

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 3rd May, 1995

The House met at 2.30 pm

[Mr. Deputy Speaker in the Chair]

## PRAYERS

## NOTICE OF MOTION

### CARRYING OUT OF POPULATION CENSUS

**Mr. Ogeka:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, in view of the great concern and criticism by crosssection of the people and institutions on the latest population census held in 1989, and given the importance of accurate data for planning and development; this House urges the Government to carry out population census, snap or otherwise, prior to any major national activity such as constituency boundary review, General Elections and Five Year Development Plan.

## ORAL ANSWERS TO QUESTIONS

*Question No.086*

### COMPLETION OF PROJECTS IN NDHIWA

**Mr. Ojode** asked the Vice-President and Minister for Planning and National Development:-  
(a) which projects were initiated and completed by the Government in Ndhiwa Constituency between 1988 and 1994; and,  
(b) how much money was allocated and spent on each project.

**The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development** (Mr. Oyondi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Between 1988 and 1994, the Government through, my Ministry, initiated or assisted the following projects in Ndhiwa Constituency.

1. Obera Water Project.
2. Ndhiwa Multi-purpose Building.
3. Got Kojowi Health Centre.
4. Langi Youth Polytechnic.
5. Mirogi Secondary School Dormitory.
6. Obera Secondary School Dormitory.

The six projects had a total allocation of Kshs3,726,960.00.

(b) Each of the six projects were allocated money as indicated below:-

	Kshs.	Kshs.
	<u>Allocation</u>	<u>Expenditure</u>
1. Obera Water Project	330,000	329,970
2. Ndhiwa Multipurpose Building	443,000	417,081
3. Got Kojowi Health Centre	1,258,960	1,258,960
4. Langi Youth Polytechnic	835,000	648,332

5. Mirogi Sec. School Dormitory	330,000	269,418
6. Obera Sec. School Dormitory	<u>530,000</u>	<u>477,192</u>
Total	Kshs 3,726,960	3,367,351

I would also like to inform the hon. Member that, other than through my Ministry, the Government has, through other Ministries, initiated or assisted projects in Ndhiwa during the period 1988 to 1994. The hon. Member may wish to get the details from the relevant Ministries.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, if you go through this list, you will find out that, for the last seven years, Ndhiwa has been allocated Kshs3.7 million. That is seven good years. I would request the Assistant Minister to give us a breakdown of the donor-funded and the Government of Kenya (GOK) projects because most of the projects that he has given here are donor-funded. Could he please simplify his reply by giving us the donor-funded projects and those of the GOK?

**Mr. Oyondi:** Mr. Deputy Speaker, Sir, the hon. Member did not get my last answer. I said, "Other than this Ministry of Planning and National Development, other Ministries have also undertaken some projects in the same constituency". So, he should not only consider the Kshs3 million which has come from the Ministry of Planning a National Development. There could be other Ministries which have also carried out similar projects in the same area.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I have requested the Assistant Minister to give me all the projects irrespective of whether they are donor-funded or funded by the GOK. I need the projects which were funded by the Government because, for seven good years, to spend only Kshs3.7 million, there must be something wrong somewhere, and I am requesting him just to give me the breakdown of the projects purely funded by the Government of Kenya.

**Mr. Oyondi:** Mr. Deputy Speaker, Sir, I think the hon. Questioner is not being sincere with me. I have said, "Not only my Ministry". So, I would not be able to tell you all the projects which have been carried out. So, if the hon. Questioner wants to know this, and wants to put another Question, I will be able to reply.

**Mr. Mak'Onyango:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to try to evade the Question when his is the co-ordinating Ministry? As the co-ordinating Ministry, they should have an idea of what happens in every constituency.

**Mr. Oyondi:** Mr. Deputy Speaker, Sir, the hon. Questioner is correct, but the Question which was put to us was put to the Ministry of Planning and National Development.

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

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

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

**Mr. Ojode:** Is the Assistant Minister in order to insinuate that some of the Ministries are not included here, yet there is this dormitory which should have gone to the Ministry of Education. Why are you including answers related to dormitories which were supposed to have been given by the Minister for Education?

**Mr. Oyondi:** Mr. Deputy Speaker, Sir, the money came from our Ministry through the Rural Development Fund (RDF). There could be other money direct from other Ministries, but the RDF money was at that time being managed by the Office of the Vice-President and Ministry of Planning and National Development. That is why it appears like this.

*Question No.102*

PROJECTED POPULATION OF NAIROBI

**Mr. Kamuyu** asked the Vice-President and Minister for Planning and National Development:-

- (a) what the projected population of the City of Nairobi is by the year 1997; and
- (b) what the projected population of Dagoretti Constituency is by the same year.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The projected population of the City of Nairobi by the year 1997 is 1,890,000 people. This represents an average annual growth rate of 4.5 per cent based on the 1989 census which put Nairobi population at 1,325,000 people.

(b) Projected population census figures are done for national or sub-national areas using internationally accepted demographic tools like estimated population growth through births, deaths and migration trends. However, these projections are not reliable for smaller administrative units like Dagoretti Constituency which is

within the rim of Nairobi and with a population largely of the labour force which is prone to unpredictable and often rapid-in-and-out-migrations. Projecting population figures for such an area would be a futile exercise as the figures arrived at would be unreliable and misleading.

**Mr. Kamuyu:** Mr. Deputy Speaker, Sir, I thank the Vice-President and Minister for Planning and National Development for that answer. But the population of Nairobi City, with all due respect to the Vice-President, cannot be 1,890,000. It is well over three million. However, even based on 1,890,000, each representative in Nairobi, eight of us in Nairobi, would have to represent at least 240,000 residents of this City. That is a very huge figure to be represented by one hon. Member. Could the Vice-President inform the House what plans the Ministry or the Government has to increase the number of constituencies in this City, say, from eight to sixteen so that the ever-increasing population of this City can be represented effectively and fully? In fact, we do know that some hon. Members here represent a population of only 10,000 people and they came here with only 3,000 votes. This is very unfair to some of us who came here with majority of votes. Could he tell us what plans his Ministry has to increase the number of constituencies in Nairobi City?

**Prof. Saitoti:** Mr. Deputy Speaker, Sir, while I sympathise with the sentiments expressed by the hon. Member, the Ministry of Planning and National Development has no constitutional powers to review constituency boundaries or, for that matter, to increase them.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, considering that, by its own statistics, the Government believes that this country is urbanising at over 10 per cent or that the urban population grows at over 10 per cent, way above the national population, could the Vice-President explain why Nairobi City should have such a low population increase of 4.5 per cent well below the average for urban areas?

**Prof. Saitoti:** Mr. Deputy Speaker, Sir, in giving the answer, I did make it quite clear that the projected population that I had given is based on the bench mark of what the population was at the time of the census. What we have done is then to use the population growth rate as per that time. I should, however, say that - I think it is important - namely, the population growth rate in the country is definitely much below the one we have given. But we have used the internationally accepted factors in terms of projections. But the real actual population will not be known until the day we do hold the census.

**Mr. Raila:** On a point of order, Mr. Deputy Speaker, Sir. I wonder whether the Minister is in order to mislead the House that they used internationally accepted figures or methods to arrive at this figure given here when everybody in this country knows that the figures that have been released by the Government have been "doctored" to suit certain political interests. Is he then now in order to try to evade the question that has been raised which has to do with the collective responsibility of the Members of Government? He has been asked to tell the House what measures the Government is going to take to ensure that the gerrymandering that has been going on in this country since Independence is done away with so that constituency boundaries are based on population and not just on tracts of land and wild animals?

**Prof. Saitoti:** Mr. Deputy Speaker, Sir, let me say quite clearly that I am not aware about the "doctoring" of the figures. Secondly, there is a normal machinery which is normally implemented in terms of trying to review the constituency boundaries. I did state here that, that is not done through the Ministry of Planning and National Development.

**Prof. Ouma:** Mr. Deputy Speaker, Sir, I hope that the Vice-President and Minister for Planning and National Development will believe that the management of a growing city, especially in the Third World, like Nairobi City, the proper management of that city depends on very accurate management of the statistical data available. Secondly, I hope also that the Minister believes that the integrity with which that data is managed is significant if we are going to arrive at reasonable and dependable results.

Now, in the light of those two premises, could the Minister tell the House whether he is satisfied that the data which he has, and upon which projections are based and upon which development planning for Nairobi City is based--- Could he tell us that, that data is satisfactory, accurate and dependable? If it is not, what will he do to rectify it?

**Prof. Saitoti:** Mr. Deputy Speaker, Sir, let me, first of all, say that I do concur with the hon. Member in as far as his premises are concerned. The first premise, namely, that any meaningful planning, leave alone the city or even a country, has to be based on population data which is precise--- I also do agree with the second premise, namely, that the methodology of arriving at that data must be proper and reliable. However, in his conclusion, this is where I would like to tell him that these are the figures which were arrived at during the census day and there is no---

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Deputy Speaker, Sir. In view of the statement made by the Vice-President and Minister for Planning and National Development and also in view of the fact that the last

census was "doctored" and disputed by many people, could he then order that a new census be done?

**Mr. Deputy Speaker:** That is a supplementary question!

**Prof. Saitoti:** Mr. Deputy Speaker, Sir, I think the main reason was to distract me from replying to this Question quite clearly. I think I did say that I am not aware that the figures were "doctored". I do not think any evidence has been presented to prove that the figures were actually "doctored". We have not again been presented with an alternative data. But let me also put it this way; that I am sure we shall be having different figures when the next census does take place.

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

*Question No.230*

CONSTRUCTION OF DIVISIONAL HEADQUARTERS

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

(a) when the Ministry will construct proper divisional headquarters to accommodate the divisional heads in Waso Division at Archer's Post; and

(b) what arrangements the Ministry is making to provide adequate housing facilities and mobile sets for Administration Policemen at Losesia Police Post.

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

(a) There are no immediate plans to construct the Waso Divisional Headquarters at Archer's Post due to lack of sufficient funds in the voted estimates.

(b) Due to inadequate funds, the Samburu District Commissioner, in liaison with the local people, is constructing temporary houses for the Administration Policemen. Losesia Police Post will soon benefit together with other police posts as the Government is considering providing several Administration Police Posts with communication equipment.

**Mr. Farah:** Mr. Deputy Speaker, Sir, in view of the fact that Samburu District is very vast and insecure, it has now become common knowledge that the only people who get development are those who have got a high population density and that those who are fewer are not supposed to live. This is no different from the case of Rwanda where the Hutus think that all the Tutsis should perish. Nothing grows in those arid areas. I do not dispute the fact that we have got small populations but we have a right to live too. Could the Assistant Minister tell this House when he is going to have an administration police post, police post and a mobile unit so that our forces can save the small numbered Samburus from perishing further at the hands of bandits unless you want them to disappear for good?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, I hope the hon. Member for Lagdera accepts that I am one of those who believe that development in Kenya should touch all corners of the country and that, in fact, where there is an imbalance, it is the role of the Government to ensure that we correct that imbalance, be it an historical imbalance or a deliberate imbalance of the past. The Government is also aware that, indeed, there is need for this particular post at Archer's Post because of the banditry menace. In 1989, the Government carved Waso Division out of Wamba Division and there is actually an administrative police post there. What the hon. Member is asking is for us to put up permanent buildings and we are saying we do not have the funds, but the District Officer there, together with the local people believe, in the spirit of Harambee and they are putting up some temporary structures. We have also further decided to extend these services to Losesia. So, we are making an effort to ensure that the area is well policed.

**Mr. Rotino:** Mr. Deputy Speaker, Sir, I want to ask the Assistant Minister to tell us what criteria they are using to build permanent divisional headquarters in this country? Even if funds are not available, could he be specific and tell us what plans they have? In my own division of Sigor there is one which was built in 1954 and it is now falling apart. What plans does the Ministry have to build permanent divisional headquarters?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, I will not always say that there are no funds available. One thing that is clear is that we should separate the need for closer administration from the ability of the Government to construct permanent buildings because we live in the same country with hon. Rotino and he knows how much money is in the kitty of the Central Bank just like any hon. Member does actually know what the Consolidated Fund contains. We cannot say that we should divert this money and build new administrative centres. I think hon. Members will appreciate that we are not a very rich country. When funds used to be forthcoming, we had started putting up these buildings, but when funds stopped coming in, the work stopped.

**Mr. Orengo:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Dalmas Otieno and his colleagues last week were busy telling people in South Nyanza that they must support KANU in order to get development. Now, if KANU cannot build a district officer's office in a KANU area, is it worth being in that party? Can the Assistant Minister tell us whether it is worth being in a party which cannot build an office for a DO who is the President's representative in the division?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, that is a good distinction between a KANU Government and FORD(K) policy because the KANU Government believes that development must not just go to KANU areas. It must go to all areas and when there are no funds available they are not available for all people either in Luoland or in Samburuland. But the point that we have been making as KANU is that, the people with the proper policies of development are in KANU and that the policies that are able to take Kenya forward are the policies that KANU is propagating and not the policies of the Opposition.

*Question No.201*

SMUGGLING OF ILLEGAL TROPHIES

**Mr. Salat** asked the Minister for Foreign Affairs and International Co-operation what the outcome of the investigations into the case connecting UNOSOM personnel involved in the smuggling of illegal trophies to Kenya is.

**The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa):** Mr. Speaker, Sir, I beg to reply.

I wish to inform the hon. Member that the illegal trophies were not being smuggled into Kenya. They were marked as goods in transit.

As the hon. Member is aware, there exists a convention against international trade on endangered species like wild flora and fauna of which Kenya is a party. There are Kenyan laws including Wildlife Management and Conservation Act which reinforce the prohibitions contained in the convention.

Kenya, therefore, views the smuggling of game trophies and ivory with utmost seriousness. My Ministry, in conjunction with the Attorney-General and the Director of Kenya Wildlife Service is actively pursuing the matter with UNOSOM with a view to taking appropriate legal action against the individuals concerned.

**Mr. Salat:** Mr. Deputy Speaker, Sir, smuggling of the illegal trophies whether in transit or meant for Kenya is a very, very serious crime. We know that the UNOSOM staff have got the protection like immunities against any prosecution maybe as far as laws of Kenyans are concerned. However, this is only a tip of the iceberg. Is the Assistant Minister aware that this practice has been going on over the years since UNOSOM took control of the affairs of Somalia?

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, I do agree with the hon. Member that the matter is serious whether the smuggling is from within or whether the goods are in transit. I agree with that bit, but as regards the second part of his question, I am not aware that this has been going on for a long time.

**Mr. Farah:** Mr. Deputy Speaker, Sir, unfortunately our Government has followed a path of a lot of suspicion in matters involving Somalia. It is just the other day when, without an appropriate government in Somali, our Ministry of Lands and Settlement approved the sale of the House of the Somali Ambassador. When the same people were taken to court it was said that they did not enjoy diplomatic immunity because there was no government in Somalia but at the same time the Ministry of Lands and Settlement approved the sale of the House. In the same way, the smuggling of trophies from Somalia and decimation of the little wildlife that was left in Somalia by the UN body through Nairobi has been the practice for a long time. Could the Assistant Minister confirm that we have been party in the disposing of their assets in a fishy manner?

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, the sale of the Somali Embassy building is different from the issue of trophies because that house is not a trophy. Here we are dealing with smuggling of trophies. I have also not said that we know about smuggling involving United Nations Mission in Somalia (UNOSOM) which has been going on. Had we known, we would have taken appropriate action as we are doing now.

**Mr. Mulusya:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has accepted that there has been smuggling of trophies from Somalia through Kenya - he has said categorically that the Ministry has for long been aware of this - what is the been Ministry doing about it? Why did it take so long for the Ministry to apprehend the culprits? What are the names of the two people who were arrested at the airport and where are they?

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, the hon. Member is putting his own words into my mouth.

**Hon. Members:** Then close your mouth!

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, if I close my mouth the hon. Members will not like it because I have got to reply to this Question. I have not said that we are aware of smuggling of trophies from Somalia through Kenya.

**Mr. Farah:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading the House now. He has just made a statement that our country is being used as a conduit, which is against the laws of this country and that they are following up that issue with the Kenya Wildlife Service. Hon. Mulusya has asked the Assistant Minister this, that now that he has accepted that this happened, what are the names of the people who were involved and where are they now? Are they in our custody or are they somewhere else? It is a simple question.

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, that is what I was coming to before I was rudely interrupted. The names of the two people are Mr. Owen Ramsey, who is an American, and Mr. Dahamanika Selanantha from Sri Lanka. The two people are still in this country until the matter is resolved.

**Mr. Mulusya:** On a point of order, Mr Deputy Speaker, Sir. He says that the two people are in this country. Are they staying in the Hilton, New Stanley, Inter Continental Hotel or are they in Government custody? Where are they?

**Mr. Muchilwa:** Mr. Deputy Speaker, Sir, I have said that they are in this country. They have been prohibited from leaving the country until this matter is sorted out. As I said earlier, they are enjoy diplomatic immunity until it is lifted.

*Question No.092*

NON-REMITTANCE OF NSSF DUES

**Dr. Lwali-Oyondi** asked the Minister for Labour and Manpower Development:-

(a) whether he is aware that Assia Pharmaceuticals Limited have not remitted National Social Security Fund (NSSF) contributions for Mr. Dominic Nasunga, PF/No.07005, NSSF No.906-384-613 for the eight years he worked with this company; and,

(b) what action he has taken to ensure that the deductions for Nasunga are remitted and that he is paid his total NSSF contributions.

**The Minister for Labour and Manpower Development** (Mr. Masinde): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that M/S Assia Pharmaceuticals Ltd. have remitted some of the NSSF dues in respect of Mr. Dominic Nasunga for the period he had worked with them. I am also aware that some dues have not been remitted.

(b) I have taken action to ensure that the sum not yet remitted is forwarded to the NSSF. However, Mr. Nasunga cannot be paid his NSSF dues currently as he is only 40 years. So, he has to wait for at least ten more years old, unless the situation changes during this time.

**Dr. Lwali-Oyondi:** Mr. Deputy Speaker, Sir, could the Minister state how much Assia Pharmaceuticals Ltd. has remitted to the NSSF?

**Masinde:** Mr. Deputy Speaker, Sir, this gentleman was employed in June, 1979, but from that date to 1984, no remittances were made to the NSSF. However, we have received the money for all the remaining years. I am definitely chasing for the difference which is due to Mr. Nasunga for the years 1979 to 1984.

**Mr. Shikuku:** Mr. Deputy Speaker, Sir, arising from that encouraging reply - at least the Minister should be given the credit of admitting that this goes on - could he tell the House what his Ministry was doing all this time since contributions are supposed to be remitted to the NSSF on a monthly basis?

**Mr. Masinde:** Mr. Deputy Speaker, Sir, I want assure hon. Members that NSSF staff are trying their best to inspect the employers' premises to make sure that remittances are made on time. In fact, in my Labour Day address appealed to the over 20,000 employers that they remit these amounts every month and also give us any information that would make it easier for my officers to credit individual accounts. My officers are always on inspection but you know the employers and what they are. We try to catch up with them. I appreciate that hon. Members bring up situations which we may have been overlooked or which we may not have discovered; as soon as they are brought to our notice we take action.

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, can the Minister agree with me that the reason why many employers are reluctant to remit employees' contributions to the NSSF is because the Fund's money is being used to buy plots from individuals here in Nairobi? When you are allocated a plot the only body now with money to

buy it is the NSSF. The NSSF now owns a lot of plots, which are over priced, at the expense of the workers.

**Mr. Masinde:** I do not think that employers are reluctant to remit this money to the NSSF at all - they remit it very willingly. Probably a few unscrupulous employers may try to dodge remittance, not because there is anything wrong with the NSSF, but they want to save a little money for themselves. As to the question of purchase of plots, this House passed an Act of Parliament and authorised the NSSF Board of Directors to invest the Funds judiciously. They can invest it in property, bank and other financial institutions. It is all of your own making. As far as I am concerned when you invest in land you can never go wrong.

**Dr. Lwali-Oyondi:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House by saying that this company has partly remitted NSSF contributions when I have here a document of actual remittances which shows that since the person was employed in 1979 and dismissed in 1987 the company never remitted anything? Here is the document.

*(Dr. Lwali-Oyondi laid the document on the Table)*

**Mr. Deputy Speaker:** Dr. Lwali-Oyondi, you have to know what a point of order is. Mr. Masinde, answer his question!

**Mr. Masinde:** It may have read zero in 1986, but that is some years back. We have been working and my officers have been investigating. Since 1986, you do not think they have just been sitting down. They have recovered some of the money. That is why I am telling you now, in 1995, that we have this money.

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

*Question No.239*

SUPPLY OF CLEAN WATER

**Mr. R.K. Mungai** asked the Minister for Land Reclamation, Regional and Water Development what steps his Ministry is taking to ensure that the residents of Kambiti, Kakuzi, Mitumbiri and Ithanga locations in Makuyu Constituency are supplied with reliable and clean domestic water to improve their quality of life.

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale): Mr. Deputy Speaker, Sir, I beg to reply.

Makuyu Constituency was, until recently, inhabited by large estate farmers most of whom had developed their own water sources for irrigation and domestic use. With the acquisition of most of these estates by land buying companies and subsequent subdivisions, new settlement patterns are emerging whose implications in terms of infrastructural development have not yet been fully determined. My Ministry, along with other sectoral Ministries, is in the process of gathering the necessary data for planned water development in Makuyu that will include conventional domestic supplies for Kambiti, Kakuzi and Mitumbiri locations. Ithanga already has its own conventional water supply constructed and maintained by the Ministry of Land Reclamation, Regional and Water Development.

**Mr. R.K. Mungai:** Thank you, Mr. Deputy Speaker, Sir. I am really shocked by this reply since it appears that the Government has taken 32 years just to gather information and data for planned water development projects in Makuyu. Could the hon. Assistant Minister tell us when this gathering of data will be completed? It has already taken 32 years. How many more years do we have to wait? Another 30 or 100 years and by which we will all be dead? How long will it take to implement the water project in Makuyu Constituency?

The hon. Assistant Minister talked about Ithanga water project. Is he aware that this project which was planned for 3,000 inhabitants is totally inadequate today because it is supposed to serve 30,000 inhabitants who are now being charged standing charges for dry taps?

**Mr. Ligale:** Mr. Deputy Speaker, Sir, I did not say that it has taken the Government 32 years to gather data. I did say that Makuyu was, until recently, inhabited by large-scale estate farmers. This pattern is changing right now and we are gathering data to establish the current settlement pattern in that area in order to establish the water requirements. I have also added that we have adequate data and we are already making plans to implement a number of water projects, including Ithanga which has already been implemented. I am aware that the water project which is already there is not adequate. I do agree that it does not serve all the people that it is supposed to serve. Right now, the Government, with the assistance of the Catholic Secretariat, is implementing a remedial step to ensure that, that particular water project serves the required population.

**Mr. R.K. Mungai:** Thank you, Mr. Deputy Speaker, Sir. I do agree that there have been changes in the settlement patterns in the big farms. However, surely, this did not start yesterday and, when the Assistant Minister says the Ministry is in the process of gathering the necessary data for planned water development, one wonders how long this is likely to take. My question is: How long is the process going to take? Could we be told whether it is another two or five years? Maybe, it will then take another 50 years to carry out the implementation of the project.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, we are not saying that we will wait for a very long time. In fact, we already have data on the various locations. For instance, in Kambiti Location, we are aware that there are about 7,000 people who have to be served with water and we have already designed a scheme and we are looking for a donor to be able to implement that project. In Kakuzi, we are aware that there is a population of close to 25,000 people and, although most of these are served by the various projects designed by Kakuzi Company, our Ministry is monitoring the situation to see if there is any inadequacy so that we can supplement their efforts. In Mitumbiri, we have a small self-help water project which was completed in 1989, but this is grossly inadequate to serve the population of close to 25,000 people, and we are looking into this. I have already indicated that Ithanga is already being augmented to meet the current water requirements.

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

*Question No.256*

DISCONNECTION OF WATER SUPPLY

**Mr. Mwiraria** asked the Minister for Land Reclamation, Regional and Water Development why the water supply to the Nkabune area was turned off on 16th April, 1994, when most of the consumers had fully paid for the water they had used.

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Chepkok): Mr. Deputy Speaker, Sir, I beg to reply.

The water supply to Nkabune area was disconnected on 16th April, 1994, due to a blockage in the main line that supplies water to the treatment facility and not because of non-payment of bills by consumers. The system was rectified and supply resumed on 17th April, 1994.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, I thank the hon. Assistant Minister for that reply to this Question which I asked more than a year ago. However, first of all, I would like to draw his attention to one fact before I ask my next supplementary question. On the 16th of April, there were 16 weddings in Nkabune Sub-location. I was informed by the residents that once the water officers knew what was happening, they asked for "kitu kidogo" and when it was not forthcoming, the water was disconnected. Could the Assistant Minister assure the House that, in future, when there are so many important social functions in an area, special care will be taken to ensure that the water supply is maintained for the occasion?

**Mr. Chepkok:** Mr. Deputy Speaker, Sir, my hon. friend should appreciate what I told him. The water supply was interrupted for only one day, and my officers rectified the situation and the water supply resumed on 17th April, 1995.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware of the importance of wedding ceremonies? Could his officers not wait and carry out the disconnection on 17th so as not to disrupt the ceremony?

**Mr. Chepkok:** Mr. Deputy Speaker, Sir, as the pipes were blocked, my officers had no other alternative, but to disconnect the water supply.

QUESTIONS BY PRIVATE NOTICE

ARREST OF PEOPLE IN MATHIRA

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

(a) Is the Minister aware that the following persons from Mathira Constituency were arrested by plain clothes police officers:- Mr. Ephraim Maina Kibunja of Itiati Sub-location, Konyu Location, 2 (two) months ago; Mr. Charles Rurii Kabaru of Gachuiro Sub-location, Konyu Location, two (2) weeks ago and Mr. Charles Mwangi Wamae of Gachuiro Sub-location, Konyu Location, one (1) month and seven days ago?

(b) Is he further aware that their relatives have not been able to see them?



(c) Why have they not been charged in court or released after such a long time?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I wish to request the indulgence of the House. We have discussed with our friend, hon. Wamae, and informed him that this matter only came before us yesterday and that the answer is not ready. But we do undertake to give the answer tomorrow afternoon.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, I agree with that, but he should realise the importance of this

Question when innocent wananchi are picked up by the police and their whereabouts are not known for two or three months.

**Mr. Deputy Speaker:** I think that is noted by the Office of the President and I also want to state that Private Members' Questions are put forward on the basis of an emergency. If they are delayed they will lose their value.

#### REPAIRS TO MOKOWE JETTY

**Prof. Mzee:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(b) Is the Minister aware that the Mokowe Jetty in Lamu District is in bad state and poses a great danger to the users?

(b) If the answer is in the affirmative, what plans are there to repair or replace the jetty?

**The Minister for Transport and Communications** (Mr. Otieno): Mr. Deputy Speaker, Sir, due to the short notice, I have not received the report from Lamu on the current condition of this jetty. However, I have already issued instructions that the jetty be inspected and any emergency measures to guarantee public safety be undertaken.

**Prof. Mzee:** Mr. Deputy Speaker, Sir, I am very grateful for the steps which have been taken by the Minister to see that the jetty is repaired. The jetty completely collapsed in 1993 and wooden planks were put there so that the people could get to the boat. Sometime back Kenya Ports Authority (KPA) engineers came and inspected the jetty and went away. Later on, hon. Rashid Sajjad, the then Chairman of KPA, also visited the site, inspected the jetty and promised wananchi that the jetty would be taken care of. In our last Budget we approved over Kshs30 million for the repair of the sea walls and the jetty in Lamu.

**Mr. Deputy Speaker:** What is your question, Prof. Mzee?

**Prof. Mzee:** Mr. Deputy Speaker, Sir, since we are coming to the end of the financial year, can I get assurance from the Minister that this jetty will be repaired before the financial year ends?

**Mr. Otieno:** Mr. Deputy Speaker, Sir, I have said that necessary action will be taken and we will follow up this up with the hon. Questioner.

**Mr. Deputy Speaker:** Is the hon. Questioner satisfied?

**Mr. Ogur:** Mr. Deputy Speaker, Sir, the Minister has not indicated whether or not the jetty is in bad shape. He just said that he has "indicated", but he has not said whether he is aware of the possibility of us having more deaths soon as happened when the Mtongwe disaster took place.

**Mr. Otieno:** Mr. Deputy Speaker, Sir, I said that I have not received any report from Lamu on the condition, as of today, on this particular jetty, but that I have issued instructions that the jetty be inspected and any emergency steps be taken to rectify any situation that would be of danger to the public.

As regards the question of the Budget that we have, I have seen it myself. The wooden planks were temporary. A permanent jetty would be constructed at a later stage. In fact, the amount quoted would not even be enough.

**Mr. Orenge:** Mr. Deputy Speaker, Sir, the Minister has said that he has given instructions. As to whether or not those instructions are going to be complied with is another question. Has he ensured that money will be made available to undertake these repairs?

**Mr. Otieno:** Mr. Deputy Speaker, Sir, there is enough money for the necessary and immediate steps to ensure that the public is not endangered.

#### POINTS OF ORDER

##### ASSISTANCE TO VICTIMS OF FLOODS

**Mr. Karan:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek an urgent Ministerial Statement from the Office of the President on the following points:-

1. The situation of floods as of now at Kano Plains and Nyakach.
2. Specific rescue arrangements to evacuate victims to safe grounds.
3. Arrangements to supply food, clothing, blood tests, drugs and assistance to put up shelter when the floods subside.
4. A permanent solution to frequent flooding which is the implementation of Flood Control Dyke Project along River Nyando and Awach which has stalled.

This project worth Kshs750 million was supposed to be undertaken over a period of 12 years, but we only have one year to go. We are seeking confirmation from the Government whether it is committed to implementing this project as a matter of urgency.

**Mr. Deputy Speaker:** Office of the President, do you want to respond now?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** No, Mr. Deputy Speaker, Sir except just to say that, in view of what the hon. Member has said, those are not matters that require a Ministerial Statement. We require a Ministerial Statement where the facts are not known to the hon. Member, but the facts of the floods are well-known to the hon. Member and, in fact, what the hon. Member is calling upon the Office of the President to do is a matter that he very well knows what steps have been taken. He has visited the area and knows very well the damages that the floods have done. It is not really a matter that we should be asked to respond to by way of a Ministerial Statement.

**Mr. Karan:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading this House because he knows very well that there are no arrangements that have been made to curb the floods. I want the Assistant Minister to let the House, and the country at large, know what his Government is doing to bring to a permanent to end this perennial problem of floods in Kano Plains. He knows very well that the project which was intended to put these floods to an end has stalled. We want the Government to tell us whether they are committed to completing the project.

#### CONDUCT OF PRINCIPAL IMMIGRATION OFFICER

**Mr. Farah:** On a point of order, Mr. Deputy Speaker, Sir. Last week I did seek a Ministerial Statement from the Office of the President regarding the conduct of the Principal Immigration Officer as concerns the Somali community in Kenya. This morning, a Minister from the Office of the President did promise to have a Ministerial Statement ready by this afternoon. Could I have the Ministerial Statement now?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Deputy Speaker, Sir, this morning we did undertake to give a Ministerial Statement regarding certain matters that were raised in the newspapers about the Immigration Department because the hon. Member for Lagdera actually did request for this.

I was not aware that what the hon. Member wanted was a Ministerial Statement concerning the conduct of one of our officers. This is a very novel matter to me and I have not undertaken to issue this particular statement. However, if the hon. Member wants me to comment on the specific issue of passports, then I think he should put it that way, but as for the matter he has now raised, I do not think that, that is within my province to do.

**Mr. Farah:** Mr. Deputy Speaker, Sir, I did say that I wanted a Ministerial Statement on the issue of passports and Kenyan Somalis. This morning the same Assistant Minister, in my company, came to your office and promised to give a Ministerial Statement on this issue this afternoon. Last time I said that this issue is very urgent because many Kenyan muslims in general and Somalis in particular who want to go for the pilgrimage to Mecca are affected by that. Could the Assistant Minister give us that Statement now because the Principal Immigration Officer is under his Ministry? Let him tell us the position as of now.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Deputy Speaker, Sir, I said that with regard to the question of passports, I am willing to comment on that. But what I am being asked to do now is to discuss another citizen of this country whom the hon. Member wants a Statement on. But since he has specifically stated correctly that what he wants is a comment on the issue of passports, I regret that the Statement I have does not cover that area and I undertake to make a comment about the passports tomorrow afternoon.

#### BILL

#### *Second Reading*

## THE HIGHER EDUCATION LOANS BOARD BILL

**The Minister for Education** (Mr. Kamotho): Mr. Deputy Speaker, Sir, I beg to move that The Higher Education Loans Board Bill be now read a Second Time.

The purpose of this Bill is to repeal The Higher Education Loans Fund Act of 1952, Cap.213. The Act was enacted during the colonial days and its purpose was to assist those students taking higher education to avail themselves with funds to be able to pay for their education through higher education institutions.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, since that time, this country has not been able to update or provide the necessary legal framework to enable the large number of students who have been able to qualify to go for higher education, both at home and abroad, both in the public and private sectors, adequate facilities to be able to continue with their own education.

The aim of this Bill will be to provide a legal framework for disbursement and recovery of loans given to university students and students in our institutions of higher learning including training colleges so that they can be able to complete their studies and after completion of their studies to be able to repay back this money into a revolving fund which will enable others to borrow funds and to be able to pay for their education. The objective is mainly to have an autonomous Board which will be running a fund for this purpose.

As hon. Members know, the cost of education has risen very much. I would like to inform this House that after a very careful costing of what it costs the Kenyan taxpayer to educate a student in our public universities it comes to Kshs120,000 per year. Under the cost-sharing programme which, as we all know, started way back in 1963 and the policy on cost-sharing properly pronounced in 1974, we have reached a time when the necessary legal instruments should be put into place to enable as many Kenyans as possible to be able to pay for their education in partnership with the Government.

After passing this Bill we will enable Kenyan students who are taking their education in private universities in the country, universities which have already been issued with charters, to have access to the newly established loans programmes. This Bill is very important because if we can recall, at Independence we had very few students undertaking university education in this country or outside this country. Today we have a very large number of Kenyan students taking their studies here and abroad. Our public universities, have 42,000 students plus about another 5,000 students taking their studies in private universities in the country with over 17,000 students taking higher education overseas. So, this Bill is extremely important and I would urge this House to discuss this Bill with a lot of transparency. This is because the Bill is not political. The objective of the Bill is very noble. This is because as I said at the beginning, the objective of the Bill is to establish a legal machinery which will enable a fairly autonomous Board to disburse funds to students taking higher education and also to put in place a recovery system which will enable the money loaned out from the public funds to be repaid and then be loaned to others.

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

*[Mr. Deputy Speaker resumed the Chair]*

Mr. Deputy Speaker, Sir, I would like to inform the House that since the current programme of loans started, the Government has already disbursed, through the National Bank of Kenya and the Kenya Commercial Bank, Kshs5.2 billion in the form of university education loans. It is only a few million shillings that has been recovered. About Kshs700 million is still outstanding. That money should have been recovered but because of lack of proper machinery for recovery, we have not been able to recover these funds adequately. After passing this Bill and establishing that Board, we will have the necessary legal instruments for disbursement and recovery, which will mean that when students complete their studies, even if they get employment in the private sector, it will be mandatory for any employer to make compulsory deductions from the students and repay the loans back to the Fund. In addition, the current loan given to each student is only Kshs21,500 a year.

That amount of money is not adequate even for a student taking his or her studies in a private university

and, therefore, it would not be of any use. In a private university such as Daystar or the Catholic University for Eastern Africa or the College of East Africa at Baraton, you pay something in the region of Kshs200,000 per year. So, this Board will enable us to revise the amount of loan we can be able to give to students upwards in order to make cost-sharing more meaningful. Apart from giving the loans, the Government will continue giving bursaries or scholarships to the very needy and poor intelligent Kenyan student who cannot afford to pay what is expected to be paid by other students. We shall also be able to liberalize the system such that the parents who would prefer to pay for their students at our universities at cost instead of having them take the loan, would be free to do so.

Therefore, this Bill whose second reading I am now moving, is meant, as I said, to set a legal framework to disburse and recover the loans that will be given to students to undertake higher education. In addition, funds being available, we shall be able to assist those students taking post-secondary studies in polytechnic or post-secondary institutions and then be able to recover that money from the students when they start working. I do not want to say very much on the second reading of this Bill which is very straightforward. The objective of the Bill is to repeal as I said, the higher Education Loans Board Act of 1952 Cap.213 which has been in existence but has not really been operational. The reason for this is that in Independent Kenya, this Act was not very practicable. However, if we pass the current Bill which I am moving now, then life would look a little better and more comfortable to the Kenyan parents and their students who will be admitted to our public and private universities here at home. This will also assist us as a country to try and reduce the large number of Kenyans who are going overseas, thereby paying very high fees, in some cases, for education in institutions of very low level education. Today, the cost of education in Europe and America is about Kshs1 million per year. The Government is unable even to give those kind of loans to Kenyan students wanting to study in American or European universities. Therefore, to enable our own young students who would like to undertake their studies, this Bill, once passed, would bring in more flexibility in providing higher education here at home.

Mr. Temporary Deputy Speaker, Sir, in conjunction with the recent report of the Presidential Committee which was set by the President himself to study the future of university education and how to finance it, this Bill, once passed, will be able to harmonize higher education in Kenya.

So, without saying very much, I would now like to move that the Higher Education Loans Board Bill be now read a Second Time.

**The Minister for Information and Broadcasting** (Mr. Makau): Mr. Deputy Speaker, Sir, I would like to say that this Bill has been long overdue. As every Kenyan is aware, the expansion of higher education in this country has been phenomenal especially after 1978. Currently, we have more than 40,000 university students who are studying within the country and another more than 15,000 students who are studying abroad. This expansion of our education is extremely phenomenal and hon. Members should join me in commending His Excellency the President for his foresight in expanding higher education. It is a known fact that development in countries such as Germany after the Second World War, came about as a result of such countries having trained manpower. In this country, we should not tailor our educational opportunities on the availability of jobs. We should continue training Kenyans to ensure that we have enough trained human resources so that as we progress in investment, we would have enough trained manpower to propel this country to a take off in economic development.

So, Mr. Deputy Speaker, Sir, when debating this Bill, we should realize that many Kenyans are not able to pursue further training due to lack of finances. The question of giving loans to students as has been stated by the Minister, has been there since 1952. However, in the 1970s when the students Loans Scheme was introduced, that was a very welcome idea. The problem here was that the loans that were given to the students could not be recovered effectively because the mechanism that was necessary to enable other students to benefit from the same scheme was not well set up, was not comprehensively done to facilitate that efficient recovery.

Mr. Deputy Speaker, Sir, when it comes to matters of financing education, both the parents and the Government are faced with a heavy burden.

While the Government appreciates its role in making sure that those who are able to continue with further education are not denied that opportunity, there is a heavy burden when it comes to the role of the parents in supporting their children in school. Since 1970, as I have already said, there was established a Loans Scheme. However, the problem that this country faces is that this scheme was only for students who were going to our local universities. The amount of money that was made available under this scheme was so little that the benefit to the students sometimes is questionable. The money that is available for loans to students locally ranges between Kshs6,000 and Kshs10,000.

Mr. Deputy Speaker Sir, although this money seems to be little, normally it is very difficult for parents to raise that kind of money because the assumption is that, if a student has passed secondary school examinations, whatever comes after that is the responsibility of the Government; to pay the training expenses.

So, Mr. Deputy Speaker, Sir, in this Bill that has been moved without providing the details in various sections, there is one aspect that I would like to stress and urge the hon. Members of this House to support the Bill.

The burden of paying the Kshs6,000, by parents who have students at the university is left to the politicians. So many harambees are organised to raise that money because the parents are devoting the limited resources that they have to pay the heavy secondary school fees of about Kshs24,000 per year in various secondary schools. It is assumed that the students who pass their Form Four Examination are going to be funded through probably loans but one of the bottle-necks that have been faced under the students loan scheme has been the recovery of the loans.

The Minister for Education has said we have over Kshs700 million that has not been recovered. When the Bill comes into operation, there is one important issue that will have to be looked into. There is no point of any student who has been admitted to the university to come in and be granted Kshs20,000, Kshs40,000, whatever amount, because currently the loans the students are getting are not used for the purpose intended.

Mr. Deputy Speaker, Sir, it is necessary that any student who is admitted to the university should be given a voucher to purchase books but not money, because the students currently at the universities are not purchasing any books. The system which used to be there, whereby anybody admitted to university would get a voucher, get the books from the university bookshop and continue having a library of his own full of reference books, so that when a lecturer or professor gave an assignment, the student had his own books to read is no longer there. Sometimes we are faced with a question as to what happens to those students who join our universities and have no facilities like reference books or do not buy any books. This is because the money that they are given is used for other purposes instead of buying books that have been recommended by the professors or lecturers. This has lowered the standard of education because a university is not a secondary school, it is supposed to be a centre of research and academic excellence and the only way of maintaining that status is to have the tools that are necessary for its maintenance. One of the most important tools are the books. This is where I am calling upon the Minister for Education and The Higher Education Loans Board that will be set up not to be releasing the money to these young boys and girls who have left secondary schools and are joining the universities. Instead, the money should be given in form of vouchers.

The other area, Mr. Deputy Speaker Sir, that should be looked into is the Pay-As-You-Eat system currently being used at the universities. This is also another area that is affecting the university students. A lot of students at the university are starving. They are starving because when they are given the money for food and asked to pay at the counter to be provided with food, most of them find it difficult to eat at the university halls. Sometimes, they go and eat in various places outside the university.

Mr. Deputy Speaker, Sir, when I speak about this, I speak with experience because I know some students who, instead of going to eat at the university, go and eat in kiosks outside the university. You cannot guarantee that the food that they are eating---

**An hon. Member:** Liberalise!

**The Minister for Information and Broadcasting (Mr. Makau):** Mr. Deputy Speaker Sir, I am not talking about liberalisation. What should be done is that the students should be given vouchers so that they can eat at the university so that they are sure that the food they are eating is not bad. At Kenyatta University, there are a lot of people who have set up their own food kiosks around the university for the university students. This has actually affected even study time for the students. So, this is an area that should be looked into and when it comes to the conditions and the way of granting these loans there should be transparency. When schemes like this are set up they are bound to be abused by those who have the means to pay. When you look at the conditions of granting loans, you see that it is still very important for us to make sure that the applications that are forwarded by those who qualify for these loans are processed with a lot of transparency and accountability. Those who qualify should be given the loans and apart from that there are areas that have needy students. There are areas that have historically been neglected. These areas should not continue to be neglected and when it comes to consideration of giving these loans students who qualify from these hardship areas should be considered favourably.

Mr. Deputy Speaker, Sir, there is one aspect which the Minister for Education will need to clarify when he will be making his final comments. I have seen in the Bill that security will be needed for these loans. While we appreciate that anybody who is being granted any loan should have a security, that condition should be looked into in details because many students who will be looking for these loans are from very poor families. They could also be from areas where there are no forms of security that can be offered, probably because there are no title deeds or the parents do not have any fixed assets that could be given for security.

So, this is an area that could be looked into. Many could fail to get these loans due to that element of security. I would like to propose that the only security that should be asked for is the question of being qualified to join the institution of higher education. I had a chance of reading the conditions of loan schemes in Ghana

University and one of the things that is stated very clearly is that, as long as the student is qualified and a citizen of that country, that is enough for him to get a loan. By the time the student graduates and gets employed, obviously, that employer should be the guarantor to that student. But I am satisfied that a condition should be put in this Bill that the employer will deduct not more than a quarter of the student's monthly salary. I am happy that, that clause is there in the Bill.

Mr. Deputy Speaker, Sir, there is another area that needs a lot of transparency during implementation. This is the question of waiver or the question of times when that loan can be waived. This is a most welcome condition of this Bill and this is where transparency and accountability are most required. Those who will be charged with that responsibility should do it well. A waiver should be done when one has an extreme case. But it should not be done without the authority of the board and the people that are involved to make sure that everything has been done to recover that loan and that the recovery is impossible. That should be the only time when the waiver is applied.

Mr. Deputy Speaker, Sir, another area that the Board and the members should consider is the area of moratorium. If, after graduation, the person does not get a job and he has a loan, then there should be a moratorium or a way of waiving the interest on those loans. So, if one has stayed without employment, no interest should accrue during that period. Here I would like to propose that there is need for computerisation. Currently, the problem that the Government is facing in the recovery of the loans that were issued is that they cannot be able to locate those who got those loans. Some might be even hon. Members of Parliament who are here today and who got their loans way back in the 1970s. So, I would suggest that there should be a computerised system to trace where those who got those loans are working or gone to. Though we have talked about having a legal mechanism, what is important is to be able to locate the person who got the loan and where he is working. This is where I suggest that there is need for computerisation.

Finally, Mr. Deputy Speaker, Sir, since we are talking about the university, these loans are supposed to enhance the quality of higher education. I would like to end by commenting on what our universities are supposed to be and the role they are supposed to play in the economic development of this nation because we are talking about and trade human resources.

We have five fully-fledged universities which is a very commendable achievement for a country that is developing. We know that our neighbours are struggling and Kenya is way ahead when it comes to matters of education. I had stated earlier that universities are centres of research and academic excellence. This concept should be maintained at all costs. For us to continue maintaining that, there is need for us to make sure that those who are in charge of students at the universities adhere to academics.

I have said here before that it is a very bad practice to promote lecturers, professors and so on in our universities who have never contributed to any academic journals or who have not been involved in any publication. I will still continue hammering that point. Sometimes you are amazed to meet a colleague of yours from the university. When the results were released, and during the graduation ceremony, this person never impressed anybody. Probably, when you looked into the line of first class honours, upper second and so on, the person was extremely very far from that line. But all of a sudden, you meet that person and he tells you he is an associate professor at the university. But you have never read any book published by that person or read any article contributed by that person in his line of discipline. Now, those people who get their promotions that way will obviously bring down our academic standards in our universities.

Mr. Deputy Speaker, Sir, we cannot play about with our university education. As for those people who go there, we want them to contribute to our economy either as engineers, doctors and so on. This is an area that should not be compromised by anybody at all costs. We should not compromise the quality of our lecturers, professors and so on at our universities. We are lucky that in our universities we have continued maintaining high standards. We continue getting external examiners who come and supervise the marking of our examinations; to ensure that the quality of those examinations meet international standards. We should continue with that spirit. I would like to appeal very strongly that the promotion of our lecturers, associate professors and professors should be based on their academic contribution because by doing so, we will continue giving Kenya the name that it has always held. It is a country that has upheld high academic standards in our universities.

With those few remarks, I beg to second.

*(Question proposed)*

**Dr. Kituyi:** Thank you, very much Mr. Deputy Speaker, Sir, for giving me a chance to contribute to what I really believe is an important piece of legislation. I start on one of the chief points where I agree with hon. Makau but which poses a problem. When a Second of a Government Bill in the House expresses

reservations about the piece of legislation he is seconding, like hon. Makau did on the matter of security as provided in this Bill, it is confusing as to whether there is a recommendation by the Seconder that, before the Third Reading the Bill is to be amended or it is an expression of opinion which has nothing to do with business at hand of seconding the Bill. Be that as it may, after reading through this Bill, one sees a number of problems and one of the problems is the matter of security that hon. Makau raised. Of course there are other very serious problems, perhaps, the most important of which is the discretion given to the Board proposed under the second part of the Bill. But before I come to the specifics in the Bill, I want to make a few general remarks about the crisis facing education in this country; a crisis which is specifically being addressed by the spirit in which the Bill seems to have been moved before the House.

Today, this country has a number of crises at different levels of education. It is nice that the hon. Minister for Education is trying to address part of the problem of financing high school education in the country, but I think it is futile to assume that we can solve the problem of university education without addressing the crisis facing education at other levels in this country. For example, if you create conditions under which chances are very good that the person qualifying to go to a university will get loans to be repaid after graduation and after employment without creation of facilities for acquiring loans to finance non-university education in polytechnics and professional colleges, what eventually happens is that there is devaluation of attention in non-university education and an over-inflation of attention to entry into university. In drafting this Bill, there has been attention given to potential financing of non-university higher education. I suppose this is an area in which part of that problem can be addressed, but there is a fundamental problem. The fundamental problem is that in the recent past this country has unjustifiably overemphasized the need to expand university education as such. There is massive expansion of general degrees at universities. There is a massive expansion of undergraduate places at the universities. Fortunately, this rationale is being scaled down, but there is a massive expansion and unsustainable expansion of undergraduate university education at universities apart from creating the illusion that you are now going to be ready for the labour market is draining public and private resources in a way that cannot be justified in terms of the preparations for the labour market subsequent to graduation at the university.

It is my belief that the notable decline in financing for basic infrastructure for basic education which I consider the most important education in any country, education from Kindergarten through the first seven years of schooling and the decline in public finances for this critical education have arisen because of over-emphasis of resources in expansion of university education. Even when you want to make it possible that people now going to university will be able to address the question of finances and get decent living as students and be able to finance literature and research, it remains a critical problem that in shrinking of preparatory years because of over-emphasis in university level education is hurting the general population of this country. It is hurting the population of this country because primarily basic education is education that should have become an automatic right for Kenyans as of now. Indeed, if you look at what happened in the 1970s when this country sustained stable low university entry numbers, this country realised the largest expansion of basic education cover in the whole world. Between 1971 and 1975, Kenya had the fastest expanding primary school coverage in the whole world. This collapsed after mid-1980s. You will notice that the collapse of the basic cover of primary education and the compulsoriness of attending primary education, coincides very clearly with the uncontrolled expansion of university education. This is a matter that we have to readdress as a nation. This is a matter that you cannot afford to ignore any more. What should come from this Ministry is greater attention to the question of considering the cost of university education and how we can rationalise the expansion of university undergraduate education in total dissonance with the opportunities in the labour market for university graduates with the first degree. This is a matter we cannot run away from. If you see what is happening out there, the mushrooming of so-called professional training institutions, you will see that many of them are of a commercial nature without sufficient control from any government authority and this has been a reflection of the declining of the public emphasis on non-university tertiary education. If this country paid more attention to investing in expansion and improvement of quality, for example, of institutions that teach accountancy courses, on technical institutions which were coming up very nicely in the 1970s, but whose standards started declining in the 1990s, we would realise a significant decline in the first vestige of a university education which is not related to the possibilities in the labour market. That is one of the issues that I want to touch on in a general way.

In moving this Bill, the hon. Minister for Education did mention the large amount of money that has been spent on loans for education purposes. He said that Kshs5.2 billion has been spent on this sector. Very modest recoveries have been made but up to Kshs700 million is still outstanding in arrears. Before coming to the creation of a fund from which students can take loans, the Government should ask itself why it has lacked the capacity to utilize the structures that it had put into place to recover significant amounts of money that have been disbursed through the loans programme. If you go across the country, you will find many teachers complaining.

They complain that they are the only ones who have been systematically made to repay the loans they owe. Now, if the Minister has been able to make the persons who work in his Ministry pay back what they borrowed as university loans, why has it not been possible through sheer pressure to make other Ministries retrieve what can be retrieved from civil servants? We are talking about people who are in the Civil Service. Apart from teachers there is no arm of the Civil Service where they have developed and utilized a systematic mechanism for retrieving outstanding monies borrowed to finance education. It is important that such questions, questions of competence in retrieving loan repayments, should be addressed before we start discussing questions of expanding the mandate to acquire. It is an important matter of public concern.

Mr. Deputy Speaker, Sir, another matter is that there is insufficient attention paid in this Bill to questions that were partly touched on by hon. Makau. One, since we know that, on average, a university graduate in Kenya is tarmacking for up to two years before he or she gets the first job, what happens to the loan and the interest on it that was used by such person to go to university? Unemployment is, in fact, becoming permanent for a lot of persons who have gone to university. If you went to university and you have been unemployed for six or seven years the chances that you are going to be an early entry into permanent employment or the labour market are very severely threatened. Once many university students join the informal sector it becomes very difficult to assess their levels of income, and establish mechanisms through which they will pay what they owe the Board to be established through this Bill.

Similarly, we have cases of persons who seem to be fairly promising and then at university they get derailed and never finish their courses. We have cases of permanent university students. Some of us have gone through institutions where when you are studying your masters course you were being taught by a person who was doing his doctorate course and then you finished your masters and doctorate courses when that person was still where he was when you joined the institution. In some societies, there are mechanisms for funding that. But what mechanisms will be in place for Kenyans who use an educational loan to go abroad as a passport to look for permanent employment abroad? We have a lot of those people. A person takes a public loan and he ends up in Detroit, being in fixed employment, say, general plumping. Once he becomes a permanent citizen of the United States he delinks himself from Kenya and will only come here to visit and display his American accent. What mechanisms do we have for retrieving monies from such persons? What mechanisms do we have to secure public funds from persons who get money to go to university but eventually they get discontinued because they do not pass their examinations and, therefore, do not access the labour market on the basis of a university education funded through the Board to be established?

These are serious and concrete challenges. As the Mover of the Bill said, I believe this piece of legislation is not partisan; it is basically facilitative. But there are a number of novel experiences elsewhere for funding public education, which should influence the way we approach this matter. A very important consideration in this Bill which is flawed - I think it is one of the most glaring weaknesses - is that a Board which has an established fund that received money from the Exchequer for offering loans to university students should never be allowed to borrow from financial institutions. This is because financial institutions set minimum rates chargeable according to loans given out. When you enter that circle the need to maintain servicing for credit acquired on the financial market forces you to impose interest rates on monies that you lend to students that is sometimes not justifiable on the basis of vagaries of the labour market. Put differently, we live in a society where there is no guarantee of employment for persons who finish university education. In such a society there should be the flexibility of freeze interest payments, which is impossible once the Board that is loaning has been allowed to borrow certain monies from financial institutions that charge commercial interest rates. I will come to the specifics in a moment as I go over step by step the provisions of this Bill. But I think the greatest weakness, as contained in the Bill is the provision that the proposed Board will have the discretion to go and borrow from financial institutions when we know its hands will be tied and then there will be contradictions between that provision and other provisions which are going to allow it to waive even repayment on the basis of very strange arguments here. However, I will come to that presently.

Mr. Deputy Speaker, Sir, I think my main disagreement with the Seconder of this Bill was the statement he made purporting to give the impression that even in the operations of the proposed Higher Education Loans Board, it will attempt to exercise affirmative action. We have had very many cases of irrational allocation of limited public resources and unjustifiable imbalance in public-funded initiatives and affirmative action is always being pleaded. It is always said certain areas are arid and semi-arid, or has been neglected or has been left behind. The establishment of a loans board should be consciously done with the definition of the national interest. To my mind, in fact, allocations of monies should show a bias to reduce a propensity towards unjustifiable courses, for example, expansion of graduate courses in areas which are not likely to access the labour market. I would have argued that if this country believes that certain areas of scholarship are critical for the



economy the Board be so constituted as to make it easier to access funding, if you are going into such course.

This country is being left behind. In most cases in the world today, any discussion about the future of higher education starts with the question, "Where are we placed on the emerging information super-highway?" Where are we in the growing conquest of the internet? Where are we in the evolution of technology informatics? Today, in this country we are still talking basics! We are still talking 1950 politics about education! We should be discussing questions of how can we use instruments like facilities for funding education to send signals that certain areas of academic endeavour are likely to have a larger multiplier effect for the national interest than certain other areas. To me, it would have been much more important for the Mover or the Seconder to say that the bias will be ingrained in the operations of this Board towards encouraging certain forms of education because of their capacity to have a multiplier effect on the labour market or because of their capacity to expand our access to the latest technologies for technological and other related developments of the country rather than start talking about affirmative action about areas being left behind. When we talk about that, then we start seeing something partisan about the Bill and yet some of us did not want to say anything partisan about the Bill. We want tangible, scientifically and rationally justifiable premises for the operations of the Board so that we can question and explain them on the basis of set out criteria other than issues like affirmative action because certain areas have been left behind. I believe that, that will be a serious flaw in the Bill.

Mr. Deputy Speaker, Sir, I now want to turn to the specifics as provided in the Bill before the House. Clause 4 talks about the constitution of the Board where I notice two weaknesses. One, there has been an increasing tendency in this country that when serious managerial enterprises are started, we remember and always include a representative of the employers, the Executive Director of the Kenya Federation of Employers. That is alright, but equally alright would be the representation of the lobby of workers because the labour market is not only known by employers, it is also felt by workers. It will be useful that, in tandem with representation of the Federation of Employers, there is also provision for a representative of the federation of employees or workers, that is, the Confederation of Trade Unions.

Finally, in the same clause, subsection (f) the Bill asks for a representative of the vice-chancellors or principals of private universities. First of all, unlike the public universities where the office of the chairman is an established existing office, there is no clear mechanism for choosing who should represent the private universities. This becomes particularly scaring when read in conjunction with subsection 2, at the top of the next page, which states as follows:

"The members of the Board referred to in paragraphs (e) to (h) shall be appointed by the Minister."

This means that where there is no existing lobby of chairmen, chancellors or vice-chancellors of private universities, the Minister can unilaterally pick a person to represent the private university. I think there is a weakness in that. There should be self-recruitment within the mechanisms of the private universities for the selection of their representatives. Similarly, since the Mover did suggest that this thing is not only narrowly focused on university education, it would have been fair that at least the polytechnics in this country had one representative on the Board.

Be that as it may, on the next page, Clause 4 (3) states as follows:- "The members of the Board other than *ex-officio* members shall hold office for a period of five consecutive years and will be eligible for re-appointment."

I think that is a rather long period. This simply means that the Board members will serve for five long years with the possibility of being re-appointed. I do not know how the Minister will find that justifiable, but be that as it may, that is a more minor one of my concerns. Clause 6(c) states:-

"The functions of the Board shall be to set the criteria and conditions governing the granting of loans including the rate of interest and recovery of loans".

Again, I think this is wrong. The Board should not have discretion in the setting of the interest rates, grants and procedures. This Board is primarily for disbursing loans that are allocated by Parliament. I do not know why they should, like an investment and trading company, be given discretion of deciding on interest rates on the loans they are offering. In some specific cases, and this is another weakness that comes up later on, once you give them the discretion that they can vary the interest repayable from one student to another, then you are going to have a situation which allows for the possibility of corruption and injustice. For example, if I like hon. Dalmas Otieno, we can decide to write off the loan given to his son. There is a weakness in the structure of the membership of the Board which will even show how that can be done. I think there should be a clearly understood and anticipated structure of how much I am likely to end up paying. If I am borrowing money because I anticipate that I will get a certain job on the basis of this training, I should be able, on the outset, to calculate roughly how much indebtedness I will incur once I start working, instead of being subjected to variations according to the wishes of the members of a Board which meets four times a year.

Mr. Deputy Speaker, Sir, further down in Clause 6(i), there is this provision that the Board may invest

any surplus funds not currently required for the purpose of the Board in any investment authorised by law for the investment of trust funds, with power from time to time to vary or realise those investments. I think this is a dangerous trend that, once we start establishing Boards that are supposed to disburse loans, they start becoming investment companies. This country has a clear memory of what happened with the National Social Security Fund (NSSF). Once they were given the discretion of investment of public money, they became buyers of last resort for land that is available as a political gift and has got to be sold quickly at a high price. There should be no provision for a Board whose primary business and rationale is to facilitate education at a higher level to, at the same time, turn into an investment company that can decide on where to put certain money. There should be no such a thing as surplus money. If the money that is allocated through Parliament is in excess, it should be surrendered through the Supplementary Estimates and re-applied for in subsequent years. However, to start saying that we are holding monies which are supposed to be used for loans for university education and then this money ends up being used for investment in real estate, we are creating a monster whose consequences will be very sadly felt by those who come after us. I think it would be important that the Minister considers the possibility of striking out any reference to the possibility that an educational loans Board is given discretion to invest money in investments they deem necessary.

In the very next section also, it is stated as follows:-

"With the consent of the Minister, the Board can set up and extend such other funds as may from time to time be required."

This proliferation of possibilities of establishing little funds and financing of enterprises is scaring. It is scaring for the reasons that have destroyed the Agricultural Finance Corporation (AFC) in this country. Once you put public funds into an institution, particularly, an institution like this one that funds education and which, in most cases, will charge interest rates below the market rates, and you allow the discretion of investment, you will find a situation where the powerful who want cheap loans will turn to the Loans Board for such loans because there are provisions which allow it to give loans other than for education purposes. There is no justification in terms of the pursuit of higher education for this Loans Board to be allowed to invest anywhere other than in financing education and research. I think this is an important consideration and I would like the Minister to revisit that matter.

Clause 6(i) states say that:-

"This Board may borrow such monies from such sources and in such amounts as may be approved by the Minister with the concurrence of the Treasury and secure such loans in such manner as they deem fit".

Again, this is related to the same problem I am talking about. I think it will be best, considering the importance of financing higher education, that Parliament has a concession that in the annual Appropriations Bill, we accept certain monies to be put at the disposal of the Board and exclude possibilities of seeking to borrow monies anywhere, that once the available monies have been depleted, and before introduction of the Supplementary Estimates, the Board simply does not offer new loans, instead of giving it a free hand to start going to the commercial market.

Mr. Deputy Speaker, Sir, there is a major problem with Clause 6 (m). We are establishing a Loans Board whose business is to give loans for the expansion and sustenance of higher education and we have a clause in this Bill which allows the same Board now to operate like a bursary fund, to establish and award bursaries and scholarships which it may consider necessary for the promotion of the objectives and functions of the Board. This is a very weird provision. We are not establishing a bursary fund or a bursary management board. We do not lack avenues for the appropriation or utilisation of bursaries in this country. Why should a Bill which is seeking to set out a Loans Board---

*(Mr. Kariuki interjected)*

Mr. Deputy Speaker, could you protect me from Mr. G.G. Kariuki?

I believe it is a very serious flaw to allow the Loans Board to start giving bursaries and scholarships. This is a very serious mistake, particularly in the light of Clause 6(l), which says that they can borrow from the commercial market. How can you allow them to borrow from the commercial market, guaranteed by the taxpayer and give bursaries and scholarships? Let us separate the desire for bursaries and scholarships totally from the management of loans. I think it would be a major defeat on our part as the National Assembly if we eventually pass this Bill while it contains provisions that the Board can give bursaries and scholarships. I wish to move a bit faster and allow other hon. Members to express their views on this.

Mr. Temporary Deputy Speaker, Sir, I want now to go to the matter of justice and delegation of powers as provided for in Clause 8. Clause 8(3) states as follows:-

"Any person aggrieved by a decision of a committee may appeal to the Board within sixty days from the date of such decision. In every such appeal, the decision of the Board shall be final and not subject to a further appeal in any court".

As I said, one of the problems that we have in this Bill is the substantial discretion allowed to the Board. It would have been better if we had clear mandate on the basis on which such decisions can be made and challenged in courts of law. It is not fair for Parliament to establish a "monster" whose deliberations cannot be questioned through a court of law. If they are satisfied that adjustments will be done, there is no reason why they should fear going to court, particularly since we are giving them a corporate identity that they can be sued independently of the Ministry. I would have liked that injustice and unfairness to be redressed through a court of law.

Clause 9 talks about Officers and Agents of the Board. It reads as follows:-

"The Board may, by a resolution, either generally or in any particular case, delegate to any member, officer, employee or agent of the Board the exercise of any of the powers or performance of any of the functions or duties of the Board as authorised by this Act".

This is a very, very dangerous provision. If you look at that provision and look at it in connection with Clause 10(3) which says the quorum necessary for transaction of business of the Board shall be five members--- What it means is, that the chairman or any other person who could act as Chairman in the absence of the Chairman can unfairly canvass and have a meeting of five people, three of whom can decide that they will delegate the powers of allocating loans to one individual. What we are dealing with is a situation where we want to allow situation where they can now decide "we like hon. Sunkuli, let us delegate to hon. Sunkuli as an agent of this Board, the functions of choosing which people are going to be given loans, or the decision of which people are going to have the loans written off."

*(Mr. Gatabaki was applauded as he walked into the Chamber)*

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Speaker, Sir, I will also join and add my voice in appreciation for the arrival of the hon. Member for Githunguri which is none of the business of the hon. Member for Kacheliba.

I was touching on a very serious matter. If you read Clause 9 together with Clause 10(3), you will find a situation where five members can convene a meeting of the Board and three of them vote that they want to delegate the functions of writing off loans to one person and that person can proceed to write off those loans. That is what is allowing the person to execute functions and duties of the whole Board means. There is no justification as to why a Board whose strength is in its diversity should have a provision that allows it to delegate its critical functions to an individual or any set of individuals. Then the very strange part of representation provided for in the earlier sections of the Bill are made null and void. It would have made sense that the Minister consistently and persistently seeks to find the greatest representation of relevant professionals in the making of decisions affecting allocation and disbursement of monies without the possibility of a small group transferring those powers to an individual and allowing that individual to carry out those functions. I think that is something to be corrected.

Mr. Temporary Deputy Speaker, Sir, there is another clause which is particularly wrong - Clause 14(b) - which talks about the conditions for grant of loan. It reads as follows:-

"That provided and subject to the provisions of this Section, the Board may, upon the request by any student to whom a loan has been granted at any time, vary the conditions subject to which the loan was made, any security given in relation to the loan and any of the terms of the payment of the loan".

We are talking about public funds. There is no reason why after a student has entered a loan agreement with the Board, this Board can sit later on and say, "now we want to write off the loan after listening to you, or we want to change the conditions under which we offered you this loan". Part of the problem is that we live in a country where Ministers of Government have a lot of power. We live in a country where there is a lot of suspicion over some persons and there is no culture of respecting free expression. What this means is that if you are a student leader at the university and you are critical of Government under the provisions of Clause 14(b) subsections (1), (2) and (3), the Loans Board can call and tell you "unless you tone down your criticism of

Government, we are going to increase the interest on the loan which you are using for financing your education." This may not have been the intention of the Minister.

I have been a student leader at the Nairobi of University and I have seen how much Government and particularly university administration desperately look for mechanisms through which they can to intimidate you to stop exercising your rights as a student leader. I think it would be wrong to allow for the inclusion, in this Bill, of sections and clauses which allow persons to come back later to you as a student and try to vary conditions for your continued enjoyment of a loan for financing your education. This is a leverage that can be abused in this country. We should exclude any possibility of creating more leverage through which persons who through intellectual nurturing, try to gain and develop critical minds are being intimidated because there are provisions in law that their loans will be cancelled, their interest rates will be increased or their loans will be foreclosed if they are critical of A, B or C. I think that is a serious matter which should be given the attention it deserves.

Mr. Temporary Deputy Speaker, Sir, I want to conclude with a few remarks about the future of education in this country. It is unfortunate that this National Assembly has approached questions of economic liberalisation with so much vigour and gusto that we have tended to totally ignore the atrophy of the social infrastructure of this country. Education, like health, has been steadily declining in this country, both in terms of quality and justice for the poor members of our society. Granted, the politicians have access to a fairly efficient and expensive private education. We can take our children to private schools, we can prepare them to sit international examinations and go to foreign universities. There is a problem somewhere because we do not in our daily lives live through the experience of those persons who are spending half of their disposable family incomes on financing the education of their children, education which is always sub-standard.

Mr. Temporary Deputy Speaker, Sir, I will accept and welcome an initiative which is seeking to make it possible for the children of the rich and the poor to accede to university education. It is coming to a time when Kenya as a nation, has to address itself to the reality of the collapsing public education at lower levels below university.

We have introduced very many taxes in this country, some of which are very difficult to justify. I have never found any sufficient reason why we should not even contemplate establishing a solidarity tax, where private educational institutions, which are making a roaring business from the children of the rich, can pay a certain minimal amount of money which can go into a fund to rehabilitate or to place minimum necessary infrastructure to subsidise the physical construction of public schools for the poor. The taxpayers out there who sent us to this House are many times surprised when we are more excited about the fanning of the Kenya Shilling against a basket of currencies. We are interested about the selling of parastatal corporations, but we never show any adequate attention to the collapsing education in our country.

Mr. Temporary Deputy Speaker, Sir, I think that time has come when we should start looking at the restructuring and facilitation of higher education. As a people we should also address the reality; that primary and secondary education in this country is in a severe state of paralysis. We should address the reality; that most children of the poor spend half of the time away from school looking for school fees and the structures of injustice and inequality are going to reproduce a class divide that is not in the interest of justice; that is not in the interest of the leaders and is definitely not in the interest of this country and for the democratisation process.

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

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Thank you, Mr. Temporary Deputy Speaker, Sir. I think I am personally quite indebted to the eloquent speech that has just been made by the Member for Kimilili, most of which I agree with and some of which of course I have reservations for. But nevertheless, the hon. Member has undertaken a very careful exegesis of this particular Bill and I must say that anybody who values university education will support this particular Bill. This is because the life of a student in the university is basically in two parts; there is the academic education of a student - the tuition of a student - and there is the welfare of that particular student. The tuition of that student very much depends on the kind of support that he gets either from his parents or from his society. I know that if there were some university students listening at some place today within this country, they would be glad to learn that their legislators have done something about what is referred to in the university as 'boom' because we are giving them a future at long last.

Mr. Temporary Deputy Speaker, Sir, I want to say that I would not like to undertake another detailed explanation of the specific provisions of this particular Bill because that has been done by my friend, the hon. Minister for Education. I would just like to say a few words on the Bill.

First, the spirit of this Bill is to get rid of the former legislation and replace it with a new piece of legislation which is more manageable. Of course the mischief that we are trying to correct here aims at making it easy for this money to be recovered by the Government. We are now creating a specific body that will be a body

corporate and which will be responsible for the issuance of these loans as well as for the recovery of these loans. I think this is a very good policy. Many of us are of course very happy that we underwent university education at the expense of the State and we have never paid back these loans. I am not referring to myself in particular because I believe that all the time I was a magistrate in this country I paid a good amount of my loan and I think I am still paying that loan. But there are a number of people in this country who have undertaken university education at the expense of the State but have never been able to repay their loans and yet they are engaged in lucrative businesses. I believe that a number of my colleagues in the legal fraternity have not been able to pay back these loans because there has not been a machinery to recover these loans successfully. A number of our colleagues who were with us at the university doing engineering or architecture are now running very lucrative businesses in Nairobi but they are not able to pay back this money. I think the establishment of a body that will ensure that this money is actually recovered is very essential.

Mr. Temporary Deputy Speaker, Sir, since we are talking about university education I want to say that

the most important thing in university education is to ensure that, that particular student who has gone to university gets out of the university with what they went there for. I know that there are so many frustrations experienced by students at the universities and not all of them are financial. I know that currently due to the fact that SAPs have also crept into our universities has created some particular social problems in the campuses. I do not know whether it is proper for me to say this, but I think that to a certain extent this has affected the behaviour of the students; even morally. The truth is that they do not have enough money in their pockets now. During my time you could go to the University Students Centre with Kshs1,000 and you could do many things with that amount of money. Nowadays that "boom" is not that much. Inflation has caught up with everybody and SAPs have also caught up with us in a big way. The behaviour of a student is influenced by the amount of money that he has; either favourably or unfavourably. Of course we can see some positive elements of this; that now the student in the university is a little more responsible but we want to find out whether there is a way that our student can be a responsible man and yet he still has enough money to spend especially on books.

But the biggest problem that the university students face, especially in the University of Nairobi, and I believe in Kenyatta University also, is the relationship between the student and his lecturer. I want to begin by commenting on the situation of the Masters student in the University of Nairobi. If today you want your son to go to a university to take a Masters Degree, I would advise anybody not to take them to the University of Nairobi. This is because you can go to the University of Nairobi and spend six years doing a course that takes just nine months in the University of Aberdeen. The reason is that very many of our lecturers are very biased against their own students. Of course if you are a girl and you talk nicely to a lecturer in the University of Nairobi you can do your Masters course within nine months and you will be through.

**Mr. Murungi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to insult university lecturers when we know that they are very hard working? These lecturers are working in a terribly hopeless environment in which there is no chalk; in which there is no paper to write on and they are trying their best and that is why these courses are taking that long. Is it in order for the Assistant Minister who is a graduate of the University of Nairobi to insult the elders he left there?

Mr. Temporary Deputy Speaker, Sir, I have always told this House that hon. Murungi was one of my lecturers and we graduated from his subject with a lot of problems. There is concrete evidence, and I am prepared to table it in this House.

**Mr. Mwaura:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Assistant Minister is a Member of the Government. Is he, therefore, in order to suggest that female students doing post-graduate courses can graduate faster than men if they talk nicely to professors? Is he not imputing some wrong motive to the professors?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, I am insinuating some wrong motive. That is what I am saying; that there is a wrong motive in the issuance of Masters degrees at the University of Nairobi. I am not just referring to the female students; I am also referring to tribal inclinations. You see, when we were young we used to be told, "If you want to be a very clever man---

**Prof. Mzee:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Some of us were been professors in the university recently. The hon. Member is collectively blaming professors for immoral behaviour. Can he substantiate that?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** As I was saying, Mr. Temporary Deputy Speaker, Sir, when some of us were young we used to be told that if you ate the head of a fish you would be a very clever man. I think that was meant to explain why a certain number of professors came from one

particular tribe. Of course when I later came to discover that, that was created by the airlifts I have this to say: During the time I was at the university, you would never get a first class degree. This is because tribalism existed at the university as at that time and---

**Dr. Lwali-Oyondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Assistant Minister has been asked to substantiate a specific statement which he made here to the effect that lecturers at the University of Nairobi used to award first class degrees to female students who used to talk to them nicely. This is a very serious allegation and he should be asked to substantiate instead of telling us stories.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I do not know which university the hon. Member went to. However, I know of a specific case where a certain student, after having prepared a continuous assessment paper, obtained eight marks out of twenty. It happened that a certain female student took that specific assessment paper and just copied exactly what was in that paper. Surprisingly, she obtained sixteen marks out of twenty. This is from my own personal experience when I was at the university of Nairobi. It is extremely wrong for our university academics to engage in tribalism.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Speaker, Sir, I think this Assistant Minister should be asked to withdraw the statement he has made so as to continue with his contribution to the debate on this Bill. If he cannot withdraw it, then let him be asked to substantiate it.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): I have already stated the fact and backed my argument with enough substantiation.

**Mr. Mak'Onyango:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister really in order to mislead the House by saying that there was a time when a student was required to come from a particular tribe before he could be able to qualify for a first-class degree at the University of Nairobi? Could he tell this house whether he himself belongs to that tribe and that is why he was able to obtain a degree as at that time?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, to qualify for a scholarship, between 1983 and 1986, you had to get first-class degree or an upper-second class degree. After getting that scholarship, you would then come back to the university to become a lecturer. So, what these gentlemen used to do was to favour members of their own tribes to get first-class degrees or upper-second degrees so that after getting a masters degree, they would be re-cycled back as lecturers at the university and thus continue with this vicious circle of protecting their own tribesmen. I am speaking this with a lot of bitterness because I underwent university education during a time when one had to be an exceptional student to even get a second-class degree just because of tribalism. I am glad that this situation is now changing because more and more Kenyans are joining the university. I am also glad to note that most of the university lecturers are actually undertaking true courses. During the time I was at the University of Nairobi---

**Dr. Lwali-Oyondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Examinations at the university are written documents in most cases. Could the Assistant Minister lay on the Table of this House the papers he is talking about so that we can know the name of the student who failed after getting everything wrong, but all the same obtained a first-class degree? Can he do that instead of tiring us with hypothetical stories?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I am saying something that Dr. Lwali-Oyondi may not like, and this is something that I truly believe; that university education will be in danger because some of the lecturers at our universities have become tribalistic and partial. Therefore, I am saying that to save the university education, it is important to revisit the academic qualifications of each and every lecturer at the university.

Mr. Temporary Deputy Speaker, Sir, now that we are going to approve a financial remedy for our students, we should also be able to put in place, in our universities, quite a number of other facilities. For instance, I believe that in the face of what is now a changing society, our students require improved counselling facilities so that the social workers in this country can move into our universities to assist our students to cope with the new realities of life in Kenya.

Dr. Kituyi commented on the question of investment by this particular Board. That is one of the points on which I do not agree with the hon. Member because if we are going to establish a fund that is going to be supported by the Consolidated Fund, it is important that this particular fund also looks for its own ways and means of becoming a mature fund so that there will come a time when the fund will not need any assistance from anybody else. I think this objective would be realized by ploughing this money back into a viable investment. I agree with him on this point and I beg the hon. Minister for Education to get rid of the section that deals with bursaries at the universities so that we can have a very clean Bill.

Mr. Temporary Deputy Speaker, Sir, another comment was made by hon. Dr. Kituyi to the effect that any person aggrieved by the decision of the Committee may appeal to the Board within six days. He said that this is

not necessary and that this matter should be referred to a court of law. I do not believe that matters touching on our academics should actually be taken to a court of law. I believe if this happened, we would be opening up a big floodgate of litigations because there would variably be students who for some other reasons would not be granted loans, and this particular litigation would also eat into the money that the Board would have at its disposal. As was quite eloquently stated by the Member for Kimilili, the future of university education, as I see it, is actually not what many people perceive it to be. For me, I do not want to say that the future of higher education in this country is in danger. However, I do believe that quite number of Kenyans after some time, will realize that going to a middle college will be just as important as going to the university. We have created more universities in this country, not really to take up more students but to create a diversity within our university education system so that people go to the university, not just to study the limited courses that used to be offered by the University of Nairobi, but to study expanded courses on environment, for example, and so on. I hope in future that courses on computer and on medical practice will be offered at our universities. However, that will also mean that a number of our students would prefer to go to a medical training college or a polytechnic. Not everybody wants to be an academic for the sake of being an academic. Although I prefer to be an academician myself, I would prefer to be a researcher if I were given the opportunity. However, a number of Kenyans today would not like to do that and I think the university will in future be an optional place for a number of people to go. In Britain, many Britons do not go to the university and university education in Britain is something considered for export. So, without the large number of foreign students in the universities of England and Scotland, in fact, there would not be any Briton really paying a lot of attention to education. In fact, the function of the universities may not in the very long run be the main thing. However, for the time being we are still operating at a level where we need to strengthen our university education because as a developing country we still require to develop our skills more than the developed world would do.

Mr. Temporary Deputy Speaker, Sir, I believe that the strengthening of our university education has a lot to do with the strengthening of the tertiary and lower levels of education. I am saying this because it works downwards and this is what I believe. It does not work upwards. I believe that the more university lecturers we have, the better educators we have at the tertiary and lower levels. However, because we have expanded the lower level so much, every village has a primary school and what now remains is to work on the quality to ensure that within---

**Mr. Achieng-Oneko:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Assistant Minister really in order to compare our level of education with the level of education in Britain? Could he tell us what the Government policy in education is before he attempts to compare our education with that of Britain and other developed countries?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, I am stating my opinion. I am saying that, in the very long run, it may not be necessary for everybody to go to university and that we have to tell our students that people will have to satisfy themselves with going for skills that are offered by our middle level colleges.

With those few remarks, I beg to support.

**Mr. Murungi:** Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make a few comments on this Bill. I love education but I would like to oppose this Bill.

Mr. Temporary Deputy Speaker, Sir, in 1974, when the first university loans were introduced in the University of Nairobi, I happened to have been a student there and we opposed the introduction of the loans in the university. The University was closed for five months and the loans were imposed on us. Today, 20 years later, I am glad to have an opportunity to oppose The Higher Education Loans Board Bill.

Mr. Temporary Deputy Speaker, Sir, I wish to question the fundamental assumption of this Bill. First, I am not happy with the commercialisation of education which we have seen in this country in the last few years. We tend to treat education as a privilege to be enjoyed by only those who are rich, have properties and they can afford to have security to put down for the loan so that they can go to university.

Mr. Temporary Deputy Speaker, Sir, there is no time when education is going to be a commodity for purchase by the rich. From a human rights background, I know that education is a basic fundamental human right to be enjoyed by all Kenyans irrespective of their political, economic or social status. So, the children of the beggars walking in the streets of Nairobi, who will have no security to give to The Higher Education Loans Board that we are creating through this Bill, are entitled to university education just as the children of millionaires in this country. When one looks especially at the parking boys, one feels pain because you see how many doctors, engineers, lawyers who would have been but would never be because they have no chance in our education system.

So, Mr. Temporary Deputy Speaker, Sir, education is not simply a private affair. It is not an institution or a process for merely enriching one individual. Education is fundamentally an instrument for transmitting

societal values and culture from generation to generation. Education is an instrument of development, civilisation and you cannot restrict the acquisition of this instrument purely to the rich. Every Kenyan is entitled to culture, to civilisation and personal acquisition. Education is a humanising process and every human being in Kenya is entitled to education as of right. So, we cannot through this Bill, restrict the acquisition of this humanising force only to the rich in this country.

So, Mr. Temporary Deputy Speaker, Sir, I am not opposing the Bill purely for the sake of opposition. I have an alternative. My alternative, is that we do like what we did with our roads recently. When we could not cope with the roads problem in this country, we introduced in this Parliament, the Petroleum Levy Fund Bill, which will be used to maintain the roads in the country.

Mr. Temporary Deputy Speaker, Sir, I think it is high time we as a Parliament rejected this Bill and introduced another Bill called Education Levy Fund Bill which should be paid by all the able-bodied Kenyans. I am ready to sacrifice five cent of my income every year to support the education system in this country. Let the millionaires also pay five per cent of their income so that we can develop the education institutions in this country.

Let Kamlesh Pattni pay five per cent of this Kshs20 billion you have been trying to get him to pay, so that we support the education system. Once we have that education fund the money should not go to the Consolidated Fund because if it goes there, we do not know what will happen to it. Let this Fund be run by trustees like the Catering Levy Trustees. Let us use that money to try to provide quality education in our universities. Let us be a country whose aim is to give every Kenyan who makes it to university free education.

Mr. Temporary Deputy Speaker, Sir, I remember the old days of "boom", when in addition to getting a limited supply of bread at Central Catering Unit (CCU) as the hon. Assistant Minister was remembering here, and good supplies of books, teaching and all that, we were also given cash to purchase books at the university bookshop and nobody asked us to pay for that money. So, why can we not, who have benefited from that university system, sacrifice part of our income so that we improve the system that we left behind instead of using these loans to overburden people who are going to be jobless?

So, Mr. Temporary Deputy Speaker, Sir, I am for the introduction of an education levy fund and going back to the good old days of "boom". The second assumption being made by this Bill and which clearly appears in Clause 15 of the Bill is that those who get higher education in this country are going to get employment and that they will be able to pay these loans. In fact Clause 15 says that within one year after completion of studies he should begin repayment of the loan together with any interest accrued thereof. This is within 12 months. So, the assumption is that after you are through with education and you get your Bachelors or Masters degree or even Phd. you will be in a position to repay the loan.

Mr. Temporary Deputy Speaker, Sir, there are other clauses regarding the guarantors. If you do not pay the loan they will move on to your guarantors and if the guarantors are not able to pay there are criminal consequences. So, the assumption underlying this section is that education in Kenya is education for employment. That is wrong because from my own experience education in Kenya is fast becoming an education for joblessness. Gone are the days when students used to graduate from the University of Nairobi into jobs. These days you graduate into the streets of Nairobi, an empty stomach, tarmacking, misery and so on. On top of that, we now want our students to graduate into slavery of loans.

Mr. Temporary Deputy Speaker, Sir, I think, historically, we have not yet shed off our colonial orientation towards education in this country. The colonial education was elitist. It taught our students how to behave like lords. In fact, there was a saying in those days that, once you went to Makerere, you did not have to work. The Government knows where you are and there will be money in your pockets.

Mr. Temporary Deputy Speaker, Sir, an educated person whose model was Lord Delamere or some other colonial masters here was not supposed to work with his hands. An educated person, like the *Mzungu*, could not even pour tea into his own cup! He had to have servants like the Assistant Ministers here pouring tea for them. He had also to have servants polishing his shoes, cleaning his toes, as if he was invalid, and---

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member describing himself because I know that is exactly what happens to him?

**Mr. Murungi:** Actually, Mr. Temporary Deputy Speaker, Sir, I was describing the hon. Assistant Minister. I happened to visit him a few weeks ago and this is what---

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know the hon. Member was stating it with a light touch, but he is also misleading the House with a light touch to say that he has ever visited me. No FORD(K) Member has ever visited me in my home!

**Mr. Murungi:** Thank you, Sir. I do not want to get into that. If the hon. Assistant Minister continues to say that we are friends, he might lose his job, and it is not be my wish---



**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to continue aggravating the defamatory remarks he is making, to say that he has ever visited me, which is a very disgraceful act?

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. How much longer can we have this personal dialogue going on? I think the hon. Assistant Minister is being unfair to the hon. Member on the Floor. Is it criminal for an Opposition Member to visit him? Why is he over-emphasising that point?

**The Temporary Deputy Speaker** (Mr. Wetangula): But he never said so, Mr. Shikuku!

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I am extending an invitation to the hon. Assistant Minister!

**Mr. Achieng-Oneko:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Assistant Minister is becoming very simple by being too personal in making certain remarks in the House and today he has done it so many times. I think it is time to warn him to desist from that and to behave himself!

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I plead with you not to throw hon. Sunkuli out of the House because I want him to listen to what I have to say on this Bill.

Mr. Temporary Deputy Speaker, Sir, we have had a very bad type of education in this country where every Kenyan who goes to school thinks that he will get a job. There was a time when the most educated Kenyans in this country were people who had gone up to Standard Four. At that time, there was no person who went up to Standard Four who did not have a job either as a carpenter, clerk or catechist in a local church. As our system of education developed, we came to Standard Eight and there was a time when every person who went up to Standard Eight had a job. It was unheard of to hear of a person who had gone to Standard Eight who was not employed, say, as a primary school teacher and other jobs that were considered great. Then we went on to Form Four. The first form fours, even those who had failed, got jobs. Then as our system improved, we came across the new class of Form Six. There was no Form Six, even up to late 1970s, who did not get a job. Now, we are stuck with graduates. In our time at the university, to hear of a person who went to university and did not get a job, it was history.

But today, just like standard fours who could not get jobs later, as our education is expanding, we are going to have many more graduates in this country who will not get jobs. Let us not cheat ourselves that we shall be able to employ every person who goes through university. In India, for you to become a nursery school teacher, or a tout in a matatu, you got to have a masters degree. The people who were sweeping my house in America were holders of Masters degree or Ph.D students.

Mr. Temporary Deputy Speaker, Sir, let us not cheat Kenyans; this is where we are also going. Our education system is purely to cultivate our people, make them lead more decent lives, make them read novels when they are unemployed instead of thinking that we are going to give them jobs and that they are going to pay us loans. Let us give them education to develop them as human beings and teach them the art of survival when they are at the university so that when you cannot employ them they can survive out there on their own.

The Chinese say that if you give somebody fish, you have not developed him, but if you take him to a river and teach him how to fish so that he can go to the river tomorrow without you, then you have developed him.

Let us also develop our people. Let us give them education which will enable them to survive with or without Government jobs. This is the education I am saying we should all support with an education levy so that my good friend over there can also surrender five per cent of the big salary he earns as an Assistant Minister to educate the Maasai and Turkana children.

Mr. Temporary Deputy Speaker, Sir, I would now like to make some specific comments on this Bill. Look at clause 4 of the Bill which talks about constitution of the Board as follows:-

"Chairman appointed by the President, Secretary to the Commission of Higher Education, PS Education, PS Finance, Chairman of the Vice-Chancellors' Committee for Public Universities, Representative of Vice-Chancellors, Principals, Executive Director of FKE, Chairman of Kenya Bankers Association, two other persons appointed by the Minister and such other persons not more than three as the Board may co-opt from time to time."

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to disregard the very wise words of hon. Member for Rarieda. But the hon. Member on the Floor now is having his cake and eating it. He has stood and said that I am opposing this Bill in its entirety while opposing the question of having a loans board. Is it in order for him now to go into the question of amending the Bill which he is opposing?

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. The English saying is not "having your cake and eating it". That is quite normal. But the saying is "eating your cake and having it"!

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, if it is having the cake and eating it, that is fine. That is what I am trying to do. I am making this comment without prejudice. I said that I am opposed to the Bill but since I know my colleagues in KANU are going to vote for this Bill anyway because of their technical majority in the House, I am making this comment for their own benefit. There are no students representatives in this Board. The students are the ones who are going to wear this shoe and they know where it pinches. Why do we not have student representatives? Here you are having what the late Jomo Kenyatta called in his book a committee of elephants; elephants which went and ate somebody's shamba and then when the owner of the shamba complained, the elephants met and formed a committee to look into the grievances of the farmer. So, this is a committee of elephants. Let us have some students involved. Let us have some students representatives in this body. Two, let us have parents representatives. The parents are the ones to provide security and it is their land that will be sold. So, I think the Board is seriously biased and it is not well represented. I would be very happy if the Minister for Education took this note seriously.

**The Assistant Minister for Education** (Mr. Lengees): On a point of Order, Mr. Temporary Deputy Speaker, Sir. I think the allegations made by the hon. Member are serious because---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! That is not a point of order. You are out of order, Mr. Assistant Minister! Sit down!

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I reserve my comments. Clause 4(j) states:-

"Such other persons not more than three as the Board may co-opt from time to time."

This does not restrict the appointment to parents and students. The Board might decide to pick the Speaker of the National Assembly, KANU youth wingers and other people to be members of the Board. We are insisting that we have another subsection (k), or whatever, stating that a certain number of parents and students are included in this Board.

Clause 14 (1)(b) talks about the conditions for the granting of loans. It states as follows:-

"The Board may grant a loan to any student and in so granting impose conditions, demand security and require repayment in instalments at such time and within such periods as the Board deems fit".

My worry here is the question of security. Security, as we know, in law, would be a title deed, a log book of a motor car, some shares or marketable security. We have a large class of poor people in this country and you know poor people have more children than the rich. These are people who have no motor vehicles, no land and have nothing which the law would consider to be security. What are we going to do with students who come from such backgrounds? Some of the hon. Members and Assistant Ministers in this House would not be here if we insisted on security for the loans they got at the university because where they come from, there are no title deeds. This would exclude many people from Maasailand, Turkana and Samburu from joining the universities. There are no title deeds in those places.

*(Laughter)*

This is not a laughing matter! So, I think we need to rethink the question of demanding security under clause 14(1) (b). How do you demand blood from a stone? I would suggest that if you really must insist on these loans, we have what are called character loans. I was talking to the Minister for Commerce and Industry the other day and---

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I cannot see the Minister who moved this Bill!

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

**The Temporary Deputy Speaker** (Mr. Wetangula): The Assistant Minister for Education is seated there!

**Mr. Shikuku:** I am sorry.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I know that the Assistant Minister is making mental notes and we will know from the reply whether he heard what I said or not.

I was talking to the Minister for Commerce and Industry the other day on this question of security and I was saying that most of our people, although they have big programmes supported by the World Bank to assist poor people in this country will never get those loans because they do not have securities. Fortunately, I heard that

they are now talking about some loans called "character loans" where they are going to call members of a clan, people who know the person to be given the loan very well and members of the church, to stand in as guarantors so that he gets a loan. So, if we are to consider loans for university students, cross out security and consider character loans. The Grandme Bank of Pakistan has been giving many loans without security and all those loans have been repaid. Kenyac Bank is doing the same. So, let us consider using those models for our university loan system instead of commercial models. We are going to kill an important social instrument by commercialising education.

Mr. Temporary Deputy Speaker, Sir, there is also the question of the poor peasant with one acre of land who gives out that one acre as security. When his son goes through university and he does not get a job and you demand a repayment of that loan within one year, what will happen? What do banks do when loans are not paid or when there is a default? The security is realised. So, you sell the one acre which the mzee pledged as security so that his son could go to the university and his son has no job. So, apart from the frustrations that the young man gets, we will have family disputes because the land of the nine brothers at home has been sold. They will be here disturbing the hon. Members that they are hungry and that kind of thing. So, let us not create a class of destitutes in this country through short-sightedness. Let us see beyond this security issue.

I am also worried about clause 14(5) of the Bill. This clause states that guarantors shall be liable to criminal prosecution or civil proceedings or both if they do not honour their obligations under the security. This means that if a university student leaves university and he does not get a job and the guarantor is called upon to pay the loan and he does not pay, then he can be arrested and charged in a court of law for a criminal offence. I think this is very dangerous. It is only during the colonial periods that labour obligations in the White Highlands were enforced. It is very strange that in an independent country called Kenya, we are borrowing colonial fashions to enforce repayment of loans. In the civilised world of common law jurisprudence, a contractual obligation remains just that. Why should we, after 30 years of Independence, take our people back to bondage by criminalising contractual obligations? If I was advising, whoever, was drafting this Bill I would have told him to leave out any reference to criminal sanctions to enforce contractual obligations. Why do you want to sell the land and still send the man to jail, or threaten him with sending him to jail? If he cannot pay, it means he cannot pay and we have a clause here for writing off the loan if it is impossible to recover it. So, I would cross out Clause 14(5).

Mr. Temporary Deputy Speaker, Sir, Clause 15(1) also visits criminal sanctions on any loanee who is unable to fulfil his obligations. So, if a student is granted a loan and he graduates but he cannot get a job for one year and, therefore, he does not pay the loan, he too can be arrested and punished for a criminal offence of not fulfilling his contractual obligations under the loan agreement.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I agree with what is being said - the hon. Member is now talking about contractual obligations - I am wondering whether we are not really out of order! The other day the Minister did not mince his words when he made it very clear that the Ministry of Education provides university education but it is under no obligation to provide jobs. Here, we are debating a Bill on loans for university education. So, if the Ministry will not provide jobs, how will these loans be repaid? Will they be repaid by Jesus?

**The Temporary Deputy Speaker** (Mr. (Mr. Wetangula): Hon. Shikuku, what do you want the Chair to do?

**Mr. Shikuku:** Mr. Temporary Deputy Speaker, Sir, I am wondering whether we are quite in order, taking into account the statement by the Minister for Education that he is not bound to provide employment to those with university education, to discuss this Bill! How will the loans we are talking about be repaid? Are we not engaged in a futile exercise?

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Shikuku, I have no authority under the rules of this House to make a ruling on what you are saying!

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I think hon. Shikuku's point of order could very well fit in as a point of information, which I accept. What we are going to do after passing this Bill is to round up all the jobless former students in the streets of Nairobi who cannot pay their loans and take them to Industrial Area Police Remand. Now, three prisoners die every month in this prison. If you are bringing a Bill to this House to kill our intellectuals in jail, I am not going to be party to it.

I now want to conclude my remarks, but before I do that I want to make two more observations. Clause 21 of the Bill gives the proposed Board a discretion to waive loans on, among others, grounds of hardship. This would otherwise have been a good clause. But we know how Kenyans behave, especially those in authority, when they are given a chance---

**Mr. Rotino:** On a point of order, Temporary Deputy Mr. Speaker, Sir. The hon. Member has made a categorical statement that three prisoners die every month in a Nairobi prison. Could he substantiate that? This is an alarming rate!

**The Temporary Deputy Speaker** (Mr. Wetangula): He said they die in police remand in Industrial Area Police Remand which does not exist. Carry on, Mr. Murungi.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, Mr. F. P.L. Lotodo read some statistics about this. It is unfortunate that the hon. Member does not come to the House every day. These statistics were, unfortunately, read when he was not here.

**Mr. Rotino:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has said that I do not come to the House every day. Could he substantiate that from the roll call taken here? I think he is the one who attends court every day instead of coming to the House!

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Rotino, is there really a big deal there? Carry on, Mr. Murungi.

**The Minister for Home Affairs and National Heritage** (Mr. F.P.L. Lotodo): On a point of order, Mr. Temporary Deputy Speaker, Sir. It is not fair for

the hon. Member to make that sort of a sweeping statement. Could he categorically say which prison he is referring to? We have prisons in Industrial Area, near Wilson Airport, Langata and Kamiti. We also have records which show where death in prison occurs.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr.F.P.L. Lotodo! I have just ruled that the prison remand the hon. Murungi referred to does not exist in this country. There is no police remand in Industrial Area and we all know this.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I was actually referring to the Nairobi Area Remand Prison---

**The Temporary Deputy Speaker** (Mr. Wetangula): Then will you substantiate as demanded by Mr. F.P.L. Lotodo?

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I would substantiate if I had time to look at the HANSARD because when the hon. Minister was answering a Question from, I think Dr. Otieno-Kopiyo, he gave some statistics which I divided by 12 months and came to the figure of three deaths of prisoners every month.

Our fear here is that the discretion given to the proposed board to waive loans in cases of hardship is going to be abused. We know of the "kitu kidogo" culture in this country. The officer who will be giving these exemptions on grounds of hardship is not going to exempt poor people - poor people will not reach him. He will be given "kitu kidogo" and then the people to be exempted will be hon. Murungi's Assistant Ministers' and Mr. Pattni's children. So, we think that this is opening a loophole and children from rich and corrupt families are all going to be exempted on grounds of hardships, while the students from poor families, who really deserve exemption, will be required to repay these loans in full. Recently, we had the experience of Agricultural Finance Corporation (AFC) loans. We stand in show ground public platforms and tell people who owe Kshs1 million, Kshs2 million and so on "We have forgiven you all those loans." Given that experience, it will be foolhardy for us, as a Parliament, to accept to give an officer this discretion.

The same goes for Clause 35 which says:-

"The Minister has power to exempt any class of persons from the provisions of this Act."

So, if the Minister is from Meru, he can publish a notice in the Kenya Gazette saying Merus are exempted from the provisions of this Act, because he has power to do that! Clause 35 says that the Minister may, by notice in the Gazette, exempt any class of persons from all or any of the provisions of this Act where, in his opinion, it is expedient in the public interest to do so. What are we doing? Supposing the Minister says that he has visited the Samburu and he has found that they are suffering a lot of bad conditions and he wants to be re-elected there, he will publish a Gazette notice and say that the Samburus are exempted from the provisions of this Act?

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Murungi in order to express in tribal sentiments when that particular clause does not talk of any class? The word "class" does not refer to any particular tribe like Merus or Samburus. Is that really in order? Tribal minded debate is out of order in the House!

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, of course, the Minister will not be so foolish as to say he is exempting Samburus. He will say he is exempting the Arid and Semi-Arid Lands (ASAL), which will cover Maasai, Samburu, Turkana and others. So, I think, having been bitten in the past, it is time we became twice shy. I think my personal position is that education is the common heritage of all Kenyans and we should

try our best to make sure that every Kenyan, irrespective of his class, property, poverty or greatness gets university education. We should introduce an education levy. If we cannot do that, let us look at this Bill again and remove all clauses which are capable of being abused to discriminate, tribalise and deprive Kenyans of higher education in this country.

Mr. Temporary Deputy Speaker, Sir, those are the only comments I wish to make, and thank you very much.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to make observations on this very important Bill, and declare that I support it. It is a very important Bill, although there are some provisions in the clauses that I would like to point out to the hon. Minister for amendment when it comes to the Committee Stage. I do hope that soon after passing this Bill, the Minister for Labour and Manpower Development and the Minister for Education will come up with a Bill called the Higher Education Employment Bill because, we are providing for loans for youths in school, whom we know will not get jobs and are not likely to repay the loans. There should also be a Bill for higher education employment so that we can find out ways and means of how we can get the graduates from universities employed. I am saying this because, both in my constituency and here, I have had experiences with quite a number of graduates from our universities coming and pleading for jobs. It is not possible for us to get them jobs, but they, in turn, tell me that classmates of theirs have already got jobs as district officers and so on, although my constituents had better passes at the university. I do not know how true it is, but what I am saying is what I have experienced with my constituents, one of whom is a doctor of veterinary sciences. In my constituency, when one was called a doctor, that alone was enough to secure a job. Now here is a boy who calls himself doctor but has had no job for the last three years, and yet he is a doctor of veterinary science. It is sad, that is why I am saying that soon ---

**An hon. Member:** How does he repay the loan?

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): I do not know how he pays the loan. He has not told me that. Maybe, I will ask him when I meet him.

Mr. Temporary Deputy Speaker, Sir, that is why I am saying that, soon after the passage of this Bill, there should be another one following entitled Higher Education Employment Bill, so that the heads in this House can look for possibilities of getting employment for these youngsters. They cannot be self-employed and they cannot get loans to get themselves into employment. In clause 2, the definition of the eligible person is very appropriate and for the first time, one can even get a loan for a one-year duration in an institution of higher learning. This is very encouraging. Previously, the Act that is being repealed by this one was only catering for the university students and not students going to middle colleges. Now, I can see that, that is being provided for by the definition of the eligible person who will be entitled to getting the loan. I do fail to agree with the previous speaker that Clause 4 (j) should have a proviso for these three people who may be co-opted by the Board. I would think that parents and students should be among those three, and it should be specified that they shall be parents and students. Students cannot be permanently on the Board, but they can be co-opted from time to time because parents might have students at the university, but tomorrow, the students will have qualified so the parent will no longer be qualified to sit on the Board. If the Minister could consider specifically specifying---

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Having listened to my friend who is doing very well and the previous speaker, I cannot resist the temptation to revoke Standing Order No.21, which reads as follows:-

"(1) A member who wishes to postpone to some future occasion further discussion on a question which has been proposed from the Chair, may claim to move that the debate be now adjourned, or in Committee of the Whole House that the Chairman do report progress. The debate on any such Motion shall be confined to the matter of the Motion."

I am tempted to do this because hon. Osogo has just stated that there are some of his constituents who have obtained degrees from our universities and they have no jobs. He has just stated that for the last three years, one of them has been tarmacking. That is not just confined to his area. I have got many such cases in Butere and other places where there are many people whose children have gone through university education and are back in their homes so that, when you go home, you will find that your coat is gone. When you ask for your coat, your wife tells you that your son, John, has taken it because he also fits in your coat. The same thing happens with your shoes and many other things, yet these people have been educated with the taxpayers money. I think this Bill is aimed at getting those people to repay the loans. In addition, the students who are still in the university will be required to pay this loan, yet we know for certain that--- There is no question of thinking about it. The Minister made a firm assertion. The word from the "horse's mouth" says clearly that they are not responsible for providing employment after graduation. They have said so. But they were talking here of loans

which we know very well will never be repaid because the "guy" or the "guyess" will not get employment from which to repay the loans. This is something which we must consider, lest we will be called---

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Have you allowed hon. Shikuku to move the Motion he was proposing?

**Mr. Shikuku:** Yes, I am moving.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): But has he allowed you?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! He stood on a point of order to move a Motion under Standing Order No.21. The understanding of the Chair, hon. Shikuku is, to move in very short and precise words.

**Mr. Shikuku:** Mr. Temporary Deputy Speaker, Sir, I am just about to conclude.

**The Temporary Deputy Speaker** (Mr. Wetangula): Yes, but you are being so verbose that you may lose track of what you want to tell the House.

**An hon. Member:** He has lost track already!

**Mr. Shikuku:** Mr. Temporary Deputy Speaker, Sir, this is one of the hon. Members who can never lose track. I know what I am talking about and I was just about to conclude my reasons for moving this Motion.

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Osogo was at a loss as to whether you rose on a point of order on matters that he was discussing or on your own right.

**Mr. Shikuku:** Mr. Temporary Deputy Speaker, Sir, I am glad you have directed him because I started by telling him that I cannot resist the temptation of invoking Standing No.21. Being an old hon. Member, automatically, he knew what I was after. But since he did not quite catch me, I am glad you have told him.

Mr. Temporary Deputy Speaker, Sir, I am asking for the postponement of this debate. In my opinion, we are engaged in a futile exercise because these people will not get employment. The postponement of this debate will enable us to get in touch with the Minister for Education and have some discussions before we can continue with this debate. So, I am only moving the postponement of the debate so that it provides an opportunity to consult. My friend, hon. Mak'Onyango is here to second the Motion.

Thank you.

**The Temporary Deputy Speaker** (Mr. Wetangula): You have not moved the Motion.

**Mr. Shikuku:** Mr. Temporary Deputy Speaker, Sir, I have moved the Motion and concluded by saying "I beg to move."

**The Temporary Deputy Speaker** (Mr. Wetangula): Right.

**Mr. Mak'Onyango:** Mr. Temporary Deputy Speaker, Sir, in seconding this---

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order, Mr. Temporary Deputy Speaker, Sir. If an hon. Member stands here, talks and talks and finally sits down and all of a sudden he is reminded that technically he has not moved any Motion what happens? We would like to get your ruling on this issue. When he is reminded of that and he calls somebody to second, technically is there any Motion before the House?

**The Temporary Deputy Speaker** (Mr. Wetangula): I will give him the benefit of doubt. Carry on, Hon. Mak'Onyango, in a Motion of this nature, you are not required to make an unnecessary lengthy speech. You can stand up, nod and that signals your secondment to the Motion.

**Mr. Mak'Onyango:** Mr. Temporary Deputy Speaker, Sir, I beg to second the Motion as moved by hon. Shikuku because the Bill as it is before the House raises a number of fundamental questions which among others, include questioning the very system of education in this country. It also raises questions about the planning aspect of our Government. It does show that there is nothing by way of systematic planning to provide for jobs so that those who attain education do at least get something to justify the public funds that will have been spent on their education.

Education is a fundamental right and must be seen as such; not as being commercial as is the case now. The Bill in its present form needs to be re-drafted.

With those few remarks, I beg to second.

**The Temporary Deputy Speaker** (Mr. Wetangula): Having listened to hon. Shikuku and hon. Mak'Onyango seconding his Motion, I do appreciate their anxiety and concern, but the Bill is before the House. Hon. Shikuku who is a very able debater will have an ample opportunity to give his views, move amendments if he wishes, both at this stage and at the Committee Stage. I have no doubt that the Ministry of Education is represented here to take the views of every hon. Member, including Mr. Shikuku and act on the flaws that the hon. Members have noticed in this Bill.

I also have my own reservations about certain clauses in this Bill, but I do not find that this is a proper

Motion for the Chair to put the question and I decline to do so under Standing Order No.21(3) and order Mr. Osogo to carry on!

*(Applause)*

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir. I am going to read a clause on page 140 together with Clause 9 on page 142. It reads as follows:-

"The Board may, by a resolution, either generally or in any particular case, delegate to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board as authorized by the Act."

I am requesting the Minister to delete that particular clause. Dr. Kituyi mentioned something about it. I have also consulted a few of my colleagues on this side of the House about the provisions here. Here, we are permitting one person to undertake functions as tabulated under Clause 6. One of the functions in Clause 6 in part is stated as follows:-

"to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefor."

One man is going to do all that.

In Clause 9, we are saying that one person can undertake that. I think that would be very unfair. Clause 6(f) also states as follows:-

"to enter into contracts with financial institutions for the purpose of loan disbursement and recovery."

We are giving one person those powers Under Clause 9 and I think that is unfair. Mr. Minister, I hope you are taking note of these points.

Also looking at

Clause 6(g) you will see that it says:-

"to grant loans out of the Fund, either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of higher education."

If we leave clause 9 as it stands, the man is going to become the Board. I also think that this should be deleted.

Clause 6(h) reads as follows:-

"to determine the maximum number of eligible persons or students to be granted loans in any one particular year."

Even the Board will not be able to do that and I had marked it earlier for deletion because it is superfluous. The Board cannot determine the number of eligible persons or students to be granted loans in any one particular year. That means that even before they apply, the Board will have determined how many students will be eligible to get loans in one particular year.

Mr. Temporary Deputy Speaker, Sir, according to this clause, the Board will determine the maximum number and, of course, they are going to do this according to the money they have. But then the money is going to come from a revolving Fund. The money is going to be repaid back to the Board by others who have already left the university. I think those are being provided for under clause 40 of this Bill. There is a clause which provides that this Act, as it stands now, is going to take over the loans that are still outstanding. So, there will always be money coming into the Fund and if the Board is going to be allowed to determine the maximum number of eligible loanees in any one particular year, I think they should be flexible so that as money comes in they could increase the number of the people to be given loans.

Mr. Temporary Deputy Speaker, Sir, I do not agree with the hon. Member who opposed the clause which says that surplus funds should be invested. I think that the investment of surplus funds is good because that is going to earn some money for the Board in the long run. But I want to disagree with Dr. Kituyi over what he said on Clause 6(l) which says that one of the Board's functions will be:-

"To borrow such monies from such sources and in such amounts as may be approved by the Minister with the concurrence of the Treasury and to secure such loans in such manner as they deem fit."

The hon. Member for Kimilili opposed that subsection. But he cannot oppose this subsection when Clause 3 provides specifically that the Board can borrow and that it can be sued and that it can also enter into contracts. So, we cannot oppose Clause 6(l) when Clause 3 states clearly that the Board can borrow funds. So, that one should stand as it is save that it should not be done by one man like in Clause 9 which I have specifically said should be deleted.

Clause 6 (n) says:-

"to establish and award bursaries and scholarships which it may consider necessary for the promotion of

the objectives and functions of the Board."

I agree entirely with the Member for Kimilili and the hon. Sunkuli that, that should be deleted. The Board should not be allowed to award bursaries when it is also awarding loans. I think that would be very irregular and we would be exposing that Board to a lot of ridicule. I think bursaries should be awarded by somebody else.

I also want to disagree with the hon. Member for Kimilili on Clause 8(3) which says:-

"Any person aggrieved by a decision of a Committee may appeal to the Board within sixty days from the date of such decision and in every such appeal, the decision of the Board shall be final and not subject to a further appeal in any court."

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister for Transport and Communications to choose the Opposition Bench for sleeping on?

**The Temporary Deputy Speaker** (Mr. Wetangula): What did you say?

**Dr. Otieno-Kopiyo:** The Minister for Transport and Communications is sleeping on the Opposition side. Is that in order?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! That is a very unkind point of order! Hon. Otieno has the right to sit there and close his eyes and stick into thought.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could you also inform the hon. Member that anybody can sleep; even lying on the Bench so long as he does not snore and break the wind! That is quite in order.

**Mr. Farah:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Dr. Otieno-Kopiyo is misleading the House. Hon. Dalmas Otieno is consulting with me on a certain document here and he is holding it in his hand. He is not sleeping at all. Let us not lower the dignity of this House.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! The problem with the likes of Dr. Otieno-Kopiyo is that they want to transfer village politics to the Floor of this House. This House is not interested in such politics.

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, time will come when the hon. Member for Kasipul-Kabondo will grow up!

**Mr. Obwocha:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the hon. Member for Bunyala allege that the Member for Kasipul-Kabondo should grow up? Is he not imputing improper motive to another Member of Parliament?

**The Temporary Deputy Speaker** (Mr. Wetangula): I did not hear that. Carry on, Mr. Osogo.

**An hon. Member:** He was defeated and that is why he left FORD(K)!

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): I do not need to be in FORD(K) because since I left it, it has been disintegrating into pieces. I think the hon. Member should allow me to continue with my contribution.

I was commenting on Clause 8(3). I was saying the opposition to that clause by the Member for Kimilili does not stand. If a bank refuses to give me a loan I cannot go to court and sue that bank. So, I do not know why hon. Kituyi said that an aggrieved person should go to court. I think that will not be fair to the Board. The Board should make the final decision and the courts should not come in.

Coming to Clause 14(5), this is going to frighten a lot of people from guaranteeing loans to students. Even a father of the child may fear to guarantee his own child a loan in this case if he is going to be subjected to criminal prosecution. A loan should be recovered through civil proceedings because it is given in good faith by the lender. This Board is going to give loans and I do not see why the element of criminality should be brought into the whole affair. So, I would suggest that the words "criminal prosecution" should be deleted at the Committee Stage so that those who fail to repay are liable to civil proceedings for recovery of the loans. This should be done after all efforts have been made to recover the loans from the loanee without success. That is when the guarantor should come in. Otherwise, unless all means of recovering the loan are exhausted, this could frighten a lot of people standing in as guarantors for the loanees in this case.

Mr. Temporary Deputy Speaker, Sir, I would now like to go to page 147 of the Bill where it talks about the officers of the Board. However, the Bill does not indicate how the employees of the Board under the current Act, we are repealing are going to be treated. We would like to know whether these employees are going to be transferred or absorbed after passing this Bill. This is something that we would like the Minister, when he stands to reply, to tell the House; how these officers are going to be treated after the House passes this Bill.

Under Clause 22 of the Bill, I notice that the officers of the Board are going to include inspectors. I wonder whether these will be trained inspectors or just picked-up inspectors. I am saying this because under



Clause 23, these inspectors are going to examine every person whom they find within any premises or place liable to inspection. This is what Clause 23 (1) says:-

"Every inspector appointed under section 22 shall for the purpose of ascertaining whether the provisions of this Act have been complied with within any premises or place liable to inspection under this section have power to enter such premises or place at all reasonable times and to examine every person whom he finds therein"

It means that even a visitor who is found by these inspectors is going to be examined by these inspectors. Unfortunately, there may be an old grandmother of the owner of those premises who might have come to ask for some money to buy sugar. Since these inspectors are supposed to examine everybody found there, they will have to examine the old lady as well. So, I think an amendment should be incorporated here so that these inspectors can be controlled. I am saying so because I know these inspectors only too well to know that they can be a nuisance particularly when they happen not to be unqualified. The Police Act does indicate the qualifications of an inspector and it is unfortunate that here we have not been told the qualifications of these inspectors. I think the Minister should look into this clause with a view to amending it.

Going to Clauses 29(2), 30(2) and 30(7), I would like to say that there is a lot of contradiction here.

Clause 29 (2) says:-

"The Minister shall communicate to the Board his approval of the annual estimates at least one calendar month before the commencement of the financial year"

That is all right, but when you come to Clause 30(2) it says the following:-

"The Board shall, not more than four months or such a longer period as the National Assembly may by resolution appoint after the end of each financial year, cause to be prepared and submitted to the Auditor-General (Corporations)....."

However, Clause 30(7) goes on to say the following:-

"Within a period of four months after the end of each financial year, the auditor shall report on the examination of the audit of the accounts of the Board to the Minister....."

This is where the contradiction comes in. The Board itself, within four months will have to provide these accounts as indicated in Clause 29 (a), (b) and (c). However, under Clause 30 (7), we are told that within that period of four months, the auditor himself will present a report on the examination and audit of those accounts to some other person. Clause 31 goes further to bring in more contradiction. It says:-

"The Board shall, within three months after the end of each financial year, prepare a report on the operation of the Fund during that financial year and shall transmit such report to the Minister who shall cause it to be presented to the national Assembly..."

Mr. Temporary Deputy Speaker, Sir, my mathematics does not work well here. Within four months, the Board will have to prepare the accounts and within the same four months, the auditor shall also be required to report on the examination and audit of the accounts. Then within three months of the same four months, the Minister is supposed to get the report of the accounts and lay them on the Table in the National Assembly. We need the Minister to explain to us how he intends all this to be done within four months. I hope he does understand the Bill so as to be able to tell us what these clauses are talking about.

Having said that, I would now like to come to Clause 35 where it says the following:-

"The Minister may, by notice in the Gazette, exempt any class of persons from all or any of the provisions of this Act, where in his opinion, it is expedient in the public interests to do so"

Mr. Temporary Deputy Speaker, Sir, the Minister should take note that there should also be added under this clause a provision to exempt any person or class of persons. Here "a class of persons" cannot be one person, but under this clause the Minister can exempt only a class of persons. So, I think the clause should read as follows:-

"The Minister may by notice in the Gazette exempt any person or class of persons---"

This would enable the Minister to exempt also one person.

Finally, I would now like to move on to Clause 40. The existing Act has regulations which are now operating and I am glad that the Bill is allowing those regulations to continue under this Act. This is what Clause 40 (3) says:-

"All the regulations made under the former Act and in force immediately prior to the commencement of this Act, shall continue to be in force but may be amended or revoked by regulations made under this Act"

That is a very good provision because it clearly indicates that we are not repealing the existing Act plus the regulations. I have read all these regulations and I personally think they are very good and I am pleased, therefore, that they are going to continue after this Bill is passed. With those few remarks, I beg to support the Bill.

**Mr. Shikuku:** Ahsante sana Bw. Naibu Spika wa Muda kwa kunipa nafasi hii ili niweze kusema machache juu ya Mswada huu.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Members, it is now time for the interruption of business and the House is, therefore, adjourned until tomorrow, Thursday the 4th of May, 1995 at 2.30 p.m.

The House rose at 6.30 p.m.