers in small towns.

Mr. Temporary Deputy Speaker, Sir, when you go to Equity Bank, especially in a small town or even a bigger town such as Nyeri, you can see that they are actually serving very ordinary farmers; sometimes people with no shoes and given the level of poverty, you would not see such people entering a bank. There is a certain amount of pride when your people go into a bank and they are not required to deposit such big money that many other banks were asking for. In the past, so many people could not open a bank account because they were required to maintain a certain amount, sometimes up to Kshs5,000, which many people in the rural areas could not afford. So, the bank has really been attending to the very people we represent and should support.

Mr. Temporary Deputy Speaker, Sir, I want to say that so often people who have become disempowered through history, discrimination, oppression and marginalisation have a tendency to hate themselves. They have a tendency to have a very low opinion about themselves. I fear that this is a syndrome that many of us in Africa suffer from. We become very easy victims for people who want to maintain this image. The fact that people could really be persuaded to come and raise alarm here about this bank knowing very well that it is not true, to me, is the kind of thing that is done by very disempowered people.

Sometimes you find women doing that because of so many years of being oppressed. Sometimes they will be the first ones to pull the other women down. Sometimes black people, because they have been so oppressed for so long, are the first ones to pull down other black people when they are trying to rise up. Sometimes minorities do the same. It is a syndrome that one finds in people who have been oppressed for a long time. I want to say that we as a people must consciously fight the syndrome because it very easy for us to become its victims. We need role models and Equity Bank is doing that to make us feel that we can have a bank that is managed by us and that has become very successful. Young people such as the ones in the galleries need to hear that this bank is their bank. It is an African bank that is run by local people and then they will feel that even when they grow up, they would like to be bank managers and start banks and there is no reason why they should not succeed because others like Mr. Mwangi have succeeded. I, therefore, want to appeal to our people, and especially people in this House to really refrain from trying to destroy what is their own. They should not have, what Mr. Kagwe said, jealousy and hate that emanates from nothing except disempowerment; that they are so disempowered, because they cannot succeed, they cannot accept the success of other people.

Mr. Temporary Deputy Speaker, Sir, I do not have to repeat what others have said. I want to associate with the success of Equity Bank. I want to thank them for the services they are giving our people and I wish them well. I hope that we, as leaders, will refrain from discouraging, disempowering and discrediting enterprises done by our people that are so successful. We should be the first to congratulate them.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Oduyo! I hope that you note that it is

a very small Report. So, keep yourself to it. Again, no repetition and be relevant to the Report.

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I take your advice that my rights can be trampled upon at your discretion.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo! You have the right to speak but you do not challenge the Chair in that manner. This Parliament is coming to a close and we do not want to close on a bad note.

Please, proceed politely!

**Mr. Odoyo:** I apologise, Mr. Temporary Deputy Speaker, Sir, and much obliged!

Equity Bank, indeed, as the former speaker, the hon. Laureate of the Nobel Peace Prize has indicated, is Kenyan owned and also African owned. It is very much in order that after the debacle of the collapse of banks that were mostly owned by Kenyans, that, indeed, Kenyans should pay some attention to where a bank has risen from an equity base of less than Kshs1 billion to over Kshs26 billion in a period of about 24 months.

I concur with the Committee that as far as the law is concerned, Equity Bank has followed all the appropriate procedures. On paper, it appears so and, indeed, has rightly been cleared, by the Committee. But I wish to bring to the Floor of this House certain pertinent issues that we should try and bear in mind. One is the hurry in which it was registered in the Nairobi Stock Exchange (NSE). It became a fully-fledged bank in 2004 and it was registered at the NSE in less than two years. That is a very short time, looking at those companies which are operating at the NSE. Many of them had operated for well over 20 years and some over 30 years before they were named as part of the NSE.

Mr. Temporary Deputy Speaker, Sir, even though the Committee has said that the bank does not take proceeds from either the Government or Government institutions, I think the Government is on record as saying that the Youth Enterprise Development Fund (YEDF) and the Women Enterprise Development Fund (WEDF), some of it will be accessed through Equity Bank. So, it is not truly correct that they do not handle any Government money. They do so! I request the Chairman of the Committee to re-look at that particular point.

**The Temporary Deputy Speaker** (Mr. Sungu): They also handle some Constituencies Development Fund (CDF) accounts.

**Mr. Odoyo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me additional information that they are handling CDF that is appropriated by this particular House. So, indeed, there are Government funds and concerns should be legitimate.

Even though the anonymous letter was anonymous; Mr. Patel does not exist to the best of our knowledge, he never came forward to identify himself but the fact remains that this so-called Mr. Mwangi was a colleague of Kassam, the conman of Trade Bank where I, personally, lost in excess of Kshs25,000, as a humble consultant with Pricewaterhouse Coopers. Credibility then becomes an issue at some point.

I, therefore, say that even though Mr. Mwangi and Munga are running a very good tight ship, and even though we are taking full cognisance that it is a Kenyan bank, competing with multinational banks which are very unhappy with its progress, we should put in place proper methods of ensuring that it operates above board. Mr. Mwangi is a very shrewd businessman who has worked with a very shrewd Indian who conned Kenyans. We do not know how much of that rubbed away but like I said, that is hearsay.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo! Do not impute improper motive on anybody who is not with us here without a substantive Motion.

**Mr. Odoyo:** No, that is only for hon. Members. I am at liberty to mention---

**The Temporary Deputy Speaker** (Mr. Sungu): You are not supposed to challenge the Chair. You must follow the directions! If you are going to call somebody names like "a conman", I am going to challenge you to prove it!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I only said that he was working with a conman; a well proven conman who is an Indian who fleeced Kenyans of their humble funds.

**The Temporary Deputy Speaker** (Mr. Sungu): Please, use Parliamentary language as well!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, but that man worked with that conman!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**Mr. Odoyo:** He was in the Special Branch then!

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Are we not sure that we are not being addressed by S.K. Patel? Is he in order to speak on behalf of S.K. Patel in this House?

**The Temporary Deputy Speaker** (Mr. Sungu): Order! I think I can just say something that part of the papers laid by the Committee is this alleged letter which was laid on the table of the House on 10th July, 2007. It is partly in order for him to refer to it. He can refer to the letter!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I am just saying that S.K. Patel is anonymous and maybe we are seeing the right S.K. Patel.

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I am only saying that this paper was laid on the Floor of the House by Dr. Khalwale and it was accepted by the House. I am, therefore, referring to a document that is already part of the record of this House and I have to refer to it!

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo! If you care to read the Committee's Report, it says that they have not been able to trace Mr. S.K. Patel as much as that paper was laid and accepted by the House. It is the Committee, on behalf of the House, that investigated and says that it is anonymous; they cannot trace him. So, you must accept the Committee's Report. If you want to oppose it, say so!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I have already indicated that I accept the substantive conclusions of the Committee but I have a few observations, which I am making. Those observations are that the Chief Executive worked with a conman for a long period of time and fleeced Kenyans. Secondly, the period in which it became registered in the NSE was less than two years, a very unusual step and thirdly, this bank, indeed, is handling Government's funds as opposed to what the Report says that it is not doing so. It is handling large public sector funds.

Fourthly, which is what I want to come to now, is with regard to the integrity of directors. That is why I was saying that sometimes we, as the public, can benefit from someone who has seen a bank collapse. Indeed, Mr. Mwangi was there when Trade Bank collapsed. Perhaps, he can assist us to ensure that this bank does not collapse. This bank is handling funds from very many poor Kenyans; small people who are banking Kshs5,000 to Kshs10,000 every month. It would be a terrible shame if this bank collapsed. I am, therefore, saying that the good work done so far by Equity Bank, we should ensure and the Governor of the Central Bank of Kenya (CBK) should be mandated specifically to ensure that this bank is monitored by the Bank Inspection Department to ensure that it does not collapse. We do not want it to collapse and that is why we are raising these points. Nobody is against Equity Bank. I am saying that the work done by the Chairman is very good.

Other observations that I have here is this evidence that was given by a former director, Ms. Mugane. I do not know whether this is the daughter of Mr. Njonjo, the former Attorney-General. I need some guidance from the former Special Branch; he might know that but I have some comments.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo! Please, do not be

unnecessarily provocative. I said that we are going to a close and we want to come out as friends and not enemies. So, please, relax and be polite to your colleagues!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, this letter has indicated several other shareholders. Whereas the Committee dealt with the shareholding of Mr. James Mwangi, it was very silent on the shareholding that was mentioned in this letter by Ms. Mugane.

**Mr. J.M Mutiso:** It is there in the Report!

**Mr. Odoyo:** One second. It has indicated some shareholding---

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Odoyo, can you guide us which section of the Report you are referring to?

**Mr. Ojode:** If you look at the letter on Appendix II.

**The Temporary Deputy Speaker** (Mr. Sungu): You talked about the Report!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, Appendix II. The section that was referred to is showing the evidence by Mr. James Mwangi. Mr. Mwangi owned up that he owns 7.3 per cent shareholding, contrary to the laws of Kenya and all the other financial regulations. How and why was he allowed to own that in the first place? What powers and mandate the Governor had to extend--- He gave him powers to reduce the shareholding by a further two years. I do not know where the Governor was getting those powers from. It is not in the Central Bank of Kenya Act nor any other laws that are known to us in the financial regulations sector. But, indeed, the Governor gave an extension of time contrary to the laws of the land of Kenya. I know that, even though they have been given a clean bill of health, there are certain unusual things. Let me say that they have been given more leeway than it would have been done under normal banking regulations.

We are now appealing to the Governor of Central Bank of Kenya that the Bank Supervision Department dealing with micro-finance institutions must be strengthened. The Banks Supervision Departmental does not specifically have a section for micro-finance institutions. It is time micro-finance institutions are brought into focus. That is because even though the Equity Bank is operating as a fully fledged commercial bank, there are, in my view, certain elements that are linked to micro-finance, and that are not well supervised. Other times, it is linked to a fully fledged commercial bank which is very well supervised. We do not know which side it falls, depending on which side is most convenient.

Mr. Temporary Deputy Speaker, Sir, a person in the name of Dr. Oburu Odinga, who is the Chairman of the Departmental Committee on Finance, Planning and Trade, is a finance and planning expert. I know his integrity in matters such as this. However, may I just point out that he is Chair of the Committee. The Committee members agreed as a group and they gave this Report a green light. However, the withdrawal of shares by Ms. Wanjiku Mugane, a former Director, Equity Bank, took place under certain circumstances. The resale of the shares to one company, despite the fact that Equity Bank was already being quoted in the stock exchange, raises another question that the sale to the British American Insurance by Ms. Wanjiku Mugane shares--- Did the Governor approve that particular sale to one individual? That is to say: Did Ms. Wanjiku Mugane, herself, undertake an act that was not in keeping with a publicly quoted company?

**The Temporary Deputy Chairman** (Mr. Sungu): Mr. Odoyo, you know, if you follow the terms of the Motion and read them carefully--- You know now that you are digressing. That is because that is the Committee's work. This Motion seeks to call upon the House to note the contents of the Report by the Departmental Committee. It is a Committee of this House which worked on your behalf. I believe they spent many hours on this. So, please, if you agree or disagree, just say so and then move on. Let us not go into the intricacies. That is because we have other matters to attend to as well.

**Mr. Odoyo:** Thank you, Mr. Temporary Deputy Chairman, Sir. The Committee concluded that it is persuaded that the Equity Bank is a strong financial institution. I fully agreed with that.

The Committee further goes on to say that---

**Mr. J.M. Mutiso:** Mr. Temporary Deputy Speaker, Sir, I beg to interrupt Mr. Odoyo. I think the hon. Member is just repeating what was said by the other speakers. Therefore, I would like to ask you to give us guidance. It appears the hon. Member is reading and, at the same time, repeating himself!

**The Temporary Deputy Speaker** (Mr. Sungu): It certainly appears that Mr. Odoyo has not read the Report before. You are just reading it now. Mr. Odoyo, could you make sure that you do not repeat what you have said before? That way, you will also give other hon. Members a chance. It seems you are endlessly going on about the same thing!

**Mr. Odoyo:** Much obliged, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, the hon. Member who is our Deputy Chief Whip---

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that you have realised that the hon. Member is just repeating himself, could you call upon the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Assistant Minister. I would decide upon that.

Please, Mr. Odoyo, conclude now!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, it must be brought to the attention of the House why a son of a former Special Branch officer is so eager to conclude this matter. I am not privy to his intelligence capacity. But I appeal for protection from you!

Mr. Temporary Deputy Speaker, Sir, in conclusion, I want to indicate that I agree with the conclusions as raised by the Committee. However, I appeal to this House that, in accepting this conclusion, the various observations and issues raised by hon. Members must be brought to the attention of the Governor so that, indeed, the good work continues and that bank does not collapse. If that bank collapses, we shall continue being at the mercy of the Standard Chartered Bank and the Barclays Bank of Kenya. We need to find ways and means of getting rid of those banks. As time goes on, I appeal that the targeting of the lower end of the market--- As the Equity Bank does a good job, the Bank Supervision Department must pay a very close attention to the lower end of market. Common *wananchi* should not suffer.

In conclusion, I commend the good work done by the Chairman, Dr. Oburu Odinga. He is a man of integrity. May the ethics and practices of finance continue. May prudence be a way of life for those of us who hope to be fairly active in national life. May we see you sitting this side next year!

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Odoyo, I can see you have concluded! I want to call upon the Mover to reply.

**Mr. Syongo:** Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Syongo, I would kindly request you, if you have to say something, say it in about five minutes. That is because I had already alerted the Mover that he was about to reply.

**Mr. Syongo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will, probably, take less than five minutes. Thank you for giving me a chance to make a few remarks.

Mr. Temporary Deputy Speaker, Sir, in the 1970s, many banks collapsed. I believe that if we had a Committee of the House and a House that was as active as the Ninth Parliament in investigating and reporting promptly on matters that concerned the welfare of Kenyans - as the Departmental Committee on Finance, Planning and Trade has done in respect to the Equity Bank - many of us who lost a lot of money--- Even those who committed suicide because they lost so much and could not recover--- That situation could not have arisen. I want to take this opportunity to thank the House and the Committee for a job well done!

Mr. Temporary Deputy Speaker, Sir, there is need for us to have confidence in ourselves. Indeed, we are part and parcel of a global world where we must compete not only within ourselves, but also with the rest of the world. So, the Equity Bank experiment is something that gives us a chance to have confidence in ourselves. We too can do something and succeed. I want to say that it is important and necessary that we encourage enterprise and innovation, so that many more can also take that example in order to reach our very maximum.

Mr. Temporary Deputy Speaker, Sir, self-doubt is the worst enemy of self actualization. I want to ask my colleagues and all Kenyans that whenever there is a situation where an even might give rise to self-doubt, we must do all we can to deal with it and give back to Kenyans their confidence in the area of business and enterprise. I agree that there is need for prudent management of our finances. It is so critical and that is why we are extremely concerned that the CBK must be independent from the Treasury and from unnecessary interference by political leadership. That is so important to the extent that it is quite pleasing to note that, indeed, we rejected an attempt to amend the Central Bank of Kenya Act through the Statute Law (Miscellaneous Amendments) Bill and the Finance Bill so that we leave the CBK under a Governor who is fully in charge of policy in terms of supervision of the banking sector and monetary policy.

Mr. Temporary Deputy Speaker, Sir, caution is necessary. However, sometimes on sensitive matters such as this one, public disclosure is very costly. I, therefore, would like to appeal to my colleagues that even where we have sufficient information of a nature that the letter that hon. Dr. Khalwale tabled here contained, there are other avenues of raising those issues. For example, issues can be raised through the Governor of the CBK. The supervisory arm of the CBK could have dealt with this matter without creating unnecessary anxiety in the banking industry and the stock market. We cannot afford the collapse of a major institution such as Equity Bank. That is why we must exercise caution in terms of handling sensitive information.

Mr. Temporary Deputy Speaker, Sir, much has been raised about the rapid growth of Equity Bank. My training and experience in the field of marketing economics tells me that when somebody comes up with a brilliant idea or a novel product which addresses the latent needs of millions of consumers such as the need for the low income groups to have access to banking facilities, the growth is always phenomenal. This should not surprise anybody because it happens all over the world with all sectors and with different types of products and services. So, what has happened with Equity Bank, and particularly its growth, is simply an indication that there is massive silent demand of affordable banking services and affordable loans by majority of Kenyans. The truth is that after the retrenchment and virtual stagnation of our economy for many years, many Kenyans were downgraded and they are living down there. We are talking about millions of Kenyans who are innovative, including graduates who have actually been turned into hawkers yet they simply want an affordable banking facility. That is why the growth has been there.

In conclusion, Mr. Temporary Deputy Speaker, Sir, I would like to urge the CBK, particularly the Governor, together with the management of Equity Bank, to help stabilise that growth so that it can be managed. There is need to stabilise that growth because the perimeter walls of Equity Bank can easily burst with disastrous results.

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

**Dr. Oburu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank hon. Members who have contributed to this Motion. This is a very important Motion not only because it relates to Equity Bank, but because it relates to our financial sector. We are for the stability of our financial sector because when it goes in turmoil, many Kenyans lose their money. So many issues have been raised, but I do not want to reply to all of them. However, with regard to issues raised by hon. Odoyo, I think that he was not present when I was contributing. Perhaps, he did not get the concerns of the Committee correctly. Perhaps, also, he has not read that Report fully. For instance,

if you take the issue he was raising about the extension of time, that was sufficiently dealt with by the Committee. That extension of two years was specifically given because the Capital Markets Authority (CMA) considered public interest. They considered the fact that these people were joining the stock exchange market and it was possible that there might be something which was not fully disclosed.

Mr. Temporary Deputy Speaker, Sir, they wanted that stability to be there and that they would not withdraw or sell their shares within two years. When they blocked that, it was an anomaly. So, it is actually the CBK which opposed that extension. However, it was not happy that the CMA did it without consulting them. But then, considering other public interests, the Governor of the CBK told us that, that was a special case and they will not do it any more. It is something which happened and they have given them an extension up to 2008. We have said that it is something which should not be repeated. In our Report, we have mentioned that and I also said it in my contribution here.

On the issue of Government depositing money there, it is not the same as when the National Social Security Fund (NSSF) deposited money in some of the banks which collapsed. That money was deposited there with the purpose of earning some interest. The ones you are talking about are just current accounts for disbursing of funds to those institutions. The deposits with those banks are not Government deposits. They are just current accounts used for the purpose of disbursing money to particular groups. The deposits are not only with Equity Bank, but with many other banks. So, if that is what you call deposits, I do not know. Maybe there is a little bit of misunderstanding about what my Committee meant. I do not want to get into the issue of working with a conman because if you are working in an institution, who knows whether the person heading that institution is a conman or not? If you want to accuse him of being a conman, that is another issue altogether. If you are employee in an institution, you would not know whether the head of that institution is a conman or not. So, I really do not want to get into that.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I want to, once again, thank hon. Members for their very useful contributions. We hope that this spirit will continue in the next Parliament. I wish everybody success in the General Election. I hope that we are not going to be dissolved before Tuesday, next week.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Members! Those are extraneous matters.

*(Question put and agreed to)*

## **BILL**

### *Second Reading*

#### **THE ANTI-COUNTERFEIT BILL**

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Anti-Counterfeit Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, this Bill is for an Act of Parliament to prohibit trade in counterfeit goods, to establish the Anti-Counterfeit Agency and for connected purposes. There are millions of people, many companies and institutions around the world, who are scavengers of

technology and get their daily bread out of economic sabotage. We have people who depend on the brains, sweat and efforts of others. There are people who cannot be innovative. They just copy what has been done by others, reproduce it and sell. Such people are parasitic.

The intention of this Bill is to fight such people who create unfair competition in areas of trade and industry; to fight dumping; and to ensure that the local industrialists, manufacturers, businessmen, producers of music and other inventions and innovations are protected.

Mr. Temporary Deputy Speaker, Sir, the principal objective of this Bill is to prohibit trade and all manner of dealings in counterfeit goods.

Part I, provides for preliminary matter which, includes definitions and interpretations of terms. Such terms, include the counterfeiting complaint, complainant, counterfeit goods, counterfeit goods depots, documents and others.

Mr. Temporary Deputy Speaker, Sir, Part II, provides for the establishment, powers and functions of the Anti-Counterfeit Agency. The Agency is established as a body corporate. Its management is vested in a Board which is to be composed of the members specified in Clause 6. It also provides for the appointment of the respective Director of the Agency who will be responsible for the day-to-day management of the affairs of the Agency. The Agency is a body charged with the implementation of this Bill once enacted into law.

Mr. Temporary Deputy Speaker, Sir, Part III, contains financial provisions in respect of the Agency. Clause 17 defines the sources of funds of the Board. These include money provided by Parliament, donations, gifts and fees payable in respect of the functions of the Agency and contributions or grants received from various sources. Clause 19 provides for the preparation of value estimates of the revenue and expenditure of the Agency. Clause 20 provides for the auditing of the accounts of the Agency.

Mr. Temporary Deputy Speaker, Sir, Part IV, contains provisions on inspection. Clause 22 provides for the appointment of the inspectors whose responsibility would be to inspect places and premises suspected of being utilised in dealing in counterfeit goods. Under Clause 23, the inspectors will be required to take reasonable steps, including seizure and detention, to bring to an end, any dealing in counterfeit goods. Clause 25 requires an inspector once he or she has seized goods suspected to be counterfeit goods, to place them in a counterfeit goods depot after which he will apply to court for an order to dispose of those goods. Clause 29, provides for the establishment of counterfeit goods depot.

Mr. Temporary Deputy Speaker, Sir, Part V of the Bill, provides for the various offences under which a person can be charged for dealing in counterfeit goods and lay down the mechanism for lodging a complaint by a person whose goods are being counterfeited. The offences are provided for in Clause 32 while the laying of the complaint is provided for in Clause 33. Clause 34 empowers the Commissioner of Customs and Excise to seize goods that have been imported into the country and which are suspected to be counterfeit.

Mr. Temporary Deputy Speaker, Sir, Part VI of the Bill, contains miscellaneous provisions. Clause 36 provides for penalties for various offences under the Bill once it becomes an Act. Clause 37, exempts the Agency from payment of Stamp Duty in respect of instruments executed by it or in its favour. Clause 38 empowers the Minister to make regulations once the Bill is enacted into an Act.

Mr. Temporary Deputy Speaker, Sir, the schedule contains provisions of the conduct of business and affairs of the Board of the Agency.

Mr. Temporary Deputy Speaker, Sir, we believe that once this Bill becomes law, local manufacturers and business community will be protected against those people who live on sweat of others. Businessmen and women will thrive because they will not face unfair competition. We have countries around the world which have been bringing goods into Kenya illegally. They have been



dumping their sub-standard goods here. This law will ensure that such goods will not come here any more.

Mr. Temporary Deputy Speaker, Sir, I request hon. Members to support this Bill because it is for the interest of all Kenyans. It is for the interest of Kenyan manufacturers and the entire business community.

I beg to move.

**The Temporary Deputy Speaker** (Mr. Sungu): Who is seconding!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, Prof. Wangari Maathai is seconding!

**Prof. Maathai:** Mr. Temporary Deputy Speaker, Sir, I rise to second this Bill.

Mr. Temporary Deputy Speaker, Sir, there is nothing more painful than when people are innovative and creative, produce goods and then they are counterfeited and put in the market. The royalties, therefore, do not go to the person who was creative and innovative. They instead go literally to the thieves. This is something that is extremely common, especially now that we have entered the telecommunication age. Things can be downloaded from the internet and distributed in disks. They can be transported from one part of the world to the other in lightening speed. It is, therefore, very important that we have a law that protects those who produce goods, especially our young industries and those investing in our country. They should not get undermined by people who bring in counterfeit goods.

Mr. Temporary Deputy Speaker, Sir, recently, I was watching the Cable News Network (CNN) and I was shocked to see how many people in the commercial sector of the United States of America (USA) were complaining about counterfeit goods. Considering that this is a very powerful economy, it shows how crafty some people are. It also showed how even very powerful economies can be undermined by these counterfeit goods. It is in our interest, as a young nation trying to industrialise, to protect our local industries from these counterfeit goods.

Mr. Temporary Deputy Speaker, Sir, quite often people who are not able to protect their industries are very easily corrupted. We start to have even local industries undermining quality of goods if counterfeit goods flood the market and are sold at cheaper prices. This is something that needs to be protected very seriously. Therefore, it is very important that when we form the Agency, we put in place people who have competence and skill to do the right thing. They should be able to withstand the kind of corruption that is usually faced by people willing to spend money to undermine such an Agency. As we have said many times in this House, if you are going to be an industrialised country and develop, we must give merit a chance. It is in technical agencies, such as this, that we can demonstrate that commitment by putting in place people who have the competence, know what they are doing and cannot easily be manipulated, influenced or corrupted. We should have a strong law that will protect our industries. We will make sure our innovation and creativity is protected.

With those few remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Mr. Sungu): May I recognise the Deputy Whip first!

**Mr. Odoyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Once the Government side has seconded the Bill, the first chance should come to the Opposition.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Odoyo! You will recognise the authority of the Chair. The Chair recognises that you came much later and the Deputy Whip has been here all afternoon and the Chair likes those who keep him company. So, you will have your chance.

Mr. J.M. Mutiso!

**Mr. J.M. Mutiso:** Mr. Temporary Deputy Speaker, Sir, let me commend the Minister for moving the Anti-Counterfeit Bill. Again, I would like to say that I am a Member of the Committee on Finance, Planning and Trade. This matter falls within our docket and I have been very keen over it. First of all, this Bill is very well drafted. I would say that it has passed the test of amendment. We sat in the Committee, combed it up and did not find even a single coma or a misspelling in the Bill. So, I commend the drafters.

Secondly, this Bill, in its morphology and anatomy of its drafting, has also introduced a new feature in Bills which is contrary to the principle of boards or creating authorities. For the first time, we are creating a very lean, efficient and simplified institution by the name, The Counterfeit Agency. Why do I say this? We have a problem in our Committee when we had to scrutinise Bills. We found out that we have a proliferation of so many authorities. It has dawned on us that we might end up having a problem as to the maintenance of some of those agencies or authorities especially when it comes to their increased functioning. Therefore, the first point is the creation of the Anti-Counterfeit Agency. This is a very desirable feature with a Director-General. Therefore, we do hope that it will actually address the issue of counterfeiting.

Mr. Temporary Deputy Speaker, Sir, counterfeiting is well-defined in the Bill. But we have different forms of counterfeiting. It may be in labelling, production or duplication. Therefore, you may find that a commodity or good is almost identical or identical to the original copyright. The issue of counterfeiting is now very prominent, particularly, in the multilateral trading system in the World Trade Organization (WTO) whereby trade related intellectual property rights have to be taken care of.

Mr. Temporary Deputy Speaker, Sir, we believe in the free movement of goods, capital and knowledge. Therefore, all these aspects of trade attract an investment. Basically what we are trying to do, is to protect innovation, rights and investment of global players, particularly when we come to international trade. We believe that free trade is actually the goal and the way forward, in a country like Kenya where there is a proliferation of goods being imported. I do not know whether cheap importation of goods to a country might be a good thing. But this is a challenge to the Kenya Bureau of Standards (KEBS) which is the premier institution to the regulation of standards. Again, there is an urgent call to the Ministry of Trade and Industry to look at the capacity of KEBS and also the pre-inspection issue.

I would like to say this for the record. That we are spending 2 per cent of all the imports in terms of the revenue paid to this country in Excise and Customs. Then 2 per cent is being paid to foreign companies like SGS, Bureau Veritas and another company. This is an extra cost to the consumers. I believe that when this agency comes into being, it will address that issue of pre-inspection and particularly where the standards sometimes do fall below the requirement.

Mr. Temporary Deputy Speaker, Sir, I do not want to belabour this Bill. As I have said, I have looked at it and one beautiful thing about it is that it gives very clear guidelines. For example, how beautiful it is, for someone who wants to take advantage of other people's sweat. The punishment for people who will be breaching the Anti-Counterfeit Act--- For example, a person convicted for an offence under this, shall be liable for, in the case of first offenders, imprisonment for a term not exceeding five years or to a fine in respect of each article or item involved in that particular act of dealing in Counterfeit to which that offence relates, not less than three times the value of the prevailing retail price of the goods or both. What a beautiful Bill as to prevent counterfeiting!

For second offenders, those people who are incorrigible, any subsequent conviction to imprisonment for a term not exceeding 15 years or to a fine not less than five times the value of the prevailing retail price of the goods or both. What a beautiful Bill it is? I think that with the passage

of this Bill, there will be no more dumping, smuggling or counterfeiting.

With those few remarks, I beg to support.

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, first I want to question whether we are putting together another bureaucratic parastatal that is going to chew public funds. We must ask ourselves what powers are vested within the Acts; the Central Bureau Act, the Copyright Act and the Weights and Measures Act. Why is it that the present Government is totally unable to implement this Act so that there is enough room in those Acts to undertake some of the tasks that are stated in the Anti-Counterfeit Bill, 2007?

The same Ministry is responsible for the Weights and Measures Act, the KEBS and the Copyright Act. But now it turns and says that they want an Anti-Counterfeit Agency. Is this Ministry totally---

**The Temporary Deputy Speaker** (Mr. Sungu): I know that you have decided to use the Dispatch Box, I exercise my powers through the Standing Order to allow you to do so, but please, put the microphone in the right manner because you are very tall. We want the HANSARD to record it.

**Mr. Odoyo:** Thank you, Mr. Temporary Deputy Speaker, Sir. The same Ministry which seems to be totally immersed in accumulating public bodies that chew the blood of the taxpayers is now coming up with a new agency. If you take the trouble to look at Section 6, the composition of the Board of Directors, it is proposing an 18-person committee and 13 of them being public-sector-oriented. Whereas counterfeits have largely to do with the private sector, there are issues that concern Kenyan industries, production and intellectual capacity. Why are we staffing this particular agency with the public sector people? Why can we not get people from somewhere else?

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Odoyo, I would like to hear you properly. I also want to advise you that as you raise those issues, you could also bring amendments at the Committee stage.

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I have pointed out to the Minister that, indeed, he should consider having more private sector people in those agencies. For example, he has got his Permanent Secretary, his Director of Industry and Director of Internal Trade. All those people fall under the Permanent Secretary. He can reduce some of the people falling in that agency from his Ministry.

Mr. Temporary Deputy Speaker, Sir, under Section 23(a), the Act allows an inspector to, indeed, enter any premise---

**The Temporary Deputy Speaker** (Mr. Sungu): Which section?

**Mr. Odoyo:** Section 23(a). It allows any inspector to enter and inspect any place, premise or vehicle, at or in which goods are reasonably suspected of being counterfeit. The key word here is "reasonable". What is reasonable to the left hand may be unreasonable to the right hand. What, indeed, is reasonable? That could very well be an unreasonable excuse to destroy a competitor. It could very well be an unreasonable opportunity to enable the Ministry to trample upon the competitive spirit in industry and trade. I will, therefore, appeal, at the Committee Stage, that this section---

**The Temporary Deputy Speaker** (Mr. Sungu): Order! Order! Order, Mr. Odoyo! I am having trouble hearing you. Maybe, you are whispering! You are not using the microphone well.

**Mr. Odoyo:** May I use the Dispatch Box?

**The Temporary Deputy Speaker** (Mr. Sungu): Please, do so!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I was pointing out that Section 23(1)(a) has given an inspector of that agency powers to enter and inspect any place, premise or vehicle where goods are reasonably suspected of being counterfeit. I was questioning the word "reasonable"! It can be unreasonable! We have seen people in today's Government who have been

misused by competitors to trample upon the rights of other competitors! I appeal to the Minister to consider that, before an inspector enters a premise, he should justify it to a judge or a magistrate. He should get a magistrate's order to enter private premises. Here is a situation---

Mr. Temporary Deputy Speaker, Sir, if you go further under Section 25(2), it is indicated that once your goods have been seized, you, as the complainant can only recover your goods after you have appealed to the court. So, we have an inspector---

**The Temporary Deputy Speaker** (Mr. Sungu): Order! Order! Order, Mr. Odoyo! That is not Section 25(2)! Section 25(2) reads:-

"An inspector may require a complainant to disclose any additional information which may be relevant to the action that has been taken---"

**Mr. Odoyo:** Sorry! It may be Section 25(3).

**The Temporary Deputy Speaker** (Mr. Sungu): Please, proceed!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, thank you for the correction. Section 25(3) says:-

"Any person aggrieved by seizure of goods under Section 23 may apply to the court".

Mr. Temporary Deputy Speaker, Sir, I am appealing that, if, to recover your goods, you must go to court, we should, therefore, require the inspector to also get a magistrate's order to enable him to enter that particular premises. If, for example, he has made a mistake, grabbed your goods, wired them off and closed you down, the process of going to court to get back your goods may take another century. By that time, you will have laid off your staff, Kenyans would have suffered; *et cetera, et cetera*.

Mr. Temporary Deputy Speaker, Sir, the former Special Branch officer of Nyayo House is looking at me positively. Therefore, I will continue---

**The Temporary Deputy Speaker** (Mr. Sungu): Order! Order! Order, Mr. Odoyo! Please, go on with your debate! Leave the Special Branch out of this! You were all something or another. We do not know what you were doing before you came here!

**Mr. Odoyo:** Mr. Temporary Deputy Speaker, Sir, I was talking about Section 23(a). I said that the word "reasonable" needs to be defined.

Mr. Temporary Deputy Speaker, Sir, I am going to Section 32(a) of the Bill which says:-

"It shall be an offence for any person to have in his possession or control in the course of trade any counterfeit goods".

Mr. Temporary Deputy Speaker, Sir, that lays to the fore a person who is selling in Eastleigh or Kibera. A shopkeeper may not know a true or false *Kimbo*. He may not know!

**The Temporary Deputy Speaker** (Mr. Sungu): But, you know, Mr. Odoyo, let us be serious! The objects of the Bill are to discourage counterfeit goods. Ignorance is no defence in the law! So, if you are going to hold counterfeit goods, obviously, you must be punished!

**Mr. Odoyo:** No, Mr. Temporary Deputy Speaker, Sir. I am trying to define the corridor under which that particular inspector will operate on. For example, if he walks into my shop and says: "These are counterfeit goods", and he closes my shop--- I am saying that some of these prizes and powers that are being accredited to that particular agency should be subject---

**Mr. Kombe:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to speak in front there, when he is not even a shadow Cabinet Minister?

**Mr. Odoyo:** I am not speaking from the Dispatch Box!

**The Temporary Deputy Speaker** (Mr. Sungu): Order! The Chair has allowed him to use the Dispatch Box under Standing Order No.1 because, apparently, his voice is not very clear.

**Mr. Odoyo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me from hon. Kombe, the only Member who has been elected twice during the Ninth Parliament!

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, I wish to say that I support this Bill. I wish to humbly seek your indulgence that you allow the Mover to respond.

**The Temporary Deputy Speaker** (Mr. Sungu): That is not your business! Just say that you support.

Thank you.

In the absence of any other interest, I will now call upon the Mover to reply!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to thank all those who have contributed to this Bill. They have been very positive. The Ministry has noted their remarks and most of the observations will be reflected during the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, we know that there is a lot of agony, pain and, indeed, annoyance that is being experienced by researchers, innovators, authors of books and musicians who do a lot of work in starting their original works, only to find that there are other people who are benefitting from such works. We know that there are many people in this country who have produced many books. But some people just reproduce them through photocopies and, sometimes, they do not even incur any expenditure. They continue using them.

Mr. Temporary Deputy Speaker, Sir, we have so many musicians who have produced audio and video cassettes. But we have scavengers who imitate them and produce counterfeit copies and trade in them. We know so many businessmen who buy their goods at their original prices. But when they put them in their shops, they just find that there are other people who are selling cheap wares outside their premises.

Mr. Temporary Deputy Speaker, Sir, let me take this time to, once again, thank all those who have contributed to this Bill.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, hon. Members! I will now put the Question.

*(Question put and agreed to)*  
*(Applause)*

Order, hon. Members! We have now come to the end of our business and, before I conclude, I want to thank hon. Members of the Ninth Parliament for being so consistent in attending Parliament and debating some of these issues. If, for one reason or another, we do not see each other on Tuesday, I want to take this opportunity, from the Chair, to wish all of you luck in the coming elections.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Sungu): It is now time to end our business. The House is, therefore, adjourned until Tuesday, 23rd October, 2007, at 2.30 p.m.

The House rose at 6.20 p.m.