Mr. Duale: Mr. Temporary Deputy Chairman, Sir, I stand to oppose this amendment. Capping interest rates might appear feasible and might be very populist but it can only work if Kenya was a communist country. It cannot work in this country. It cannot work in a country where there is a free market. I want to raise fundamental issues on this amendment. We want to control both the cost and the revenue. That is the worst form of price control. Again, this amendment is very simplistic in view of the structural drivers of interest rates in the market where both the private and public sector must play a very crucial role in the regulation of interest rates.

Mr. Outa: On a point of order, Mr. Temporary Deputy Chairman, Sir.

Mr. Duale: Finally, this will show the credit lending rate that will affect---

Mr. Outa: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Duale, make your contribution!

Mr. Duale: Mr. Temporary Deputy Chairman, Sir, I want to give figures. Credit in the private sector in this country has grown over the years, and reached Kshs1.16 trillion and Kshs13.4 billion in 2011 alone. If you look at 2010, it was Kshs880 billion.

Mr. Outa: On a point of order, Mr. Temporary Deputy Chairman, Sir.

Mr. Duale: Can I finish?

The Temporary Deputy Speaker (Prof. Kaloki): What is not in order?

Mr. Outa: On a point of order, Mr. Temporary Deputy Chairman, Sir. Would I be in order to ask the hon. Member--- The hon. Member who is contributing knows that this Bill does not affect him because he is an Islamist and he banks in Islamic---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Just ignore that and proceed.

Mr. Duale: Mr. Temporary Deputy Chairman, Sir, from the outset, I said this can only work in communist countries, and maybe those who are spearheading it should wait for their day when they can turn this country into a communist state.

I want to give my final statement. This House and this country must promote competitiveness. It must enhance consumer protection measures and empower credit bureaus. That will reduce the interest rates. That is the way forward.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I stand to strongly oppose the introduction of this clause. I want to draw hon. Members' attention to the implications of the introduction of this clause. The introduction of this Clause is purporting to say that the rate set by the Monetary Policy Committee, which is a committee that sets the rate for purposes of signaling whether the banks should lend more or less; it is not the contractual arrangement between a borrower and a bank. Right now, the rate is at 18 per cent. If this was to pass through, automatically, all interest rates on all loans would go, including any that any of us has, to the rate of 22 per cent. We have all borrowed from banks.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Standing Orders clearly stipulate that a Member is entitled to give this House facts. The amendment that is being fronted by hon. Midiwo says; "not more than." It does not say that a bank has to charge 4 per cent and above. So, when hon. Kimunya misleads this House into believing that the moment we pass this amendment, then all interest rates will go to 22 per cent, that is clearly misleading. Hon. Kimunya, a former Minister for Finance, has to be honest enough to tell the House what the amendment entails and not to come and give propaganda to the House.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Dr. Nuh, what is that that the Minister said that is not in order?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Minister misled the House into believing that the moment we pass this amendment, it means that all banks will charge 22 per centum because the CBK rate is at 18 per cent, which is clearly misleading.

The Temporary Deputy Speaker (Prof. Kaloki): Okay. I have heard you. Yes, Mr. Kimunya!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I believe that is an argument. If the hon. Dr. Nuh, who we respect for his age and enthusiasm was to read this amendment, he would see that it is basically saying that the maximum interest that a bank may charge - it is optional - is 22 per cent based on the CBR rate of 18 per cent today. It also says that the bank must pay deposit rates from tomorrow. I will be happy to get that but for now let me just proceed with my line. It also says that if we pass this amendment, the minimum interest that banks shall pay shall be 12.6 per cent on the deposit.

Basically, we are saying that if everyone took advantage of the introduction of this clause, loans would be 22 per cent from tomorrow. This is because we have allowed them a leeway of up to 22 per cent. We are also saying that all deposits must be paid for at 12.6 per cent. We are allowing even a spread of close to up to 10 per cent. Currently, people are enjoying deposits even at 18 per cent. So, anyone who has a deposit at 18 per cent would have it automatically lowered to 12.6 per cent while anyone who has a loan at 20 per cent could have it going up to 22 per cent. This is only one of the implications. But the bigger picture we need to appreciate is that Kenya embraced a liberalized economic regime in 1994. Since 1994, we have been going to the world and telling people to come and invest in Kenya as the biggest economy within East Africa because we are a liberalized economy; other than the communists or centrally-controlled economies. People have come to this country and have invested, based on the confidence that they have been given not just by the Government but by this National Assembly passing laws that say we are a liberalized economy. Immediately you pass this, what signal will you be giving to people who want to come to the country to invest on the understanding that it is a liberalized economy and then tomorrow you tell them that you will control them?

You are basically telling them: "Pack up and go to Rwanda and Burundi and leave Kenya because we do not need investors in Kenya." That is the danger. Much as it may look populist, let me also remind hon. Members that the rate we are talking about here--- We have not even defined what rates we are talking about. We are saying that the rate has to be determined by the Monetary Policy Committee. We are not talking about rates. Is it the interbank rates? Is it the CDR rates? Is it the new rates to be determined for purposes of loans? Suppose the Monetary Policy Committee sat tomorrow and set the rate at 50 per cent? Is that what we want? Let us not do these things from a very emotional perspective. Let us not do it for purposes of settling some political scores or wanting to be populist. We are going to lose out.

Mr. Temporary Deputy Chairman, I think it is important. This is a fundamental issue and we should have discussed it at the Second Reading, so that we can have enough

time. It is coming in now at the Committee Stage with people knowing that it has limited time. But I can tell you this for a fact: Immediately we do this, the credit that you have secured with the international lenders, the World Bank, the International Monetary Fund (IMF) – the Kshs200 billion that you have received to stabilize your economy, will be in jeopardy. When that happens, this House will stand condemned by Kenyans; that you are the ones who have put them in that situation. There will be no roads. There will be no money from the World Bank to do the airports. There will be no money to finance education because of a populist amendment by a Member wanting to just show that he cares.

Mrs. Odhiambo-Mabona: Thank you, Mr. Tempraory Deputy Chairman, Sir. Today I am bit quiet, unfortunately, because I did not go for lunch. So, I am a little tired because I did not go for lunch. Having said that, I want to say that I support this amendment.

Mr. Tempraory Deputy Speaker, Sir, I want to say that despite the harassment that I am being given by hon. Isaac Ruto, he knows that I am *unbwogable* and unmoved and if he continues, I will call hon. Beatrice Kones to deal with him. I know *dawa yake.*

(Laughter)

Mr. Temporary Deputy Chairman, Sir, having said that, I want to say that despite what hon. Mbadi is saying, that this affects the middle class, it is not affecting just the middle class. I get calls every day from rural Kenyans; from people who did not go to school; people who are struggling; fishermen and farmers whose houses are being auctioned. They do not auction houses that they own like us. They are auctioning chairs. Indeed, one person told me that one of the banks went and actually uprooted a simple house, which is even illegal by any law.

So, I do not care. Today, I did not eat lunch but I am going back home with a better conscience and I have no apologies. If that makes me a communist, I am a very happy communist today to support this.

With that, I support.

Mrs. Shebesh: Thank you, Mr. Temporary Deputy Chairman, Sir, Quickly, let me start by saying that calling us names will never really scare some of us. You can call us communists, dictators and merchants of impunity. You can even call us *Mungiki,* but we will always say what we need to say.

Mr. Temporary Deputy Chairman, Sir, the day that houses were demolished in Syokimau, we adjourned this House to discuss the demolition. The people who live in Syokimau whose houses were demolished - and today I wish I could see the same passion in some of the hon. Members sitting across the Floor--- Was Syokimau a political issue? That is because today, in the three months which, of course, the Government will not tell Kenyans---

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Shebesh! I really want you to stick to the issue at hand!

Mrs. Shebesh: Mr. Temporary Deputy Chairman, Sir, I am saying three months because when we were sitting as the Select Committee on the Decline of the Shilling, we were saying six months. So, it is now three months. Houses of bankers, civil servants and nurses will start being repossessed. The effect of a house being repossessed is similar to that of a house being demolished, like we saw happen in Syokimau.

Mr. Temporary Deputy Speaker, Sir, the Minister has asked which interest rate we are capping. It is that provided under Section 4(d) of the Central Bank of Kenya Act. He can go and read it. We are saying that on the Monetary Policy Committee there is also a recommendation. That is also another cartel, so is the Kenya Federation of Bankers. You have allowed cartels to run this country as Government called "coalition".

Maybe you think that we are supporting this because we are in the ODM. Even the Prime Minister is on notice on this issue. You are on notice as Government, including the Prime Minister; that this country will not be run by cartels.

Mr. Duale: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Shabesh! There is a point of order from hon. Duale.

Mr. Duale: Mr. Temporary Deputy Chairman, Sir, I want you to guide this deliberation. It is an amendment. We want to hear about its merits and demerits. Is the hon. Member in order to go round and round? We want to hear its merits and demerits.

Mrs. Shebesh: Mr. Temporary Deputy Chairman, Sir, I will finish in two minutes because I have nothing else to say. I have finished what I was saying.

I have said that the interest rate capping we are asking for is in Section 4(d) and the reason we are asking for this is not because we do not believe that it is, probably, not the best idea, it is because the Government has refused to act to tame the cartel of bankers, whom we are told own this country and will continue to own it forever. We are saying, if you do not have the courage, we will give you an instrument you can use. If the banks will not listen to you, they will certainly listen to Parliament.

Mr. Temporary Deputy Chairman, Sir, we are saying, use the Central Bank of Kenya (CBK) rate to cap the commercial bank interest rate at 4 per cent above the KCB rate. If banks cannot make profit from that, I do not mind because most of them made billions of shillings in profit last year.

Thank you.

The Temporary Deputy Chairman (Prof. Kaloki): Let me get hon. Ruto. I will then get Minister Dalmas Otieno and then the Minister for Finance will conclude.

Yes, hon. Ruto!

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I want to ask my colleagues to look at these issues with a very sober mind because we have a country to manage. Indeed, there have been some unfortunate occurrences in the past six months, which have caused our financial markets to become quite unstable. I believe that the Government has now put its house in order. They have learnt a lesson. We have a country to run. We are in a period in which we are transiting to a new order. We are having elections this year. We are also transiting to county governments.

We have huge financial burdens to bear yet we want to play around with matters that can destabilise the donor community. We may lose face before the international community. There are times to play populist. There are times to be communists and there are times to be serious. I want to ask my colleagues - they have insisted that they have not had lunch - I am offering dinner to Millie Odhiambo. I hope somebody else will offer some donor to---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Millie Odhiambo, what is your point of order?

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, she said that she did not go for lunch.

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Ruto!

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, is the hon. Member in order to offer me lunch, which all of us know that it was worth Kshs50,000? I cannot go for lunch worth Kshs50,000.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Ruto, make your conclusion, please.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I want to conclude by requesting my colleagues to pass the Finance Bill as it is and reject this particular amendment with due respect.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Dalmas Otieno, I will give you time. I had promised hon. Ogindo time to make some contribution. Hon. Noor, from the Committee, let me have just one of you and then I will go to hon. Dalmas Otieno.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I rise to support this amendment.

I just want to persuade this House that this amendment seeks to achieve one simple thing. We are not capping the interest rate. This amendment seeks to regulate the interest rate. When you look at this amendment, you will see that it is floating with the CBR rate. That floatation allows flexibility in the market. What we want to achieve are two important points. Of late, the high interest rates have caused a lot of suffering to individuals in this country. The high interest rates have caused a lot of businesses to be closed. The high interest rates have caused a lot of families to lose their houses.

The other thing that the House needs to appreciate is that even at the Government level the high interest rates affect the deficit in this country because the Government pays very high rates on its borrowing. It is important that interest rates are brought under control.

Mr. Temporary Deputy Speaker, Sir, the second point I want to raise is that---

The Temporary Deputy Chairman (Prof. Kaloki): Remember we are on the Committee of the Whole House.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, allow me to say this. It has been alleged here that this amendment has communist leanings. I want to say that in the United States of America there are State laws that have been legislated to guard against usury which is the excess interest charges.

In England or the United Kingdom in 1715, a law was passed called the "Legal Maximum Interest Rate" which regulated interest. The long and short of this is that if we have an affordable interest rate regime we are able to ensure that we have an economy that thrives and grows. What we have now is an interest rate that stifles the economy. I want to persuade this House that we pass this Bill in order to jump start our economy.

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, I want to persuade my colleagues that if some of us are motivated by any political sin, I am not aware. But first I want to declare my interest in saying that I am a firm believer in the Islamic concept that no interest rate should be charged on any amount that is either borrowed or lent.

I think at times sanity has to prevail and there are times when intervention has to be called for. So, I do not have any personal grudge that would make me advocate for interest rates to go down apart from thinking about the poor Kenyans who are suffering at the behest of banks which are becoming irrational.

(Applause)

Mr. Temporary Deputy Chairman, Sir, secondly, I want to take hon. Members down memory lane. I want to remind hon. Members that the Finance Bill has been in abeyance majorly because---

Mr. Duale: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Duale, is it a valid point of order?

Mr. Duale: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): What is it?

Mr. Duale: Mr. Temporary Deputy Chairman, Sir, Dr. Nuh confirmed to be of Islamic religion. The choice is there even for Christians that you can go to an Islamic bank where the interest rate is zero. So, is he in order to mislead the House that he wants to speak for others who can even go for Islamic banking? Islamic banking is for everybody including Christians.

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, I am glad that Mr. Duale has given more credence to my argument. I want to say that the Finance Bill has been in abeyance majorly because of this pending amendment of Mr. Midiwo that has to do with regulating the interest rates. I want to remind hon. Members that there was a time when this House was called to the Kenyatta International Conference Centre (KICC) by the two Principals. The leader of my party, the hon. Vice-President was there and I do not see any circumstances that have changed since Members of this House unanimously rejected the call to drop this amendment.

Mr. Mbadi: On a point of information, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Dr. Nuh, do you want to be informed?

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, I just want to say, for the record, that when the Finance Bill was in abeyance, some of us tried to see whether it was possible to crack the nuts because we wanted a win-win situation, a situation where the Government which was so much averse to regulation of interest rates because of conditions they are saying have been set by the IMF; maybe there is fear that this will cause disarray in the financial sector. It wants to be pleased on one hand and on the other hand it wants to ensure that Kenyans are suffering under an interest rate regime that is not friendly to the poor families and members of this society.

(Loud consultations)

I want to report progress of those meetings.
I should be protected because there are hon. Members who are consulting loudly.

The Temporary Deputy Chairman (Prof. Kaloki): Proceed, I can hear you.

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, I want to report progress; I want to say that we sat down with the bankers' association and all the banks involved for more than three times. We were trying to build consensus. At one time we said that we were willing to even drop the amendment, because--- At the end of the page, I have a similar amendment to that of Mr. Midiwo. We said that we were willing to drop the amendment but they had to tell us how they were going to take care of the interest for the sake of Kenyans whose houses were being sold on a daily basis, because they were unable to meet the interest rates that were skyrocketing. We gave them a very good option. We asked them to give the number of Kenyans that they lent money, whom they thought had interest rates that were to be varied. They said that on the face value, we were making noise for a very small percentage of people they lent money to which was just below 25 per cent.

In fact, that gave us more teeth; we told them if they were talking about 25 per cent of borrowers, that was very small amount of money. We told them to concede to the idea that if there was someone they had lent at the interest rate of 13 or 15 per cent and he was repaying the loan at an interest rate of 28 per cent because of the so-called inflation, to take that interest regime back to the 13 per cent. In the next meeting, they came up and said they had given us the wrong statistics. The number of borrowers they were talking about was 75 per cent. It was shame! They were changing goal posts just because we were giving concessions and we wanted to reach a consensus.

(Applause)

I want to give the reasons as to why we want this amendment. Today, every bank has a specific lending rate that it has set on its own criterion and no one regulates it. M/s Barclays can set at 18 per cent, the Kenya Commercial Bank (KCB) can set at 22 per cent, and any other bank can set at 30 per cent and they are honest. They will tell you: "This is our lending rate; so we are charging you 3 per cent or 4 per cent plus." When you ask the Central Bank of Kenya (CBK), the regulator as to why interest regimes are not being curtailed, or why interest rates are skyrocketing, they will tell you that they have no control over banks.

(Applause)

So, the Kenyan borrower is left at the mercy of banks which determine which rates they are going to lend at.

The Temporary Deputy Chairman (Prof. Kaloki): All right!

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, let me just finish.

The Temporary Deputy Chairman (Prof. Kaloki): Take 30 seconds.

Dr. Nuh: No, Mr. Temporary Deputy Chairman, Sir, I want to, at least---

The Temporary Deputy Chairman (Prof. Kaloki): No!

Dr. Nuh: I plead with you, Mr. Temporary Deputy Chairman, Sir. The reason as to why we are setting a reference point that will be determined by the CBK is, at least, for Kenyans to know that they have an office which is responsible, which is going to determine at what cost they are going to borrow at any one given time. For example, if

the CBK rate is set at 18 per cent today--- the Monetary Policy Committee sat the other day, they looked at issues and said: "Fine, inflation is going down." They said the Kenyan Shilling was stabilizing but they were not reducing the CBK rate. They were saying that they were going to give it a month or two to see how the economy would perform. If we were to have a CBK rate that determines the fluctuation of interest rate, the CBK Monetary Policy Committee would be more concerned about the prevailing CBK rate at any one given time. They would be coming to answer to a Committee of this House as to why the CBK rates are high and they would have to provide solutions as to how they can bring it down to zero per cent, so that the borrowing in this country cannot go beyond 4 per cent and that would be the rationale.

The Temporary Deputy Chairman (Prof. Kaloki): Thank you.

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, I am pleading with hon. Members that at this time let us think with the Kenyans who are suffering; let us think with our constituents whose houses and lives have been mortgaged, so that sanity can prevail. We are not going to be at the mercy of bankers who are irrational and irresponsible.

Thank you.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Chairman, Sir, I sympathize with the sentiments in the House that banking practice has developed in this country in such a way that our savers are paid peanuts, but banks charge high figures as their lending rates. The Members have to realize that the money market, like all other markets even if it was the property market, is never one market. They are several markets. In this particular amendment, the biggest flaw, particularly in Part "b" that is talking of interest earning accounts, the simple way to dodge it is to say that you have no interest earning account as far as your bank is concerned; all accounts are noninterest bearing. Then what happens thereafter? We have achieved nothing.

Secondly, the monetary policy read "the Central Bank rate is the rate set and cost with the specific objective. It operates in the segment of the monetary market between the Central Bank and the banks themselves". That is a totally different money market. It only controls that segment. You cannot use it to control the other market segments in the economy.

The Members must also realize that Kenya is a very open economy. If you add up the imports and the exports, you are talking of a large percentage of our Gross Domestic Product (GDP). When you look at the global market, if Kenya wanted to borrow, we would give a sovereign risk rate which assesses Kenya as a borrower. A nation in Africa borrowing from the east or the west, the sovereign risk assessment is based on different factors, namely, political, economic and otherwise. You cannot use that one rate to determine the other rates in the economy. If we take the retail rates in our country; if we take the check-off rates where you borrow and the money is taken from your salary to repay your loan, the risk is different from a business person who borrows and has to make sure they have net cash surplus to service the loan. So, we are not talking one market. You cannot use the Central Bank rate to control all the other money market rates in the economy. It is a big blunder.

I was in banking and the immediate effect of this amendment is the low risk large banks---

Mr. C. Onyancha: On a point of order, Mr. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Prof. Kaloki): All right. Just make your concluding remarks. You know we are in the Committee of the Whole House. Just make your concluding remark.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Chairman, somebody is interrupting. My concluding remark is that if part "a" passes, the smaller banks who are able to get niches in the money market and use their deposit and lending rates to retain the market that they control to be able to develop, will be the biggest losers and the larger lower risk banks will get more money and they will increase oligopolistic control of our market until they get what they want in it.
I oppose and the instrument we are using is faulty.

(Loud consultations)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I would beg that you listen to me because what you are going to do is going to have a very bad effect on this country, and I will give the reasons. One, if you pass this amendment, this is what you are saying. One, what you are going to do is to distort the market. What you are going to have are black markets. You are going to have parallel markets as it happened in 1980s when we tried to control interest rates. You are aware when the CBK controlled the interest rates from the banks. What they did was that they started charging you appraisal fees, application fees, booking fees and all sorts of fees just to evade the 19 per cent. That is exactly what is going to happen. You are aware when the CBK curbed those methods, they now formed finance companies which then were able to charge more than banks. So, dear colleagues, I am telling you that we are engaging in an exercise in futility. That is one.

Secondly, already - and I want to be very sincere and frank - we have got commitments with the World Bank and the International Monetary Fund (IMF) and one of the conditions we had agreed is that we will maintain a liberalized economy as far as the interest rates regime is concerned. If we pass this amendment, dear colleagues, what you are saying--- You are giving those banks the ability to recall our loan, which is more than Kshs400 billion, and which we do not have now. Therefore, we are going to default. Our kitty rating is going to go down.

Secondly, already we have a limit. Already, we have a credit limit of Kshs200 billion. What you are saying is that, that extended new credit limit is going to be terminated. Therefore, if that happens, you can forget what you have passed in the Supplementary Budget today. There will be no roads. There will no dams. There will be no water projects. There will be no hospitals. So, we must know that if we pass this amendment that would be the effect.

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kaloki): Very well. Conclude, Mr. Minister!

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I need time.

The Temporary Deputy Speaker (Prof. Kaloki): Just take one minute!

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I need time. I plead for more because it is important. What we are going to do is going to make or break this country. We must be very clear in our minds about what we are going to do. I want to say that the Executive does not support this because it knows the consequences. The other consequence would be this: The very people we are trying to protect, the lower income groups, the middle class, I can tell you, if you have ceilings on interest rates, they are going to be eased out of the credit market. The banks will start lending to prime customers like the East African Breweries and those kind of companies. So, the people we are trying to save will actually lose out. Secondly and this is even more serious, take it from me, if you pass this amendment, expect a financial crisis. More than ten to 15 small banks are going to collapse. So, we are actually creating a financial crisis. This is exactly what you are doing. The other reason, the bad loans and non-performing loans are only 3 per cent. So, the issue has been exaggerated. At the moment, the nonperforming loans in the entire banking portfolio is 3 per cent.

Mr. Temporary Deputy Chairman, Sir, if the issue is about banks making super profits, the solution is not to cap interest rates. The solution is for me to come up with a law that will tax the super profits. Again, interest rates are on their way down. At the moment, there are three banks which are charging 15 per cent. The majority are at 19 per cent.

Lastly, we have been talking about this matter with a committee that was established. We had actually agreed that we will oppose this amendment. This will give us time between now and June, because we must bring another Finance Bill, to discuss and agree with the banks on this issue.

Mr. Temporary Deputy Chairman, Sir, if the things I have said happen, then we will know who is responsible; it is any hon. Member who supports this amendment. You will be responsible for the financial crisis! You will also be responsible for banks closing----

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Minister! You have made your point!

The Minister for Finance (Mr. Githae): You will be responsible for lack of roads---

The Temporary Deputy Chairman (Prof. Kaloki): All right! Thank you, Minister.

Mr. Mbadi: On a point of order, Mr. Temporary, Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Mbadi! Hon. Members, I will now proceed to put the Question. Let us vote on this, so that we can proceed.

(Question, that the new Clause 30A be read a Second Time, put and negatived)

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, for us to have a Division, we must have 20 Hon. Members requesting it. Clerk-at-the-Table, do we have the numbers?

Hon. Members: We have the numbers.

The Temporary Deputy Chairman (Prof. Kaloki): All right. We have the numbers. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Chairman (Prof. Kaloki): I believe the Tellers are ready and may now proceed with the results.

DIVISION

(Question put and House divided)

(Question negatived by 58 votes to 17 votes)

AYES: Eng. Gumbo, Mrs. Kilimo, Dr. Kones, Messrs. Magwanga, Mbadi, Munyaka, Mwadeghu, Mwau, Dr. Nuh, Messrs. Ogindo, Ojaamong, Prof. Olweny, Messrs. Onyancha, Outa, Washiali, Mrs. Odiambo-Mabona and Mrs. Shebesh

Tellers of the Ayes: Mr. Mwadeghu and Mr. James Maina Kamau.

NOES: Messrs. Anyanga, Baiya, Bett, Ms. Chepchumba, Messrs. Duale, Githae, Godhana, Gumo, Gunda, Prof. Kamar, Messrs. Kamau Irungu Jamleck, Kamau Maina James, Kambi, Kapondi, Kenyatta, Keynan, Kiilu, Kimunya, Kinyanjui, Kioni, Mrs. Kones, Mr. Lessonet, Mrs. Leshoomo, Messrs. Letimalo, M'Mithiaru, Magerer, Eng. Maina, Messrs. Mbai, Mbau, Mbuvi, Mututho, Mudavadi, Munya, Muoki I., Muriithi, Ms. Mathenge, Messrs. Murungi, Musyoka, Muthama, Mwaita, Mwangi, Nanok, Ndambuki, Njuguna, Ms. Noor, Messrs. Nyamweya G., Obure, Omollo, Dr. Otichillo, Mr. Otieno, Dr. Otuoma, Messrs. Oyongo Nywameya, Poghisio, Eng. Rege, Messrs. Ruto, Sambu, Maj. Sugow and Capt. Wambugu.

Tellers of the Noes: Mrs. Shebesh and Eng. Maina.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I have two points of order. You saw the way the defunct Electoral Commission of Kenya behaved immediately after they presented results. They were quick to rush to the other side to shake hands.

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Ogindo!

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir. The second point of order is this: This is very fundamental. We forced a Division and there was counting. We were 31 and at the voting, we ended up with 17. I want you to find those hon. Members who did not vote grossly out of order. I invite you to find them out of order; can you rule on that?

(Laughter)

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Ogindo! Everybody had the freedom to vote one way or the other and we had the results here. So, that is not a point of order and we need to proceed.

Dr. Nuh, the New Clause 30A, since it has lost and you were pegging that on Mr. Midiwo's amendment, we will not proceed with it. It has been negatived, and now we will proceed to the New Clause 32A.

New Clause 32A

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Midiwo

(Mr. Mbadi moved to the Dispatch Box)

I think Mr. Mbadi is standing in for Mr. Midiwo.

Mr. Mbadi: I am Midiwo!

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

THAT, the following new clause be inserted immediately after Clause 32 -

32A. The Banking Act is amended in the Second Schedule by deleting the proviso appearing in paragraph (d).

I think in 2009, the core capital of banks and mortgage finance companies was increased to Kshs1 billion. This particular amendment is proposing to revise that downwards by deleting that requirement to Kshs250 million. Basically, this will help other interested Kenyans with capacity, who can raise at least Kshs250 million to also start banks. This will help make the banking sector even more competitive as my colleague from the Government side was saying.

Mr. Temporary Deputy Chairman, I want to put it that before, the core capital of the banks and the mortgage finance companies was very low. That is why---

The Temporary Deputy Chairman (Prof. Kaloki): You have made the point. It is very clear to me.

Mr. Mbadi: Mr. Temporary Deputy Chairman, just allow me to make my point clear.

The Temporary Deputy Chairman (Prof. Kaloki): Thirty seconds, please.

Mr. Mbadi: Mr. Temporary Deputy Chairman, Sir, that is why we had Equity Bank and the Family Bank becoming financial institutions and you can see how they are performing now. I would urge this House to allow other competitors to also enter the banking sector.

(Question of the new clause32A proposed)
(New clause 32A read the First Time)
(Question, that the new clause 32A be read a Second Time, proposed)

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I stand to oppose that amendment on the basis that the amendment is trying to dilute the strength of the banking sector. It is basically saying that anyone who has Kshs250 million can open a financial house and call it a bank. We have moved from there as a country. It also means that a bank with Kshs250 million is capped in terms of the amount of money they can lend. The reason we moved and this House approved that we should move progressively to banks increasing their capital to Kshs1 billion was to protect the financial sector, so you only have sound banks operating within the country. All the 45\

banks that are operating in this country have already met that threshold. So, removing it, you are basically telling people that this House made a mistake three years ago by saying the Kenyan banking sector should be so strong with banks having Kshs1 billion as capital and now we are saying that we should reduce it to Kshs250 million and refund from where they had raised it. This is basically like saying that the House punished them three years ago by forcing them to move their capital to Kshs1 billion. Now we are saying that we were not right then.

This is something that we cannot do. Again, it goes back to the consistency in policy and legislation. Once you say that we are moving in one direction one day, it does not augur well to then come---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, could you, please, protect me?

The Temporary Deputy Chairman (Prof. Kaloki): Proceed!

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Mbadi! You had your time, please.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, this House passed this law. This House passed a schedule; a negotiated schedule that said that the core-capital of the banks will now be increased to Kshs1 billion. If we now reduce that---

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Kimunya, conclude!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, it is also important to underline that as the House was passing this law, it also passed the Micro-Finance Act that also said that for small banks that do not want to compete with the big banks, they can operate as micro-finance institutions and with a core-capital of Kshs20 million when operating outside town and Kshs50 million when operating within town, so that everyone was taken care of.

I beg to oppose.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think if a Member has a point of order, he should be allowed to raise it.

The Temporary Deputy Chairman (Prof. Kaloki): Order! I am the Chair. The Chair will make the decision on when somebody has to speak.

Mr. Mbadi: Mr. Temporary Deputy Chairman, Sir, the hon. Minister talked about changing policy. My proposal is perfectly in line with the policy of Government of promoting competitiveness. If the Minister is honest, the earlier contribution he made was that he wanted the market to be opened for competition. Right now, what he is saying is completely opposite; that he wants to control those who are entering the banking sector. This is a clear indication by the Government to protect the banking cartels.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I rise to support the amendment. I am aware that three years ago, there was an amendment that was brought to this House that increased the core capital of the banks. But this country has since moved. Three years ago, we did not have a new Constitution. Today, we have a new Constitution. The new Constitution today creates counties. The counties have become centres of operation. It is important that we enlarge the banking market to create competition.