

## GOLDENBERG INQUIRY DAY 280

# Crucial testimony expected as

CONTINUED FROM PAGE 11

**Gatonye:** Central Bank does not lend overnight to commercial banks?  
**Pattni:** No.  
**Kitonga:** But it lent to Exchange Bank.  
**Pattni:** That is direct credit.  
**Gatonye:** Is it your testimony Mr Pattni that at this time, CBK would not lend to a commercial bank overnight?  
**Pattni:** There has to be a security. In this case we had our client's cheques under clearing.  
**Gatonye:** Why should there be a middleman between Central Bank and a commercial bank unless there is an arrangement instituted by you and Kotut to make money out of this?  
**Pattni:** There is always a middleman. CBK made 75 per cent.  
**Gatonye:** It could have lent to NBK at 120 per cent.  
**Pattni:** It could if NBK had its client's cheques under clearing or Treasury Bills.  
**Gatonye:** Let's move on. You said this was an arrangement you had with the governor.  
**Pattni:** Yes.  
**Gatonye:** You negotiated with the governor to deny the Central Bank its full profits.  
**Pattni:** There was no denial. Central Bank was happy to make money out of the brains of Exchange Bank. CBK lent to Trade Bank and Trade Bank collapsed. It lost money. We never ate one CBK shilling.  
**Gatonye:** Mr Pattni, you are lending money that you did not have. We can understand some of these transactions even though we are not bankers. You were lending money that was not yours.  
**Pattni:** We had money. Our clients cheques were under clearing. It is brains which make money. (Gatonye consults with other lawyers) My lords, the whole lot is now directing questions.  
**Kitonga:** I can also see that.  
**Bosire:** You have made your point Mr Gatonye. Go on to another point.  
**Gatonye:** Look at page 15. Here you got a direct credit of Sh115 million at Sh74.5 and you lent the money to NBK overnight again at 120 per cent.  
**Pattni:** Again we paid interest to CBK.  
**Gatonye:** I just wanted you to note that. Let's go to page 14.  
**Le Pelley:** It's exactly the same.  
**Pattni:** I agree. There is confusion because Mr Gatonye is not the one cross-examining. He is getting questions from Ms Oduor and Mr Fred Ojiambo.  
**Gatonye:** On page 29 of the Wabuti report, this is what he says under the sub-heading: Overnight borrowing by Exchange Bank from CBK. "Exchange Bank received about Sh41,141,000,000 in overnight lending by CBK during the period March to July 1993. It made a profit of Sh140 million from such loans."  
**Pattni:** Exchange Bank made money for wananchi. Give credit where it is due.  
**Gatonye:** I'm giving no credit here. On the contrary, I'm questioning your involvement here because this is an



Photo/Joan Pererua

Lawyers Fred Ojiambo (left), Cecil Miller and Agnes Murgor chat after yesterday's proceedings.

arrangement you made with the governor to rip off the Central Bank. I'm putting it to you that Central Bank used you to make Sh141 million and you made the same or more.  
**Pattni:** What is wrong with that? If I make money for you and me ... what is wrong? You want me to die hungry? It's always two-way traffic.  
**Bosire:** The only problem is that you did not have the money.  
**Pattni:** We had our client's cheques and we had brains also.  
**Bosire:** Did those clients' accounts have the money?  
**Pattni:** They did. If they did not, Delphis Bank would have been in problems.  
**Bosire:** Why look for direct credit if you had the money. Why not lend directly.  
**Pattni:** This is where money management comes in my lord.  
**Bosire:** You understand what I'm asking. You have your money. Why borrow, which is direct credit. It means it's a borrowing and you could lend whatever money you had on it.  
**Le Pelley:** You would have charged 120 per cent interest on it.  
**Pattni:** These are company cheques.  
**Bosire:** The companies did not have money.  
**Pattni:** The companies had given the cheques to Central Bank and these acted as security for the Central Bank.  
**Bosire:** Assuming there was money. You cannot have security from a piece of paper. A piece of paper is supposed to represent money.  
**Pattni:** Did Central Bank bounce the cheques? No. No cheques bounced.

**Bosire:** Yes and Mr Gatonye is saying that they did not bounce because of a special arrangement.  
**Pattni:** My lords, the cheques from the other side cancelled with cheques from the second bank. What Central Bank needed was some form of security to lend. They needed Treasury bills, or government bonds or direct credits like in this case.  
**Bosire:** That is what is called cheque kiting. You give money to this bank knowing that the bank from which money is supposed to be drawn has no money. Then you give a cheque from the other side to cancel out.  
**Pattni:** You call it cheque kiting if there was a default from the other side.  
**Bosire:** Would there be a default? The other cheque is a counter-missile. They meet somewhere and the result is zero.  
**Pattni:** Exactly. Nobody suffers.  
**Bosire:** We suffered.  
**Pattni:** Nobody suffered. In fact Central Bank made money.  
**Bosire:** Where did the money you earned come from? Was it not a government bank?  
**Pattni:** Yes.  
**Bosire:** And the money it borrowed was on behalf of beneficiaries ... Kenyans.  
**Pattni:** I saved NBK from collapse. If it had collapsed, the public would have suffered.  
**Bosire:** We are suffering because of that same problem up to now.  
**Pattni:** It means that your lordships the chairman has a negative mind about the whole issue.  
**Bosire:** The facts have been confirmed.

**Pattni:** No my lord. I have been stating here day by day that his lordship the chairman would never believe me. He has made up his mind that I'm a con-man, and a crook of the last order. Bring evidence because my lordship the chairman does not believe in the evidence I'm giving here. That is what is coming off the bench there.  
**Bosire:** So? I'm not supposed to believe or disbelieve you? If I have disbelieved you on one point what is wrong with that?  
**Pattni:** It's not just one point. Just now we went through ....  
**Bosire:** If I disbelieve you on three points what is wrong with that?  
**Pattni:** I would appreciate if you .....  
**Bosire:** If I disbelieve you on everything, what is wrong with that, if it is true?  
**Pattni:** It is not. Your mind has been prejudiced by my absence from 2003. I have not been in touch with you. People like Melville Smith ... I have seen him .....  
**Bosire:** Are you an accused?  
**Pattni:** I feel hurt. I have been treated like an accused ... like a leper.  
**Bosire:** That's what you said you are. But you are a special person and you need special treatment which we have been giving you. Unfortunately, I say so. You say you are special and not like others and another time you say that you are being treated differently. Carry on Mr Gatonye.  
**Pattni:** My receipts for Tiger Clothing on the brief cases I brought and which I have attached in Exhibit 154 YY. Why can't investigators go and talk to those

companies. The receipts are there.  
**Bosire:** You can talk.  
**Pattni:** I'm talking from my heart.  
**Bosire:** Talk to your heart or anywhere. I have allowed you to talk.  
**Pattni:** I feel hurt that I have been taken and convicted for a conman.  
**Bosire:** Talk and relieve the pain and feel good.  
**Pattni:** My lord .... every human being can change. When I was cross-examining Mr Smith, you felt that two days were enough and then you gave me two hours.  
**Bosire:** Is this the time for submissions?  
**Pattni:** No.  
**Bosire:** I'm taking note. If you are submitting now, you will not have an opportunity later to submit. I'm taking note. And if I say so, you will say I'm against you because you are submitting at the wrong time.  
**Pattni:** My lords ...  
**Bosire:** If you follow the procedure I give you, you will have no problems. If you follow your own procedure, you will have problems. Otherwise you would have waited until the end and said that the chairman was unfair to you.  
**Pattni:** It will be too late. What is happening here is prejudicial to me my lord.  
**Bosire:** Carry on.  
**Pattni:** I'm sorry but I'm speaking from ... the way I have seen things happening I don't feel hurt that whatever I say is not believed at all. Mr Gatonye is believed and your lordships tell him that you have understood and he should continue. It's like what I'm trying to argue out is nothing. I apologise but this is the truth.  
**Bosire:** When you are through let me know.  
**Pattni:** I do not mean to offend but I'm just saying it. I'm through my lord.  
**Bosire:** Carry on Mr Gatonye.  
**Gatonye:** Mr Pattni, in the course of your business, did you buy foreign exchange from the Central Bank and you sold back the same foreign exchange to CBK at a premium?  
**Pattni:** Yes. It was through Forex-Cs that we bought and sold it back at a profit of Sh3 to Sh5.  
**Gatonye:** Sometimes it went to Sh18?  
**Pattni:** Never in my life. Never in the life of Exchange Bank. That is the wrong perception coming from the report of Mr Smith.  
**Gatonye:** What is the reason you gave for the purchase of foreign exchange from Central Bank? Do you recall giving the reason that you were servicing foreign loans?  
**Pattni:** That must have been for a client. This one you are mentioning is through Forex-Cs. You are allowed to send foreign exchange.  
**Gatonye:** Do you remember that in 1993 CBK made a loss for the first time in 1993?  
**Pattni:** Yes. Because of Trade Bank and other banks not Exchange Bank.  
**Gatonye:** It made a loss to the tune of Sh7 billion for buying foreign exchange at a premium.  
**Pattni:** Yes.

## Pattni in war of words on his last day of evidence

CONTINUED FROM PAGE 1

contrary, I'm questioning your involvement here because this is an arrangement you made with the governor to rip off the Central Bank."  
 The loss was historic; the only one Central Bank has incurred since inception in 1966.  
 Exchange Bank was a sister company of Goldenberg International and operated for one year between mid-1992 and mid-1993 before it went into liquidation.  
 Witnesses have estimated the loss visited upon Central Bank by the operations and subsequent collapse of

Exchange Bank at no less than Sh22 billion.  
 Mr Pattni has maintained that Exchange Bank actually helped Central Bank to make profits.  
 He told the commission yesterday that the transactions between his bank and Central Bank were approved by the CBK former governor Eric Kotut.  
 Mr Kotut has himself appeared before the commission and denied ever meeting Mr Pattni during his tenure at CBK between 1988 and mid-1993.  
 Part of exchange between Mr Justice Bosire and Mr Pattni was:  
**Bosire:** We are suffering because of that

same problem up to now.  
**Pattni:** It means that your lordship, the chairman, has a negative mind about the whole issue.  
**Bosire:** The facts have been confirmed.  
**Pattni:** No, my lord. I have been stating here day by day that his lordship the chairman would never believe me. He has made up his mind that I'm a con-man, and a crook of the last order. Bring evidence from others, my lords, because my lordship the chairman has no belief in the evidence I'm giving here. That is what is coming off the bench there.  
**Bosire:** So? I'm not supposed to believe or disbelieve you? If I have dis-

believed you on one point what is wrong with that?  
**Pattni:** It's not just one point. Just now we went through ...  
**Bosire:** If I disbelieve you on three points, what is wrong with that?  
**Pattni:** I would appreciate if you ...  
**Bosire interjecting:** If I disbelieve you on everything, what is wrong with that, if it is true?  
**Pattni:** It is not. Your mind has been prejudiced by my absence from 2003. I have not been in touch with you.  
 Mr Pattni left the stand after a grueling 65 sessions before the commission that started on May 20.

The businessman is at the centre of the inquiry as the executive chairman of Goldenberg, the company under investigation by the Bosire commission and Exchange Bank, which handled a majority of the affair's multi-billion transactions.  
 The commission has heard that the Kenyan tax payer lost billions in the affair executed by Goldenberg.  
 Former Economic Secretary at the Treasury Prof Terrence Ryan told the commission in his evidence last year that it would take three generations for the country to recover from the devastating effects of the scandal.