

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 4th December, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

Annual Report and Accounts of Medical Practitioners and Dentists Board for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Medical Practitioners and Dentists Board for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Health
(Dr. Galgalo) on behalf of the
Minister for Public Health)*

Annual Report and Accounts of Kenya Trypanosomiasis Research Institute for the year ended 30th June, 1999 and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Health
(Dr. Galgalo) on behalf of the Minister
for Agriculture)*

Annual Report and Accounts of Ewaso Ng'iro North River Basin Development Authority for the year ended 30th June, 1999 and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Health
(Dr. Galgalo) on behalf of the Minister
for Rural Development)*

ORAL ANSWERS TO QUESTIONS

Question No.517

NON-PAYMENT OF BENEFITS TO
MS. MASAVA'S FAMILY

Mr. Shitanda asked the Minister of State, Office of the President why the Government, through the District Commissioner, Kakamega, has failed to pay death

benefits of the family of the late Isabella Masava despite having received the same vide Cheque No.174906 of 22nd May, 1997 for Kshs36,800.15.

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

We have not paid this money because the Treasury recalled all deposit accounts in the 1997/1998 financial year. However, Cheque No.004008 for Kshs100,000 has been forwarded to the District Commissioner, Kakamega, for payment to the relatives of the late Ms. Masava, alongside others.

Mr. Shitanda: Mr. Speaker, Sir, this money was remitted to the District Commissioner from the National Cereals and Produce Board where that lady was working. Could the Assistant Minister tell us why the Government recalled monies on deposit accounts from all district treasuries during that financial year? That

money did not belong to the Government! It was money received from different organisations and the Government was just entrusted with to pass it on to the beneficiaries! Why did the Government recall all deposit monies in the 1997/1998 financial year? How much money was recalled countrywide?

Mr. Samoei: Mr. Speaker, Sir, I do not have the specific reasons as to why the Treasury recalled the money in those deposit accounts. Unfortunately, that is what happened. To make amends, I have given specific instructions on the money I have transmitted to the District Treasury, Kakamega; that, the issue raised by the hon. Member is treated as a priority.

Mr. Anyona: Mr. Speaker, Sir, a mistake may have occurred. The Assistant Minister has been asked to correct that mistake! It is good he has discovered that mistake himself. Is it right for the Assistant Minister to come to the House and agree that a mistake has been made and nothing has been done? We thought he was going to acknowledge that a mistake was made and it has been rectified. How can the Government take people's private money back to the Treasury? Could the Assistant Minister tell this House when he is going to make sure that this mistake is rectified and the people who are owed this money are paid?

Mr. Samoei: Mr. Speaker, Sir, I thought I had already said there was a mistake and now I have sent back the money to the District Treasury and the people concerned will be paid. I have already sent back the money and it is in the District Treasury. It can be collected any time.

Mr. Shitanda: Mr. Speaker, Sir, could the Assistant Minister confirm or deny that the monies which were recalled from all the districts in 1997 were meant to finance the elections for that year?

Mr. Samoei: Mr. Speaker, Sir, the money in question is Kshs36,000. I do not know what election Kshs36,000 could finance! However, I deny.

Mr. Shitanda: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Government recalled money on deposit accounts from all districts across the country. In fact, I asked him how much it was, but he did not answer that bit! The Kshs36,000 in question is just one case. How many other cases are still pending in other districts?

Mr. Samoei: Mr. Speaker, Sir, I do not have the statistics but I do not think that money was used to finance any election. KANU won the elections on a very clean slate, I believe.

Question No.479

MEASURES TO ELIMINATE FALSE
INSURANCE CLAIMS

Mr. Gatabaki asked the Minister for Finance:-

- (a) whether he is aware that every year, the Kenyan insurance industry pays out about Kshs10 billion in injury claims alone;
- (b) whether he is further aware that out of the Kshs10 billion payment, an estimated 40 per cent consists of fraudulent claims; and,
- (c) what measures the Government has instituted to ensure that such massive claims and frauds are eliminated.

Mr. Speaker: The Minister for Finance is not here? We will come back to the Question later.
Next Question by Mr. Kitur!

Question No.696

RURAL ELECTRIFICATION PROGRAMME
FOR KONOIN

Is Mr. Kitur not here? We will come back to the Question later.
Next Question, Mr. Anyona!

Question No.780

TENSION BETWEEN TEA FARMERS/
DIRECTORS OF TEA FACTORIES

Mr. Anyona asked the Minister for Agriculture:-

- (a) whether he is aware of serious unrest between tea farmers and directors of tea factories in

Gucha, Kisii and Nyamira districts because of poor second (bonus) payments for 2000/2001;
 (b) what the total earnings and operational costs were of Kebirigo, Nyankoba, Nyansiongo, Sanganyi and Tombe Tea factories in Nyamira District; Kiamokama Tea Factory in Kisii District; Nyamache and Ogembo tea factories in Gucha District;
 (c) what the mode of payment was to farmers without bank accounts; and,
 (d) whether he could order for new elections for directors in all tea factories in Gucha, Kisii and Nyamira districts in order to end the unrest in the tea sub-sector.

Mr. Speaker: Where is the Minister for Agriculture? We will come back to the Question later.
 Next Question by Mr. Muiruri!

Question No.742

REFUND OF SACCO SHARES TO MR. GICHUHI

Mr. Muiruri asked the Minister for Agriculture:-

(a) whether he is aware that Mr. Njenga Kahura Gichuhi, ID.No.5468076, who worked as a foreman with Kenya Ports Authority (KPA), Mombasa, from 1965 to January, 2001 has not been refunded his shares by Mombasa Ports SACCO Society Limited; and,
 (b) when he will be refunded.

Mr. Speaker: Where is the Minister for Agriculture? We will come back to the Question later.

Question No.698

COMPLETION OF TITIE WATER PROJECT

Mr. Muya asked the Minister for Water Development:-

(a) whether he is aware that Titie Water Project intended to serve Tetu and Thegenge locations and parts of Karundu Location is an old project which has never been completed; and,
 (b) what plans he has to complete this project.

Mr. Speaker: Anyone here from the Ministry of Water Development? We will come back to the Question.

Next Question, Mr. Waithaka!

Question No.772

SHORTAGE OF CLEAN WATER IN NJABINI TOWN

Mr. Muchiri: Mr. Speaker, Sir, I have instructions from Mr. Waithaka to ask his Question.

Mr. Speaker: But I thought Mr. Waithaka sent a message to me to defer the Question!

Mr. Muchiri: I do not know. He told me yesterday that, if he will not be in today, I may ask the Question on his behalf.

Mr. Speaker: Well, I got a request that I defer it.

Mr. Muchiri: Thank you, Mr. Speaker, Sir.

Mr. Speaker: The Question is deferred.

(Question deferred)

Next Question, Mr. Kikuyu!

Question No.677

HARASSMENT OF HAWKERS
 IN MACHAKOS MUNICIPALITY

Mr. Kikuyu asked the Minister for Local Government:-

- (a) what has caused the present confrontation between *mitumba* hawkers and the Municipal Council of Machakos; and,
 (b) what he is doing to stop this confrontation before it escalates into violence.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Could the Chair also remind the Government side about this appalling trend; of treating this Parliament discourteously? Again and again, your orders are not being taken seriously!

Mr. Speaker: Let us come to it later, because a lot of other Members are not present.

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, I beg to reply.

The Machakos Municipal Council has no plans to either put up shelters in the open air market or allow vendors to construct shelters. An open air market is supposed to remain uncovered.

Mr. Kikuyu: Mr. Speaker, Sir, the answer that the Assistant Minister has given is for a Question that is pending in your office. I want Question No.677 answered with regard to the fate of *mitumba* hawkers in Machakos Town.

(Laughter)

Mr. Speaker: Mr. Sirma, what are you answering? Are you present?

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, I beg to apologise. I think I picked the wrong answer and I promise to answer that Question tomorrow morning.

Dr. Kulundu: On a point of order, Mr. Speaker, Sir. Is it not very clear, from the way the Assistant Minister is behaving, that Ministers come to this House without having exhaustively discussed these Questions with the officers concerned?

Mr. Speaker: From what Mr. Sirma has done, I do not think even he read the answer.

The Assistant Minister for Local Government (Mr. Hashim): Mr. Speaker, Sir, I am sorry and I would like to apologise for coming late. But the answer is with me. Mr. Sirma was just doing whatever---

However, I beg to reply.

(a) The matter is *sub judice*. The dispute between *mitumba* hawkers and the Municipal Council of Machakos is pending before court under case No.PMCC No.503 of 2001.

(b) In view of the above, there is no action that I can take until the matter is decided by the court.

Mr. Kikuyu: Mr. Speaker, Sir, considering the fact that the livelihood of these hawkers has been threatened, since the closure of this market for the last four months, could the Assistant Minister give them, or order the Council to allocate them, an alternative site so that they can continue with business, while the matter is pending in court?

Mr. Hashim: Mr. Speaker, Sir, there was a plan to relocate these hawkers to an alternative site, but some of them did not fill the application forms. For those who filled the application forms, 152 hawkers have been supplied with sufficient places to conduct their businesses.

Mr. Muite: On a point of order, Mr. Speaker, Sir. This House continues to be confronted with this problem of *sub judice*. You heard the Assistant Minister say that the matter is in court and he gave us the case number. Are we, as a House, not entitled to know what the case is about, who is the plaintiff, the defendant and the accused, without going into the merits, so that we can truly know that we should not ask supplementary questions?

Mr. Speaker: I am hearing this for the first time. As the Speaker, they must let me know in advance. Why are you not doing this?"

An hon. Member: Because they do not know what they are doing!

Mr. Hashim: Mr. Speaker, Sir, I wish to lay on the Table this paper which states that this matter is before the court.

(Mr. Hashim laid the document on the Table)

Mr. Speaker: My Question was: "Why have you not informed the Speaker of this in advance?"

Mr. Hashim: Mr. Speaker, Sir, I apologise for not informing you that this matter was in court. But I would also like to share this blame with the hon. Questioner, because he knew exactly that this matter was before the court.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. This is a very important point. It comes up every time and, sometimes, Ministers want to hide behind this *sub judice* rule. Will it not be the right time for the Chair to give some clear guidance, that where a matter is in court, since you would have approved the Question without knowing whether the matter is in court, as soon as the Ministry discovers, they let you know, so that you make up your mind in advance?

(Mobile phone rang in the Chamber)

Mr. Speaker: Order! Who is that again?

Hon. Members: He should go out! We are tired now!

Mr. Speaker: Order! Order! I forgive him, but, please, put it off.

Order! Order! I would like everybody to be serious with his job and I have asked this for long. If you receive a Question and the matter is pending before court, you must write to the Speaker and give him the copy of the pleadings so that I will be able to know whether the matters raised are the same ones raised in the Question. I should be able to know the particular circumstances so that I will know what questions go to the merits or demerits of the case and those that are not party to that particular issue. So, please, do that in future. I will defer that Question and the Assistant Minister should send to me the copy of the pleadings as soon as he can.

(Question deferred)

Mr. Keriri: Mr. Speaker, Sir, I hope you will agree with me that our problem here is that the majority of the Ministers do not study the Questions before they come to this House. They just come with a written answer to read here. Could you remind them that it is their duty to do some homework before they come here? This appears to be the case; that they come here with an answer which they have not studied at all.

Mr. Speaker: I think I agree with you.

Mr. Hashim: Mr. Speaker, Sir, we will do exactly what you have told us. But I do not think it is the duty of the hon. Member to tell us to study the Questions before we come here.

Mr. Speaker: Order! Order! It is my duty and I now hereby do the same.

(Applause)

Next Question, Mr. Gatabaki, for the second time!

Question No.479

MEASURES TO ELIMINATION
FALSE INSURANCE CLAIMS

Mr. Gatabaki asked the Minister for Finance:-

- (a) whether he is aware that every year the Kenyan insurance industry pays out about Kshs10 billion in injury claims alone;
- (b) whether he is further aware that, out of the Kshs10 billion payment, an estimated 40 per cent consists of fraudulent claims; and,
- (c) what measures the Government has instituted to ensure that such massive claims and frauds are eliminated.

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, I beg to reply.

Hon. Members: Apologise!

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, if the Question is being asked for the second time, I apologise that I was not able to be here when it was first raised. However, I beg to reply.

(a) I am not aware that every year, the insurance industry pays out about Kshs10 billion in injury claims alone. I am, however, aware that the claims incurred resulting from bodily injuries for the year ending 1999 were approximately Kshs6 billion. These claims are in respect of motor accidents which contributed approximately 65 per cent, while workman's compensation, public liabilities, personal accidents and others contributed the balance of 35 per cent.

(b) I am not aware that an estimated 40 per cent of the injury claims paid consist of fraudulent claims. However, I am aware that some of the injury claims paid may be fraudulent. Some people have been prosecuted in court, while some cases are still pending in court.

(c) The Government has instituted various measures to ensure that massive frauds are eliminated altogether. One such measure is that the police department, in collaboration with the insurance industry has, in the recent past, combed possible avenues of syndicates planned and carried out to defraud the insurance companies. A number of these cases are being prosecuted in our courts. The second measure is that the Government is in the process of constituting a structured compensation scheme for motor vehicle accidents which involve individuals. The scheme will be similar to the Workman's Compensation Act. The amounts payable on specific injuries will be stipulated in the law. The arrangement will reduce the need for court cases and involvement of advocates and, therefore, streamline the compensation process. The scheme will also eliminate the excessive awards granted to victims in courts as the compensation will be controlled by law. In this case we hope that the premiums will come down.

We are also in the process of strengthening the market associations such as the Association of Kenya Insurers so that the associations of companies operating in the industry will be co-ordinated. That organisation will also be responsible for instilling discipline amongst its members and providing technical services to them so that they can work jointly to eliminate avenues for fraud. These are some of the measures we are taking.

Mr. Gatabaki: Mr. Speaker, Sir, maybe this House deserves to congratulate the new Minister of Finance for a very honest presentation and for showing that he can deal decisively with this key Ministry. We are waiting to see how he will present the Budget for this year, considering there is no money in this economy.

However, if there is an industry facing a severe crisis, it is the insurance industry. Mr. Minister, you should tell this House what measures the Government is taking and exactly how much this industry is losing through fraudulent claims. Today we are facing a crisis such that the transport industry is controlled so much. About three-quarters of the matatus in this industry may not be legitimately insured. How many lives do we have to lose before matatu owners insure their vehicles?

Mr. Speaker: Could you ask your question?

Mr. Gatabaki: Mr. Speaker, Sir, could the Minister be sincere enough to tell this House that there is an enormous crisis in the insurance industry? Unless there is a crash programme, this nation stands to lose a considerable amount in non-payment of insurance claims because of fraud and conspiracies between magistrates, the police and lawyers.

Mr. Obure: Mr. Speaker, Sir, while I fully appreciate the concerns by the hon. Member for Githunguri, I do not entirely agree that the insurance industry is in a crisis. However, some of the trends which are beginning to show up, like fraudulent claims and the menace in the matatu industry, pose serious threats to the industry. It is for this reason that we must take concerted action involving the Government, the insurance industry and members of the general public, to ensure that these abuses are curbed. This will also ensure order and discipline in the matatu industry in particular.

I agree with the hon. Member that we must break this syndicate where large sums of money are fraudulently taken away from the industry. Some of the people involved are prominent members of society, including members of very respected professions like doctors, lawyers and so on. It is a question of instilling discipline, raising our values and promoting honesty in our professions. That is the only way we can stem this serious threat to the industry.

Mr. Muite: Mr. Speaker, Sir, I am pleased to hear the hon. Minister mention doctors. Could he assure this House that when they are carrying out these investigations in order to contain this fraud which will actually cause a crisis in the insurance industry, he will not single out the legal profession because the doctors are involved in drawing up these fictitious medical reports? The employees of the insurance companies are also involved. Will he investigate all of them so that he can contain the conspiracies?

Mr. Obure: Mr. Speaker, Sir, the hon. Member for Kabete has raised a very important question. We will not target, for example, the legal profession *per se*. We are talking about elements within the legal and medical professions who are involved in this kind of fraud. That is where our focus will be. We also know that this fraud is to be found in the insurance companies. We will make our noose so tight that they will not get away with this fraud.

Mr. Gatabaki: Mr. Speaker, Sir, sometimes it seems like members of the Fourth Estate are the ones who tell the truth, given the manner in which they report these issues of public interest to us. I wish to pay tribute to the *East African Standard* for the article they published on Monday about the insurance industry. The hon. Minister does not have a copy of this article which is about the extent to which the insurance industry is decaying. This has

become a matter of great interest. So, I am paying tribute to the Fourth Estate.

Mr. Speaker: Do not make it an authority!

Mr. Gatabaki: Mr. Speaker, Sir, however, there is a conspiracy between so many forces including the ambulance chasers and the judiciary. Is the Minister aware of the ambulance chasers and the kind of mess they have brought to the industry? If so, what measures has he taken to ensure that this kind of evil is wiped out from our society so that we can cleanse the mess in our insurance industry?

Mr. Obure: Mr. Speaker, Sir, I hope I will be able to get a copy of that article. Ambulance chasers have been known to perpetrate these acts of fraud in the insurance industry. We will call upon the professional organisations, for example, the legal, medical and dental associations, to assist us in disciplining their own members as a first measure. The law will catch up with them if they do not do so. We will make the noose very tight so that this serious threat, which has been posed to this important industry, is stemmed in good time.

Mr. Speaker: Next Question!

Mr. Angwenyi: I want to give some clarification!

Mr. Speaker: Order! There is no such thing in the Standing Orders!

Next Question!

Question No.696

RURAL ELECTRIFICATION PROGRAMME
FOR KOINON

Mr. Speaker: Is Mr. Kitur still not here? The Question is dropped.

(Question dropped)

Question No.780

TENSION BETWEEN TEA FARMERS/
DIRECTORS OF TEA FACTORIES

Mr. Anyona asked the Minister for Agriculture:-

- (a) whether he is aware of serious unrest between tea farmers and directors of tea factories in Gucha, Kisii and Nyamira districts because of poor second (bonus) payments for 2000/2001;
- (b) what the total earning and operational costs were of Kebirigo, Nyankoba, Nyansiongo, Sanganyi and Tombe Tea factories in Nyamira District; Kiamokama Tea Factory in Kisii District; Nyamache and Ogembo tea factories in Gucha District;
- (c) what the mode of payment was to farmers without bank accounts; and,
- (d) whether he could order for new elections for directors in all tea factories in Gucha, Kisii and Nyamira districts in order to end the unrest in the tea sub-sector.

Mr. Speaker: Anyone here from the Ministry of Agriculture? It seems there is nobody. Mr. Anyona, what do I do in the circumstances?

Mr. Anyona: Mr. Speaker, Sir, I remember you did promise to apply some sanctions against the Members of both sides of the House who do not come to ask or answer Questions. So, I expect that you will do that. However, for this Question, there is quite some serious situation in the tea industry in my homeland and I would request that the Question be brought back either tomorrow morning or afternoon.

Mr. Speaker: What about tomorrow afternoon?

Mr. Anyona: Mr. Speaker, Sir, either way to your convenience.

Mr. Speaker: Let me check whether the Order Paper is out. If it is out, then I will put it on the Order Paper for Thursday afternoon.

(Mr. Speaker consulted with the Clerk-at-the-Table)

Mr. Anyona, I will put it on the afternoon Order Paper. I am sorry that the Assistant Ministers for Agriculture and Rural Development are not here. I saw Mr. Sumbeiywo and he ran away.

(Laughter)

(Question deferred)

Next Question, Mr. Muiruri!

Question No.742

REFUND OF SACCO SHARES TO MR. GICHUHI

Mr. Muiruri asked the Minister for Agriculture:-

(a) whether he is aware that Mr. Njenga Kahura Gichuhi, ID. No.5468076, who worked as a foreman with Kenya Ports Authority (KPA), Mombasa, from 1965 to January, 2001, has not been refunded his shares by Mombasa Ports SACCO Society Limited; and,

(b) when he will be refunded.

Mr. Speaker: Mr. Muiruri, I think it follows that the Assistant Ministers for Agriculture and Rural Development are not here.

Mr. Muiruri: Mr. Speaker, Sir, it does but I happen to have an answer here.

Mr. Speaker: Well, you know it cannot help because you cannot read it.

Mr. Muiruri: Mr. Speaker, Sir, I am coming to the point. This Question was addressed to the Minister for Transport and Communications because this particular man was employed by KPA. I am wondering how the Minister for Agriculture and Rural Development can answer a Question which was addressed to the Minister for Transport and Communications. Is KPA under the Ministry of Agriculture or the Ministry of Transport and Communications?

Mr. Speaker: I think you have a point. Let me find out.

(Mr. Speaker consulted with the Clerk-at-the Table)

I think there was a mistake and, maybe, the best thing we can do is to send it to the right Ministry and have it on the Order Paper on Thursday. Is that alright with you?

Mr. Muiruri: Yes, Mr. Speaker, Sir. However, where does all this confusion come from?

Mr. Speaker: I do not know. I will defer it to Thursday.

(Question deferred)

Next Question, Mr. Muya!

Question No.698

COMPLETION OF TITIE WATER PROJECT

Mr. Muya asked the Minister for Water Development:-

(a) whether he is aware that Titie Water Project intended to serve Tetu and Thegenge Locations and parts of Karundu Location is an old project which has never been completed; and,

(b) what plans he has to complete this project.

Mr. Speaker: Anyone here from the Ministry of Environment and Natutal Resources? Where are they?

Mr. Muya: Mr. Speaker, Sir, you should look for the KANU Chief Whip!

Mr. Speaker: Mr. Muya, what should I do?

Mr. Muya: Mr. Speaker, Sir, you can possibly defer it to tomorrow afternoon.

Mr. Speaker: Mr. Shidiye, you are the KANU Chief Whip. What is happening? You are the highest in rank now!

(Laughter)

Mr. Shidiye: Mr. Speaker, Sir, the Leader of Government Business is better placed to answer that question.

Mr. Speaker: Where is he?

Mr. Shidiye: If Ministers have abdicated their responsibilities, we are going to dewhip them!

Mr. Speaker: Mr. Obure, what is happening with your colleagues?

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, I happen not to be the Leader of Government Business but I expect some of them to come.

Mr. Speaker: You know the problem is that we keep on saying things and nobody seems to take this House seriously. I have said this before and the more I say about it, the more the Chair is cheapened and I do not want to cheapen the Chair. The authority of the Chair must not be allowed to be eroded and Members must take this seriously.

You plead for one more warning and I promise it will be the last. Take notice that, from tomorrow morning, if you do not come, we will name you. Secondly, so long as anybody invites me to do so, I will do it.

(Applause)

So, the Question is deferred!

Mr. Muya: Mr. Speaker, Sir, is it deferred to tomorrow afternoon?

Mr. Speaker: Yes, to tomorrow afternoon!

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

LIST OF CONSTITUENCY AIDS CONTROL COMMITTEES

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

(a) Could the Minister table the names of Constituency AIDS Control Committees which have been formed throughout the country?

(b) How much money was allocated to each of the Committees since they were formed and how much of the allocated money has so far been paid to the Committees?

(c) Could the Minister give the number of bicycles or other means of transport that have been issued to each Committee?

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

(a) The list of Constituency AIDS Control Committees (CACCs) so far formed and the amounts of money so far issued to them is hereby tabled.

(Mr. Samoei laid the document on the Table)

(b) Attached to the list are also the amounts awarded to each Constituency AIDS Control Committee (CACC).

(c) The National AIDS Control Council (NACC) is not in a position to provide means of transport to Constituency AIDS Control Committees. The Committees are expected to utilise the operational funds they have been allocated for purposes of transportation.

Dr. Kulundu: On a point of order, Mr. Speaker, Sir. This Question was deferred because part "c"--- In fact, you requested the Assistant Minister to go and find out from his counterpart in the Ministry of Health when the National AIDS Control Programme (NAS COP) used to distribute these bicycles and come up with information regarding how many bicycles each CACC received. So, is he giving basically the same answer he gave us last week?

A hon. Member: We do not need that!

Mr. Musila: Mr. Speaker, Sir, while thanking my friend for answering this Question, I would like to remind him of what Dr. Kulundu has said. There were two issues which he can very clearly find in the

HANSARD of 14th November when this Question was deferred. The first issue is that the former Minister, hon. Maj. Madoka, alleged that certain CACCs had misappropriated funds and he promised to bring to the House a list of those Committees that had misappropriated those funds.

Mr. Speaker, Sir, the second issue which can still be confirmed by the HANSARD of that day, is that the Minister was supposed to bring to this House the list of distribution of bicycles to CACCs. So, we were expecting two lists this afternoon. With the indulgence of the Chair, could I also request that we get a third list for radios, because I understand they have also been distributed to various Committees?

Mr. Speaker: Mr. Samoei, do you know anything about all this?

Mr. Samoei: Mr. Speaker, Sir, I was not aware of the commitments made by the then Minister. However, I want to seek your indulgence that I shall look at the issues that have now been raised in this House. I am not aware of any misappropriation of funds by any of the CACCs. However, I will find out and report back to this House.

Mr. Speaker: Mr. Musila, what is your reaction?

Mr. Musila: Mr. Speaker, Sir, I would like to hand over this copy of the official recordings (HANSARD) to the Assistant Minister and let us get a specific time when this Question is scheduled to be answered. This is because, since 14th November, it has been pending.

Mr. Speaker: Could I defer it to Thursday afternoon to give the Assistant Minister time to get the HANSARD and the relevant information? I appreciate Mr. Samoei's predicament since he is not the one who gave the undertakings.

Mr. Musila: Very well, Mr. Speaker, Sir.

Mr. Speaker: I will defer it to Thursday. Mr. Samoei, get a copy of the HANSARD, get in touch with your colleague and come back on Thursday.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister include, in that list, the number of radios given to each CACC in the country?

Mr. Speaker: But I thought that was said!

Mr. Angwenyi: Radios and not bicycles!

(Laughter)

Mr. Samoei: Mr. Speaker, Sir, I will undertake to produce this information tomorrow afternoon.

(Question deferred)

Mr. Speaker: Very well. Next Question, Dr. Kulundu.

COMMENCEMENT DATE FOR
INDUSTRIAL PROPERTY ACT

Dr. Kulundu: Mr. Speaker, Sir, I beg to ask the Minister for Trade and Industry the following Question by Private Notice.

(a) Why has the Ministry not given the commencement date for the recently enacted Industrial Property Act, 2001?

(b) How many pharmaceutical companies have shown interest in either parallel importation or local manufacture of anti-HIV drugs?

The Assistant Minister for Trade and Industry (Mr. Ekirapa): Mr. Speaker, Sir, I beg to reply.

(a) The commencement date for the Industrial Property Act, 2001, has not been decided upon because the draft regulations are being processed by the Attorney-General. Thereafter they will be tabled in this House before coming into force.

(b) The Ministry has not so far received or recorded interests of any particular pharmaceutical company with regard to parallel importation or manufacture of anti-HIV drugs. I am, however, aware that the underlisted three pharmaceutical firms have applied to the Ministry of Health for manufacture of anti-HIV drugs. These include: Cosmos Pharmaceuticals whose application was received on 14th August, 2000; Universal Pharmaceuticals whose application was received on 7th November, 2000 and Laboratory and Allied Limited whose application was received on 23rd November, 2001.

Mr. Maore: Mr. Speaker, Sir, is the Chair satisfied with part "a" of the written reply, where the Assistant Minister is stating that the Attorney-General is still processing something, when the Bill was prepared in

consultation with the Attorney-General and it was passed by this House? The Bill was supposed to have been given a commencement date immediately.

Mr. Speaker: But, how would I know what that "something" is?

Mr. Maore: Mr. Speaker, Sir, you were not listening to the written reply. I hope he can repeat it, and you hear what he says.

Mr. Speaker: I heard him say "something." But do I know what that "something" is?

Mr. Anyona: Mr. Speaker, Sir, it used to be the practice of this House that, every time Bills receive Presidential Assent, you are notified and you are given a brief which you normally read to the House. That practice does not seem to have been carried out recently. What is he talking about in this particular case? Is he saying that the Bill has not been assented to, or is he saying that it has been assented to, but it has not been published? This is because this is the process; then, the Minister names the date of commencement. What is he talking about? What is it?

Mr. Speaker: Before he answers, indeed, it has always been the procedure of this House for all Bills assented to, to be given to the Speaker by the Attorney-General and the Speaker would make that announcement in the House. For some strange reasons, I have been kept totally in the dark as to what Bills have been assented to and which ones have not. I think it is the duty of the Attorney-General to do that so that the House and I know what Bills have been given assent and which ones have not been given assent. If in the event that no assent has been given, then, the constitutional provisions would have to take place.

As it is, we may be breaching the Constitution unknowingly unless, of course, we know what Bills have been assented to and which ones have not. So, what is the problem? What is that "something" that the Attorney-General is not doing?

Mr. Ekirapa: Mr. Speaker, Sir, under the Act, the Minister is supposed to publish regulations. It is after the publication of those regulations that the Act will be operationalised. The regulations have now been signed by the Minister and forwarded to the Attorney-General. It is a huge document, and the Attorney-General promises us that they will be ready by January. So, I think it is important to note that it is something to do with the importation of drugs and the Attorney-General is taking very careful time to ensure that they are properly drafted.

Mr. Wamae: Mr. Speaker, Sir, this is a very serious matter. The Industrial Property Act was to allow the importation of HIV/AIDS drugs cheaply, to assist Kenyans who are suffering. Why has the Minister been sitting on it? Why is it taking too long for you to put this Act into practice and into effect and to save lives of thousands of Kenyans?

Dr. Kulundu: On a point of order, Mr. Speaker, Sir. Maybe, you have forgotten that this is my Question, and I wanted to raise some of these concerns.

(Laughter)

So, with your permission---

Mr. Speaker: Well, I am sorry, if we have taken the fire out of your Question!

Dr. Kulundu: Thank you, Mr. Speaker, Sir. First of all, let me take this opportunity to thank hon. Members for the sentiments that they have expressed and also thank the Chair for the sentiments expressed about this apparent inaction on the part of the Government. This country is being taken for a ride. HIV/AIDS---

Mr. Wamae: On a point of order, Mr. Speaker, Sir. You recognised me and you gave me [**Mr. Wamae**] permission to ask a question, which has not been answered. Could you instruct the Assistant Minister to answer my question first?

(Laughter)

Mr. Speaker: Order! Let us now go back to how it should be. Mr. Wamae asked a question upon my sight, and he has a right, having been seen by me, to ask the question, and he expects an answer which he should proceed to get.

Mr. Ekirapa: Mr. Speaker, Sir, the Ministry has not been sitting on this Bill. I have already shown you the size of the Bill and our people have been working extremely hard in conjunction with the Attorney-General. The Attorney-General's office is now going through it and he has assured us that, by January, the regulations will be ready for publication. We have not been sitting on this very important regulation.

Mr. Speaker: Could we now hear Dr. Kulundu?

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. The Assistant Minister had been asked to state whether this Bill has received Presidential Assent or not. Could he now answer that question and tell the House whether the Bill, indeed, has received Presidential Assent and it is only waiting for the gazettement of the date of commencement or not?

Mr. Ekirapa: Mr. Speaker, Sir, I cannot specifically answer that question.

Mr. Speaker: Why not?

Mr. Ekirapa: Mr. Speaker, Sir, because I do not know whether it has received Presidential Assent or not.

Mr. Speaker: You do not know anything about it?

Order, hon. Members! I am totally amazed at what---

(Messrs. Ndicho and Ojode in loud consultations)

I am even more amazed by what is going on between Mr. Ojode and Mr. Ndicho! I remember clearly that, when this Bill came before this House, this House was urged to deal with this matter as a matter of urgency in order to save the lives of Kenyans. This House did its duty and passed that Bill into law. Now, these regulations between the Minister and the Attorney-General are not the concern of this House. I think I will defer this matter. Go and consult the Attorney-General and come back tomorrow and tell us when these regulations are going to be---

Dr. Kulundu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Dr. Kulundu! You must respect the Chair! You do not own this Question! In fact, you have no control over it; I have control over it. So, give it to me so I can deal with it. I will urge that this Question comes back tomorrow. You should see the Attorney-General and come and tell us whether, first, the Act has been given assent, which is a valid issue; and, therefore, it is just waiting for the regulations and gazettment of commencement date. But, as you said yourself, as a Ministry, this was a matter that required urgent attention. Is tomorrow afternoon alright with you?

Mr. Ekirapa: Mr. Speaker, Sir, may I seek your indulgence? I have consulted with officers at the Office of the Attorney-General. I have been assured that the Act will become operational by January, 2002, when the regulations will be ready.

Dr. Kulundu: Mr. Speaker, Sir, let me assist the Assistant Minister. I am sure that the President assented to the Bill on 23rd August, 2001. So, if that is the reason for deferring this Question, the answer is that the President has assented to the Bill.

Mr. Speaker: What about the regulations?

Dr. Kulundu: Mr. Speaker, Sir, the regulations aspect will be part of my supplementary question.

(Laughter)

Mr. Speaker: What is your supplementary question?

Dr. Kulundu: Mr. Speaker, Sir, the point I am trying to make is that the Government is taking this country for a ride. Two years ago, hon. Members of this House discussed HIV/AIDS in Mombasa, where the scourge was declared a national disaster.

In June, 2001, this House was rushed to enact the Industrial Property Bill. When the Departmental Committee on Health, Housing, Labour and Social Welfare asked for time debate this Bill, there were insinuations to the effect that the Committee would comprise pharmaceutical companies. We enacted this Bill, the President has assented to it, and now the Assistant Minister tells this House the delay in its implementation is due to some regulations that are still being worked out. What was so difficult in the Government working out these regulations during the rush to enact this Bill?

Mr. Speaker: Dr. Kulundu, that is why I gave the Assistant Minister time to consult the Attorney-General, so that he can tell us why the Attorney-General cannot approve the regulations.

Dr. Kulundu: Mr. Speaker, Sir, I have an answer.

Mr. Speaker: You have an answer?

Dr. Kulundu: Yes.

Mr. Speaker: Then why did you ask the question?

Dr. Kulundu: Mr. Speaker, Sir, I just wanted to hear what the Assistant Minister had to say. Could the Assistant Minister confirm or deny that no commencement date for the Act has been given because some people in the Government, after visiting Washington DC, came under tremendous pressure from pharmaceutical companies not to give a commencement date for the Act?

Mr. Ekirapa: Mr. Speaker, Sir, I want to deny that allegation emphatically. I would like to repeat my assurance to this House. After consulting with the Attorney-General, I can assure this House that the Act will

become operational by January, 2002, as soon as---

Hon. Members: On which date of January?

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that the Act will become operational in January, 2002? He has talked about a subsidiary legislation, knowing very well that the House will be on recess in January, 2002. Is there no a law which requires that subsidiary legislation be tabled before the House before it takes effect?

Mr. Ekirapa: Mr. Speaker, Sir, I am fully aware that the House will be on recess in January, 2002, but my assurance to the House is that by then, the subsidiary legislation will have been completed, as far as the Office of the Attorney-General is concerned, and will be ready for transmission to the National Assembly.

Hon. Members: On a point of order! On a point of order!

Mr. Speaker: No more points of order. I am will take ordinary questions.

Could you ask a question, Mr. Keriri?

Mr. Keriri: Mr. Speaker, Sir, it is very serious that an Assistant Minister can tell this House that he does not know whether the President has assented to this Bill only for him to assure the House that the Act will be effective in January, 2002. He has told us that there is a subsidiary legislation being prepared, but has not said who will approve that legislation, if not this House, which will be on recess in January, 2002. Could he now confirm whether the Act will not be effective until we come back from recess in March, 2002? Could he be clear on this? Unfortunately, the Assistant Minister does not seem to know what he is telling us.

Mr. Ekirapa: Mr. Speaker, Sir, let me repeat what I have said for the purpose of clarification. The Act is not yet operational because we are waiting for the completion of the subsidiary legislation, which will be ready for signing by the Minister in January, 2002. I am also aware that, after the Minister signs the subsidiary legislation, the regulations are supposed to be laid before this House before they become operational. I can only control what is within my jurisdiction. I cannot control the fact that the House will be on recess in January, 2002.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. You realise that Dr. Kulundu knows a lot more about this Act than the Assistant Minister. Dr. Kulundu even knows when the Bill received Presidential Assent; the Assistant Minister does not know that. Dr. Kulundu has gone further to tell us why this Act is not being implemented. He has talked about visits to Washington DC by important members of this Government. Would I be in order to ask for further information regarding these important personalities who visited Washington DC, and who are under pressure from pharmaceutical companies not to implement the Act? Would I be in order to ask for substantiation?

Mr. Speaker: From whom?

Hon. Members: From Dr. Kulundu!

Mr. Speaker: Order! Order, hon. Members! Dr. Kulundu put a question to the Assistant Minister to confirm or deny the allegation that pharmaceutical companies have been pressurising the Minister not to operationalise the Act, and the Assistant Minister denied the allegation. So, Dr. Kulundu's question has been answered. Whether the Assistant Minister is truthful or not, that is another issue.

Shall I now take the last question from Dr. Kulundu?

Dr. Kulundu: Mr. Speaker, Sir, the Government admits that nearly 800 Kenyans die of AIDS daily. Although the Government has not yet given a commencement date to the current Industrial Property Act, could the Assistant Minister consider applying the provisions of the old Industrial Property Act? I am not very sure he even knows that there is such an old Act!

(Laughter)

Mr. Ekirapa: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Mr. Ekirapa, why do you not wait for Dr. Kulundu to finish the question? Dr. Kulundu and Mr. Ekirapa, do not make this matter personal. You could be neighbours where you come from but, as far as this matter is concerned, do not personalise it.

Dr. Kulundu: Mr. Speaker, Sir, could the Assistant Minister consider invoking the provisions of the old Industrial Property Act, which is still operational, since the new Act has not yet been operationalised, and order that, with immediate effect, licences be issued to the three companies that have applied for licences to manufacture anti-retroviral drugs locally, so that they can manufacture cheap drugs for use by HIV patients in Kenya?

Mr. Ekirapa: Mr. Speaker, Sir, we will consider that request. For clarity, let me assure this House that, by 15th January, 2002, we will bring the signed regulations to the National Assembly.

Mr. Speaker: Very well. Let us proceed to Mr. Angwenyi's Question.

SAFE PROCEDURES FOR HANDLING
BODIES OF AIDS VICTIMS

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

(a) Is the Minister aware that a very large proportion of deaths in the country today are attributed to HIV/AIDS?

(b) Is he further aware that the Ministry has not developed safe procedures for handling bodies of those who have died as a result of HIV/AIDS related cases and, thereby exposing members of the public to the spread of HIV/AIDS?

(c) What urgent measures is the Minister taking to institute safe procedures in handling these bodies?

The Assistant Minister for Health (Dr. B. Galgalo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that a large proportion of deaths in the country are due to HIV/AIDS.

(b) I am not aware that the Ministry has not developed safe procedures for handling bodies of those who die as a result of HIV/AIDS.

(c) The Ministry has already instituted safe procedures for handling bodies of those who die as a result of HIV/AIDS.

Mr. Angwenyi: Mr. Speaker, Sir, the Assistant Minister has said that he is aware of the devastating deaths as a result of HIV/AIDS. But he has said that he is not aware that there are no safe procedures. Could he table the procedures that have been developed for handling bodies of people who have died from HIV/AIDS-related illnesses?

Dr. B. Galgalo: Mr. Speaker, Sir, invoking the powers conferred upon the Minister by Cap.242, Sections 35 and 36, he ordered public health officers to inform the public of the following regulations:-

(i) There should be minimal handling of bodies.

(ii) Bodies should be disposed of as soon as practicable to avoid decomposition. Where it is not possible to do so, such bodies should be properly preserved in a recognised mortuary.

(iii) Bodies, once placed in caskets at the mortuary, should not be removed.

(iv) Ceremonial or ritual handling of bodies should be minimised, and where it is absolutely necessary to do so, only a few people wearing gloves should handle the body.

(v) There should be no cleaning or handling of bodies.

(vi) Bodies that are bleeding or discharging any fluids should be handled by individuals wearing gloves. Where possible, such bodies should be immediately embalmed.

Dr. Kituyi: Mr. Speaker, Sir, I am glad to hear my friend, Mr. Angwenyi, express concern about the spread of HIV/AIDS. Considering that female genital mutilation increases the chances of unnatural response of female genitalia to friction and, therefore, exposes women to higher vulnerability to contract HIV/AIDS, and since the hon. Member is so much against the spread of HIV/AIDS, could he explain why he supports female genital mutilation?

Dr. B. Galgalo: Mr. Speaker, Sir, I am informed that the supplementary question is directed to the hon. Member who filed the Question.

Mr. Speaker: What happened?

Dr. B. Galgalo: Mr. Speaker, Sir, hon. Angwenyi has been asked to explain why he supports the female genital mutilation when he is so much concerned about the spread of HIV/AIDS.

Mr. Angwenyi: Mr. Speaker, Sir, I would just like to advise the hon. Member---

Mr. Speaker: Order! Order, Mr. Angwenyi!

(Mr. Angwenyi stood up in his place)

Mr. Angwenyi, you must learn to respect the Chair! Why do you take so many liberties?

Mr. Angwenyi: Mr. Speaker, Sir---

Mr. Speaker: This is disorderly conduct and I order that you leave the Chamber under Standing Order No.88! You must respect the Chair at all times. You are now a stranger and you should move out of the Chamber!

Mr. Angwenyi: But an hon. Member asked me a question directly!

Mr. Speaker: Order! Mr. Angwenyi, I will order your forceful removal if you do not move out!

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

Mr. Speaker: Order! Will you leave now? Mr. Serjeant-At-Arms, remove him by force!

(Mr. Angwenyi withdrew from the Chamber)

Order, hon. Members! This kind of behaviour in the House is really terrible. Whether an hon. Member has been asked about female genital mutilation--- I was not even there when he talked about it, neither do I know anything about it. The only thing I know is that we have to keep order. We cannot have an hon. Member standing while Mr. Speaker is on his feet, neither can we turn a Question into a debate. There must be some order. Please, do not ask hon. Members, who are not Ministers questions.

Is there any other hon. Member who is interested in this Question?

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. Now that you have ordered the hon. Questioner out of the House, could you, please, defer the Question to tomorrow, so that he can ask supplementary questions?

Mr. Speaker: You cannot benefit from disorder. You must actually suffer for it.

Dr. Ochuodho: Mr. Speaker, Sir, in replying to the Question by Mr. Angwenyi, the Assistant Minister talked about a case where people can organise themselves, get gloves and other first aid materials. Could he tell the House whether the Government has made arrangements for dealing with emergencies?

I ask this question because sometime last year when I had a Harambee in my constituency and the police violently broke it up, I remember one of my aides being badly injured and had blood all over his body. I debated whether to give him first aid or not because I could not get gloves.

Mr. Speaker, Sir, in such cases, where there are emergencies, for example, road accidents, has the Government made any arrangements for dealing with emergencies? Are there any arrangements to deal with such emergencies so that people are protected from contracting HIV/AIDS?

Dr. B. Galgalo: Mr. Speaker, Sir, we are in the process of establishing response units to disasters in all our health facilities. This was necessitated by the calamity which befell our country in 1998. Following that calamity, we have been working out modalities to establish units in our hospitals that can respond to disasters quickly.

Mr. Imanyara: Mr. Speaker, Sir, could the Assistant Minister also consider, as part of these plans, ensuring that public service vehicles' emergency kits are equipped with gloves? This should be done in all matatus, buses and other public transport vehicles, so that in the event of an accident, such as the one we saw along Thika Road, the gloves can be used by the passers-by and people willing to assist the accident victims.

Could he, in liaison with Ministers in other relevant Ministries, ensure that the Traffic Act is amended so that emergency kits in public service vehicles contain gloves?

Dr. B. Galgalo: Mr. Speaker, Sir, that is a very reasonable line of argument and we will consider it.

WITHHOLDING OF HARAMBEE FUNDS BY
NAIROBI CITY COUNCIL

Mr. Muchiri: Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Why did the Nairobi City Council, on 13th October, 2001, fail to remit Kshs2,500,000 to a Harambee in which parents of Kasarani Primary Schools donated Kshs6,385,000, as previously done to other schools during such Harambees?

(b) When will the Nairobi City Council release Kshs2,500,000 to the 25 primary schools of Kasarani, Nairobi, Kshs100,000 each, and an additional Kshs1,300,000, which the Minister promised in this House was to be paid to Korogocho Primary School in the year 2000?

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, I beg to reply.

(a) Although it has been a practice by the Nairobi City Council to contribute to Harambee functions organised at constituency level for development of council primary schools, it is not a must that the council should contribute. Such contributions are made when the organisers of these Harambees have held prior consultations with the council, and subject to availability of funds in the budget. In this case, no prior consultations had been made. Even if they had been made, the council did not have any funds in the budget and could not have made any commitment.

(a) Arising from my answer to part "a" of the Question, the issue of releasing a sum of Kshs2,500,000 to 25 primary schools in Kasarani Constituency does not arise. However, Kshs1,399,880 which was promised last year by the City Council, for the repair of Korogocho Primary School, is in the process of being factored in the

supplementary budget for 2001/2002 Financial Year, and will be paid in February, 2002.

Mr. Muchiri: Mr. Speaker, Sir, the Assistant Minister is misleading this House. There were arrangements and consultations made that a Harambee was to be conducted to raise funds for schools in my constituency. I have got two written replies to my Question, and one is confirming that during every Harambee conducted for primary schools in the Nairobi City Council, Kshs100,000 should go to each school. The Nairobi City Council has now left the burden of constructing schools to the parents. The parents are footing water and telephone bills and even buying toilet papers. Parents have also been made to pay labourers and watchmen. The KANU Government has been promising Kenyans free primary education for many years and that is even stipulated in the KANU Manifesto. Is the Government now abdicating its responsibility after promising Kenyans that it will provide free primary education? Now, have the parents been left with the burden of meeting the cost of running primary schools? If the City Council has decided to leave the parents to run primary schools in the City, could those sign posts and teachers be removed from those schools so that parents can be free to run those schools?

Mr. Sirma: Mr. Speaker, Sir, the Nairobi City Council is not in the process of removing teachers from City Council schools. Teachers will continue to serve in those schools. It is Government policy that education is offered to all Kenyans. The hon. Member should realise that the Nairobi City Council has financial constraints and if anything is not factored in the Budget, the City Council cannot provide it.

Mr. Mwenje: Mr. Speaker, Sir, the amount referred to by Mr. Muchiri is actually in the records of Nairobi City Council. So, this is something that was discussed, agreed upon and even signed by the Minister. It was not a favour done to parents because it was pursuant to a resolution that was passed. The Nairobi City Council has never ever had a budget! So, the Assistant Minister is referring to a budget which is non-existent! There has never been any budget and there is none even during this financial year.

Mr. Speaker, Sir, could the Assistant Minister tell this House why the money is no longer being taken to schools after Harambees have been held to foot all those expenses which Mr. Muchiri has mentioned? The Assistant Minister cannot hide under budgets and

Cresolutions! There are some schools, like Ushirika Primary School, where Kshs4 million was raised and that was indicated in the Minute Book. Why are they delaying to submit this amount of money to that school?

Mr. Sirma: Mr. Speaker, Sir, I would like to deny that the City Council has no budget because it is operational. The Council is preparing its own budget to meet its financial obligations. Resolutions could be made, but if there are no funds to implement those resolutions, there is nothing that can be done. For sure, resolutions could have been made after the budget had been prepared, but there was no provision for that.

Mr. Mwenje: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Sorry, that marks the end of Question Time! Mr. Muchiri, could you ask your last question?

Mr. Muchiri: Mr. Speaker, Sir, with regard to this amount of Kshs1,399,000 mentioned in the Assistant Minister's reply, is he aware that this Question was asked in this House last year and he promised to bring a cheque to me, but up to now the cheque has not been forthcoming? According to the Assistant Minister's reply, the amount will be paid in February next year. I agree that the Nairobi City Council has no money, but could the Assistant Minister tell this House the Council's allocation for Nairobi primary schools' education for this year? Could he table the list before this House?

Mr. Sirma: Mr. Speaker, Sir, that is a totally different Question, and I will table the budget once asked a specific Question.

Mr. Speaker: Very well. That marks the end of Question Time.

Next Order!

POINTS OF ORDER

KILLINGS IN KIBERA SLUMS

Mrs. Mugo: On a point of order, Mr. Speaker, Sir. I rise under the provisions of Standing Order 20 to seek a Motion of Adjournment of the House in order to discuss a matter of grave national importance.

Mr. Speaker, Sir, last week the Minister was asked to give a Ministerial Statement on what was happening in Kibera slums. At that time, there were only skirmishes. Since last night 11.00 p.m., more than 13 people have died and the fighting is still going on. We cannot sit in this House and pretend to be doing much more urgent work when people are dying in Kibera slums. Could we, please, be allowed to discuss this matter since Nairobi is going to be on fire? Kibera Road is a "no-go zone" and as I speak now, fighting is going on there.

We want to know whether land clashes are being brought to Nairobi prior to the 2002 general elections because it seems the statements that the President and the Minister for Energy, who is the Member of Parliament for that area, issued have escalated the situation and it is spilling over to Dagoretti. My people are dying and we are very much concerned.

An hon. Member: Move that Motion now!

Mrs. Mugo: I beg to move that we discuss this matter.

Mr. Speaker: Order! You do not have any Motion to move; do you? This House does not operate in a *kienyeji* way!

Mrs. Mugo: Mr. Speaker, Sir, I am seeking leave to do that!

Mr. Speaker: Order! Order! Hon. Members must have the integrity to approach the Speaker. If you want to come to the Speaker to seek a Ministerial Statement, do so. But if you wanted to move a Motion like that, you know the provisions of Standing Order 20. You should have given it to me, in writing, two hours before 2.30 p.m.

Mrs. Mugo: Mr. Speaker, Sir, the situation has deteriorated this afternoon!

Mr. Speaker: Order! Order! Mrs. Mugo, you will follow the others! So, you just ask for a Ministerial Statement and I will give you an opportunity to do so. Do you want to ask for it?

Mrs. Mugo: On a point of order, Mr. Speaker, Sir. There was no time to put it to you in writing because the killings are going on now! The situation has just turned out to be worse.

Mr. Speaker: Order! Order, Mrs. Mugo! Please, Mrs. Mugo, you have to respect the law. If that is what the law says, it is your business to respect the law.

Mr. Samoei, would you like to respond to that?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, indeed, I did issue a Ministerial Statement last week, on the status of security in Kibera. I did give some details on what was happening then.

Last night, indeed, as Mrs. Mugo has said, the situation deteriorated. However, we have taken enough security measures now.

Hon. Members: Aaah! Aaah!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, as opposed to the statements that have been given by Mrs. Mugo, there was one person who was killed last night, as a result of the skirmishes that took place at 11.00 p.m. last night. Ten people were injured and taken to hospital, but they have since been discharged. As I speak here today, three people were killed by 11.00 a.m. and one person died on his way to hospital. In total, four people have died today, as I speak to this House now. As a result of the deterioration of the situation in Kibera, I have called in the General Service Unit (GSU) and other personnel from other police divisions of Nairobi. I would like to assure this House that we have enough security personnel in Kibera now to contain the situation, which I do admit is of great concern to this House and the Government. As I speak now, we have enough people on the ground to make sure that there is adequate security for the people who live in Kibera and other parts of this City.

The Government is also addressing the greater issue of land ownership, payment of rent and tenants. I said, in my Ministerial Statement, that the problem of land ownership in Kibera is one that has been with us for 30 years. The Commissioner of Lands, in conjunction with the Provincial Administration, are in the process of regularising land ownership in Kibera so that Government land, which is owned by persons in Kibera is legally allocated to them and title deeds issued so that they can own it legally and do whatever they want to do within the confines of the law. That is what we are doing.

As of last week, we had made very good progress with the committee of landlords and tenants. I said here last week that gangs of hooligans took advantage of the misunderstanding that arose after the requests which were presented at a meeting which was held there. We are addressing that issue as well. There is a meeting of representatives of landlords and tenants which is scheduled for tomorrow. The Provincial Commissioner (PC) and the Provincial Police Officer (PPO), Nairobi, as I speak to this House, are in Kibera to make sure that, that situation is brought under control.

Mrs. Mugo: Mr. Speaker, Sir, I appreciate the Statement the Assistant Minister has made. But if he has been following the issue, he would realise that the problem resulted from what the President said in Kibera and people interpreted it to mean "not to pay rent". It does not matter how many policemen he takes there, the problem will not be solved. These officers will just kill more people. In fact, taking the GSU to Kibera aggravates the matter. The people of Kibera have said that it is only the President who can tell them to stop fighting. Could the President of this country, since he is the one who started the problem, address it now? Could he also avert any

further killing by telling people to pay rent because this is private investment?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, I think it is very irresponsible for the hon. Member to say that the President started this problem.

Hon. Members: Yes, he started the problem!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, the President merely responded to the requests which were made to him in public with respect to land ownership, which is a genuine problem in Kibera. Secondly, the President responded to the issues which were raised concerning tenants and payment of rent. The President did not make any ruling, but he instructed the PC, Nairobi, to look into the issues. I would like to inform this House that there was a Tenants Committee or Landlords Committee in place and it was not created by the Government. In fact, there were negotiations between representatives of tenants and those of landlords and there was a temporary agreement, which the Government had nothing to do with. In response, the PC, Nairobi, held several meetings in Kibera with the representatives of both parties. That is the situation. The issue of rent is basically a private matter between the owners and the tenants.

Mr. Mwenje: Thank you, Mr. Speaker, Sir. While I may agree a bit with what the Assistant Minister has said, a certain Minister or certain Members of Parliament, have already gone out and said that those tenants should not pay rent, and if they have to pay, they should only pay 50 per cent of what was being paid before. This is incitement. Why is the Office of the President or the security of this country--- The Assistant Minister has said that the PC, Nairobi, is in Kibera now, but I would like to inform this House that he is airborne in a helicopter and not on the ground. I was just with him. I would like to point out that the PC, Nairobi, is there with the PPO watching what is happening on the ground from the helicopter.

(Laughter)

We know what is happening on the ground. Could the Assistant Minister ensure that those people who are issuing inflammatory statements, and in particular, the Member of Parliament for that area, do not continue to tell people that they will only pay 50 per cent of rent when already, negotiations between the tenants and the landlords are going on? How can he make a judgement even before negotiations are over? The people who were killed last night were Nubians who went to demand for rent. The man who had---

Mr. Speaker: Order! What do you want? This is not debating time!

Mr. Mwenje: Mr. Speaker, Sir, could the Government take action against the people who are inciting Kibera residents like, Mr. Kajwang and Mr. Raila? Could the Assistant Minister make sure that anybody who is inciting the residents of that area is arrested and charged in court?

Mr. Achola: Thank you very much, Mr. Speaker, Sir. The Chair will remember that last week I rose on a point of order in this House and talked about the problems that arose in Kibera at that particular time. Mr. Mwenje and his group issued statements in Parliament that have now resulted in what is happening in Kibera today. Mr. Mwenje owns 100 units and that is the reason why he does not want rent to be reduced. This is the problem that we have!

(Applause)

Mr. Mwenje: He is lying!

Mr. Speaker: Order! Order, Mr. Mwenje! Are we addressing the problem of Kenyans or do we want to--- I do not want you to worsen the problem because that is what you are doing. You are aggravating the problem even from the Floor of the House. I think, as leaders, we owe it to Kenyans to measure every word we utter, particularly when it can lead to the death of fellow Kenyans. I would like every hon. Member who is here to be responsible or to make sure that we do not use the Floor of this House or, indeed, anywhere else, to cause death and suffering of Kenyans. I plead with all of you that this is a grave matter. If you must speak on this issue, speak in such a manner that you will help to get a solution and not to aggravate the problem. There is no heroism in causing death of Kenyans!

Mr. Sungu: Mr. Speaker, Sir---

Mr. Achola: Mr. Speaker, Sir, I had not finished what I was saying!

Mr. Speaker: Order, Mr. Achola! Mr. Achola, if the Chair is satisfied that your utterances are not in the best interest of tranquillity, then it is at liberty to take away the microphone from you!

Mr. Achola: Mr. Speaker, Sir, I had not finished---

Mr. Speaker: Order!

Proceed, Mr. Sungu!

Mr. Sungu: Thank you, Mr. Speaker, Sir. This is a very sad situation. Yesterday I was in Kibera and we met with the residents of the area. We were there to reconcile the residents of Kibera and left on a reconciliatory note. What is actually happening in Kibera is that thugs have been imported from as far as Embakasi to go and kill people in Kibera. Last night, three lorry-loads of *Mungiki* sect members went---

Mr. Mwenje: Mr. Speaker, Sir, I cannot---

Mr. Speaker: Order! One thing I can promise is that there will not be a war here!. So, anybody behaving in a war-like manner will be sent out of the Chamber!

Proceed, Mr. Sungu!

Mr. Sungu: Mr. Speaker, Sir, in your wisdom, you have stated that you do not want us to create chaos in Kenya and that leaders must be responsible---

Mr. Kathangu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Mr. Kathangu, the hon. Member is on a point of order and he is equal to you in rank as an hon. Member!

Proceed, Mr. Sungu.

Mr. Sungu: Mr. Speaker, Sir, in your wisdom, you have stated that we need to work together to bring peace in Kenya. It serves no purpose when some hon. Members go to another hon. Member's constituency to incite people. The problem in the Kibera Slum is between the tenants and the sub-tenants *vis-a-vis* the Government. It is not between hon. Members. Bad politics has been imported to the Kibera Slum for purposes of reducing some hon. Members' popularity, but this is [**Mr. Sungu**] not acceptable. Therefore, I would like to request the Minister in charge of internal security to ensure that he prevents some hon. Members from going to this constituency to provoke violence.

An hon. Member: Including you!

Mr. Speaker: Very well. I will give one or two hon. Members chances to seek clarifications. I will then ask the Assistant Minister to respond and I hope that will solve the matter.

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

Order! Everybody here must keep cool. That is by order!

Mr. Keriri: Mr. Speaker, Sir, this is a very serious matter. The land issue and lack of title deeds has been with us for a long time. It was there even before this crisis flared up. The President may have made the statement in good faith; to try and respond to requests made to him. That we agree. What hon. Members want to know is that since the statement by the President may have been misinterpreted to mean an order by some people; is it possible for the Assistant Minister to try and get His Excellency the President to clarify the statement and say that he did not ask the people of Kibera to refuse to pay rent? That will save the situation so much and we will get somewhere. We should not just defend an issue before we understand what happened on the ground.

Mr. Anyona: Mr. Speaker, Sir, last week, you rightly insisted that, given the gravity of the situation in Kibera Slum, the Minister should make a statement very early in the House. The intention was to try and cool down the temperature. The Assistant Minister, indeed, did make a statement here and we did seek clarifications. It appeared as if things were coming back to normal. However, that does not seem to be the case. Statements have been made all over the place, including the precincts of Parliament, and now on the Floor of the House. As you rightly said, the interest of this House is to require that where things have deteriorated, like the Assistant Minister said, the Government takes full and firm control of the situation. We do not leave it to the PC or hon. Mwenje! The Government of this Republic should take full control in collaboration with the hon. Member of Parliament of the area, because there is no way you can divorce him from the constituency. The Government must be responsible to this Parliament and the Republic, by bringing the crisis in Kibera under control. The first thing is to bring it under control and then sort out the problems. Could the Government bring this situation under control, so that tomorrow we do not hear of another flare-up? Could the Assistant Minister assure this House that they will do it just that way and not allow anybody else to take charge of the situation? We will either praise or blame the Government for the crisis and then pass the buck. So, please, could we be assured?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, indeed, the Government has taken full and firm control of this issue as requested by the hon. Members. We have taken full and firm control of the situation in Kibera Slum. That is why I assure this House that the situation is under control. Every member of our Kenyan society, man or woman, will be held responsible for their utterances. I can

also assure this House of that.

Mr. Speaker: Very well. Yes, Mr. Mwiraria!

INSECURITY IN NORTH IMENTI CONSTITUENCY

Mr. Mwiraria: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President in charge of internal security regarding the security situation in North Imenti, in general, and Meru Municipality and its environs, in particular. To say the least, North Imenti and Meru Municipality and its environs, are now under the control of thugs and robbers. Yesterday, for example, a petrol station manager from Nkubu Petrol Station was robbed of his money as he was taking it to Barclays Bank in Meru. Yesterday evening, Caltex, Mobil and Shell petrol stations were robbed in Meru. A bar was also robbed. The headmaster of Harmony Primary School was shot and wounded. He is in hospital. Another teacher from Meru Technical College was also shot and wounded. He is in hospital. That is in the course of one day. During the whole month of November, there have been so many robberies. I cannot enumerate them, but I know that more than 15 people have been killed in Meru and its environs. So, I would like to know what the Minister is doing to restore security.

I would like also to seek another Ministerial Statement from the Attorney-General because the problem of Meru has come about during the last month, when more than 50 hard-core criminals - people who have been sentenced to death or jail for seven to 15 years - were released on appeal under very dubious circumstances by the Resident Judge and State Counsel. I would really like to know what is happening in the Judicial system because it is those released hard-core criminals who are now terrorising citizens of Meru.

BRUTAL MURDER OF MS. MUKANYIKA

Mr. Mwakiringo: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President as to the brutal killing of Ms. Elizabeth Mukanyika at Voi Police Station on [Mr. Mwakiringo]

Saturday. She died after brutal beatings by the policemen at the reception in front of her relatives who had escorted her there. The police officers chased away her relatives saying that the lady was pretending that she had collapsed. Seven hours later, the same police officers went back to those relatives and told them that the lady committed suicide. We have witnesses to this crime. That lady died and her body is now in Voi Hospital. What action will the Minister take against those officers at Voi Police Station?

RE-INTRODUCTION OF LEVIES IN PRIMARY SCHOOLS

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Ministry of Health with regard to school fees. Before I did that, I had talked to the Assistant Minister who assured me, and informed this House that he would give that statement today. Now, I am not seeing any signs from the Front Bench that they are prepared to give the Ministerial Statement despite the assurance they gave to this House. May I seek your guidance?

Mr. Speaker: Well, there is really nothing I can do. It is not the Ministry of Health; it must be the Ministry of Education, Science and Technology!

The Minister for Public Health (Prof. Ongeru): Thank you, very much, Mr. Speaker, Sir. I am in charge of the Public Health, and as far as I can remember, there are no fees that we are charging.

Mr. Speaker: Order! Order! I am sure it was a slip of the tongue. It must be the Ministry of Education, Science and Technology.

Mr. Imanyara: I am sorry, Mr. Speaker, Sir. I meant the Ministry of Education, Science and Technology.

Mr. Speaker: There is really nothing I can do if the Minister for Education is not here!

Hon. Members: He is here!

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I was informed that the Minister would issue the statement, but it appears he is late. The statement will be issued tomorrow.

Mr. Speaker: Very well! Mr. Samoei, would you like to respond to what has been raised today or you want to be given more time?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, I will respond to both the issues sometime next week.

Hon. Members: When?

Mr. Speaker: Order, Mr. Samoei! You will respond on Thursday!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, Thursday would still be okay.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. With regard to the issue raised by Mr. Mwiraria, you will recall that the Minister assured Mr. Murungi that he would give the Ministerial Statement today. Mr. Murungi raised the same issue Mr. Mwiraria is raising, and I recall that I was on the Chair at that time. The Minister said that he would issue the statement today. Why is it that he is not giving it today?

Mr. Speaker: Well, I have ordered that it be given tomorrow!

MINISTERIAL STATEMENT

WATER BILLING BY THE NCC

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, last week, Mr. Anyona requested for a Ministerial Statement from my Ministry on the state of the water billing by the Nairobi City Council. Mr. Anyona asserted that the City Council has been billing its residents for water they have not consumed. He also stated that the water bills generated by the Council are generally incorrect and exaggerated. As proof of this assertion, Mr. Anyona laid on the Table his personal water bill for the month of December, 2000.

Before I comment on the general state of the water billing in the Nairobi City Council, let me first deal with the specific case of Mr. Anyona. Following the complaint by Mr. Anyona about his water bill, I directed the Nairobi City Council to obtain the latest reading from his water meter, analyse it and brief me accordingly. The meter at Madaraka Estate Flats was read on 3rd December, 2001. The current reading shows that the account has an unpaid bill of Kshs42,190.80. I hereby lay the Bill on the Table.

(Mr. Sirma laid the document on the Table)

Mr. Speaker, Sir, contrary to Mr. Anyona's allegation, that his water bill was exaggerated, the bill he tabled in this House was not for one month's consumption, but an accumulation of unpaid bills dating back to several years. As at July 1998, the outstanding account stood at Kshs22,289.55. The hon. Member has not been paying his water bills, hence this accumulation to the current level. This account is now long overdue and the Nairobi City Council has indicated that it is now due for disconnection any time, unless the full payment is settled.

Mr. Speaker, Sir, I would like now to turn to the current general state of water billing in the [**The Assistant Minister for Local Government**]

Nairobi City Council. It is true that the Nairobi City Council is facing serious problems in the management of its water resources. One of the major problems is lack of modern equipment, to process water billing.

For some years now, the Nairobi City Council has been using old equipment which is now obsolete, resulting in the production of inaccurate bills. In addition, there are also---

Mr. Speaker: Order, Mr. Sirma! Are you becoming personal on Mr. Anyona?

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, I am through with Mr. Anyona's issue.

Mr. Speaker: Whether you have finished or not, the question from me is: Are you going personal on him?

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, Mr. Anyona laid his bill on the Table as an exhibit of the exaggerated water bill. I have no option but to refer to his water bill.

Mr. Speaker: Okay! Well, I hope he will not complain.

The Assistant Minister for Local Government (Mr. Sirma): Mr. Speaker, Sir, in addition, there are also inordinate delays in meter reading and, as a result, the Nairobi City Council relies on estimated charges which leads to disputes with consumers. In order to address this problem, the Government, with financial assistance from the World Bank, commissioned a study in private sector participation in the management of water resources in Nairobi City. The main focus of the study is to see how best the private sector can be encouraged to invest in water management in order to make it more commercially-oriented, efficient and cost-effective. The report is in its final stages of finalization. Once it is submitted to the Government and studied, it is hoped that its implementation will commence early next year.

It is the intention of my Ministry to ensure that the current problems facing the City residents, in so far as water services are concerned, are sorted out conclusively, in the near future.

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Musila) took the Chair]*

THE FINANCE BILL

Clause 2

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 2 be amended in the manner indicated in the Order Paper.

The Temporary Deputy Chairman (Mr. Musila): I would like to draw the attention of hon. Members to the Order Paper. The proposed amendment is on page 650. I would like to ask the Minister to read Clause 2, so that we can be together. It is not long. Could the Minister read the proposed amendment?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 2 be amended in subclause (a) by inserting the following new definition immediately after the definition of "price actually paid or payable" - "point of sale" in respect of excisable goods manufactured in Kenya means the point of delivery of goods from the excise stockroom of a licensee.

(Question of the amendment proposed)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I think the Minister needs to tell us more than what he has just said. First, we have just been ambushed with this amendment. We have had the Finance Bill for a long time, and the amendment was published just yesterday. Secondly, if the Minister is serious that he would like us to help him in this amendment, he must explain to us the purpose of the amendment. Why does he want to amend? Then, he must show us the mistake that he would like to cure with the amendment. He cannot just come and read an amendment to us and sit down!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I was merely responding to the request made by the Chair. First of all, I appreciate the Member's sentiment, that sufficient notice of the amendment has not been given. But I would like to request Members to participate fully, so that we can find solutions by way of assisting one another to understand whatever is not very clear at the beginning.

The intention of Clause 2 is merely to define the issue of "point of sale". That has created problems in terms of interpretation. We are merely saying that a definition is needed, so that we could know the actual price taken in terms of computing duty payable. So, the new provision will clarify the whole issue in terms of stating what proceeds will be considered for purposes of computing duty payable. We hope that will clarify the issue and avoid the question of litigations and complaints.

Eng. Toro: Mr. Temporary Deputy Chairman, Sir, mine is just a point of clarification because I have an amendment to Clause 2. Does the amendment wait until the very end?

The Temporary Deputy Chairman (Mr. Musila): We will dispose of the Minister's amendment first and then, if you have one, we shall deal with it.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have received notice of another

amendment to Clause 2 by Eng. Toro. It is found on page (663)(KK) on the Order Paper.

Proceed, Eng. Toro.

Eng. Toro: Mr. Temporary Deputy Chairman, Sir, I beg to move the following amendment:- THAT, Clause 2 be amended by inserting the following New Subclause immediately after Subclause (b) -

(c) by deleting the proviso to paragraph (1)(i) of subsection (2) and substituting therefor the following new proviso -

"provided that where the vehicle (excluding a motor cycle) has been used for a period exceeding ten years, additional duty shall be 20 per centum or Kshs30,000, whichever is higher".

I am moving this amendment because second-hand vehicles have become too expensive for Kenyans to afford. The Finance Bill, 2000 reads:-

"Provided that where the vehicle (excluding a motor cycle) has been used for a period exceeding five years, but not exceeding eight years, the additional duty shall be 20 per centum or Kshs30,000, whichever is higher, except for load-carrying vehicles of a carrying capacity exceeding five metric tonnes and buses of carrying capacity exceeding 25 passengers, in respect of which the additional duty shall be 20 per centum or Kshs100,000, whichever is higher".

Mr. Temporary Deputy Chairman, Sir, all that I am doing is to raise the number of years from eight to ten. The anti-dumping duty of Kshs60,000 is too heavy for Kenyans. I propose that it remains at 20 per cent or Kshs30,000, whichever is higher. That way, Kenyans will be able to afford second-hand vehicles.

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I would like to support the amendment proposed by Eng. Toro for the reason that, all too often, when the Budget and Finance Bill are being prepared, the people who have got the muscle to go lobbying are those in big businesses. Those are the ones who are able to invite Ministers to cocktail parties and boardrooms to lobby their interests. But the small people in this country called "wananchi wa kawaida" do not have a lobby. They do not have anybody to speak for them. So, the amendment, to the extent that it is going to lower the duty payable and enable those who are financially less fortunate than other Kenyans to buy second-hand cars, should really be supported. Those are the people that we see in Nairobi West and other areas buying second-hand motor vehicles. So, I support the amendment in order to help those members of our society who are less fortunate than we are.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I rise to oppose this amendment. In opposing the amendment, I would like to focus the mind of the hon. Member on what this amendment will do. If this amendment is allowed to go through, it will undermine our industry and create untold problems to ordinary wananchi who buy vehicles without any guarantee of getting spares. The second-hand items that we buy do not have an after-service provision. So, in order to encourage our indigenous industry, it is important that we do not transfer that ability to produce to other countries.

With these remarks, I beg to oppose.

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

The Temporary Deputy Chairman (Mr. Musila): Order, Eng. Toro! Just allow the hon. Member to make his contribution. If you have anything, you ask. If you want to contribute, I will give you a chance to do so. You do not just interrupt if you want to say something. I gave you a chance to say whatever you wanted to say.

Mr. Wamae!

Mr. Wamae: Mr. Temporary Deputy Chairman, Sir, I rise to support the amendment by hon. Toro. I would like to inform the hon. Minister that there are no companies assembling vehicles in this country right now. So, I think the amendment brought by Eng. Toro is justified.

With those remarks, I beg to support.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I appreciate the concerns expressed by Eng. Toro in terms of assisting the ordinary people of this country to acquire vehicles. But it is the same wananchi whom we must protect by ensuring that whatever is imported here is serviceable, and gives them service for a longer period. We are not going to accept a situation where we allow ourselves to become a dumping ground for all manner of vehicles which have been rejected elsewhere. In addition, I think this measure will have implications on our Budget. I cannot find an alternative if this amendment sails through.

With those remarks, I oppose the amendment.

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, the import of this amendment which Ministers are rejecting is that in a month's time, no Kenyan can import a car which is older than 1994. The condition of eight-year-old vehicles in overseas countries is equivalent sometimes, to one or two-year-old vehicles in Kenya because of the state of the roads. The criteria used by Minister for Finance is not justifiable. Could some of these Ministers declare their interest in the local motor industry which they are trying to protect?

The Temporary Deputy Chairman (Mr. Murathe): Order, Mr. Murathe! You made your contribution and even sat down. You did not even catch my eye!

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

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Achola! I think I have given sufficient time to the discussion on that clause.

Mr. Achola: But I have got something to say with regard to this clause!

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Achola! You can plead with me but you do not have to throw up your hands!

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 2 as amended agreed to)

Clauses 3-10

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, you will notice that clauses 4 to 10, which have just been read out deal with certain fines. Either a very active or a very lazy officer in the Ministry of Finance and Planning multiplied all the fines by three. If you look at Clause 4, the fine has been raised from Kshs20,000 to Kshs60,000; under Clause 5, the fine has been raised from Kshs200,000 to Kshs600,000; under Clause 6 the fine has been raised from Kshs100,000 to Kshs300,000 and from Kshs5,000 to Kshs15,000; under Clause 7, the fine has been raised from Kshs40,000 to Kshs120,000; under Clause 8, the fine has been raised from Kshs20,000 to Kshs60,000; under Clause 9, the fine has been raised from Kshs10,000 to Kshs30,000 and under Clause 10, the fine has been raised from Kshs500,000 to Kshs1.5 million.

Mr. Temporary Deputy Chairman, Sir, there is some mischief here which the Minister for Finance wanted to apprehend. What is it that he wants to cure? Fines are usually increased if people continue to commit the same offences repeatedly, and the Government wants to give higher penalties to discourage people from committing certain offences. But officers in the Treasury should not just multiply all fines by three because they are lazy! They should explain to us why this is the case. This is a terrible mischief!

I, therefore, oppose all the suggestions put forward by the Minister for Finance especially from Clauses 5 to 10. This will give the Minister an opportunity to come and explain to us, next year, why they would want to increase these penalties. The consequence of increasing those penalties is that when the fine is too high, one is usually tempted to bribe---

The Temporary Deputy Chairman (Mr. Musila): Mr. Kajwang, when dealing with these clauses, we have got to be specific. You must specify the clause you are opposing.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I do not know how to deal with these clauses because you have proposed all of them at the same time and I am opposing all of them together.

Mr. Temporary Deputy Chairman, Sir, I especially disagree with the amendment to Clause 4 which raises the fine from Kshs20,000 to Kshs60,000 without any justification. I suspect that this will increase incidences of bribery other than of compliance.

The Temporary Deputy Chairman (Mr. Musila): You are justified to talk in general terms because, as you rightly said, I also proposed all of them together.

Mr. Donde: Mr. Temporary Deputy Chairman, Sir, I would like to concur with hon. Kajwang. If we allow these amendments, we will be creating conditions that will harm the functioning of the Port of Mombasa and all the other ports in the country. The intention of the Treasury and those people who are working at the ports is to increase the penalties so that they can increase the level of bribes. We have looked at this thing and tried to

deduce the purpose of increasing these penalties three-fold. It appears that those who came up with these fines did not think properly. I urge the Minister to take back these amendments and bring them back to the House next year when they will have made up their minds to change. By so doing, we shall be able to discuss them exhaustively.

With those remarks, I oppose these amendments.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, in order to enable me to know whether to support these amendments or oppose them, I would like the Minister for Finance, when he comes to respond, to explain why it has become necessary to raise these fines. Have they seen that in the majority of cases, people are flouting these rules because the fines are too low and they are able to pay and continue flouting the law or why is it that they are increasing these fines? Is it the case that the Government merely sees this as another opportunity to raise funds for itself? What are the reasons for these amendments?

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I concur with the sentiments expressed by Mr. Kajwang, that penalties are meant to be corrective and not punitive. The bulk of the uncollected taxes, especially in the Revenue Department, is not tax, but penalties. If we want to penalise tax evaders, they may evade the proper channels and strike out other deals. I would agree that we need to study this issue and let the penalties remain as they were until the House and Kenyans are convinced that they should be increased.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, this has been brought in good faith and it is in the light of the experience over the period. The fines have been imposed, not as a source of raising revenue for the Government, but to enable us enforce compliance with the Act. Experience has shown that people find it easy to commit an offence, when they know that the fine is relatively low and they can afford. So, the objective has been to raise this fine to make it a deterrent so that we can also enforce compliance. I want to assure hon. Members that this has been done in good faith and we hope that, through this, we can ensure compliance with the Act.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, first, I will dispose of Clause 3 which has nothing to do with fines and I will put the Question, clause by clause, for Clauses 4 to 10.

(Clause 3 agreed to)

(Clauses 4, 5, 6, 7, 8, 9 and 10 negatived)

Clauses 11-20

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, if you look at Clauses 11 to 20, which have been proposed, the same thing has happened. The Minister has multiplied all fines by three. In Clause 11, the fine has been raised from Kshs100 to Kshs300; in Clause 12 from Kshs500,000 to Kshs1.5 million, Clause 13 from Kshs500,000 to Kshs1.5 million; Clause 14 from Kshs500,000 to Kshs1.5 million; Clause 15 from Kshs500,000 to Kshs1.5 million. Clause 16 from Kshs500,000 to Kshs1.5 million and Clause 17 from Kshs50,000 to Kshs150,000. This runs through all the amendments. Unless the Minister tells this House why he tripled these penalties, I think the House should reject these proposals.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, I want to support Mr. Kajwang in that the Minister has, as he says, multiplied these fines by three. But we know from experience that the Government hardly catches and fines anybody. So, there is no point putting them here because they will not be implemented. Therefore, we want to completely reject this proposal.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, the Minister could assist us, perhaps, if he was to argue that at the time the previous fine was imposed, the value of money at that time was at a certain level and he is merely bringing the higher amount to reflect the devaluation of the Kenya Shilling. If he did that, then we might think about it. But under the circumstances, there is no real basis for us to support this amendment.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I agree with the sentiments by Mr. Kajwang. We are not being told that when the existing penalties were in place, everybody was flouting the law with impunity, because they would pay the maximum penalties. After all, the penalties, as prescribed now, are the maximum. We have not been given any statistics to show that they have been flouted, because the penalties are so low that everybody does not give a damn about what is happening. Could we be told whether by proposing to triple the penalties, the Government hopes thereby to also be more effective, or is it merely a question of working on figures?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Chairman, Sir, as much as I want to agree with Mr. Kajwang, I think it will be grossly unfair for this House, at this Committee

Stage, just to expunge all the documents that have been presented by the Ministry of Finance and Planning on the basis that the fines were tripled. What is wrong with tripling the penalties? If they do not want to triple the penalties, we can multiply the figures by five, or another figure. I do not think it was merely tripling of the penalties, there must have been some serious considerations that were made by the Ministry of Finance and Planning. It is common knowledge that if we raise the penalties, it automatically deters those who want to engage in unlawful activities. I think it should be in the wisdom of this House to support these amendments, so that we deter fraudulent individuals, unless this House wants to encourage fraudulent activities.

I beg to oppose any amendments to that effect.

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Assistant Minister to insinuate that this House wants to encourage fraud? This is the Committee Stage, and we, as Members, are entitled to decide and vote. We are not a rubberstamp. Is it in order for him to insinuate that we are encouraging fraud? He must not take this House for granted.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Chairman, Sir, this particular Act by the Minister for Finance goes a long way to discourage fraud. Any activity to the contrary encourages fraud.

The Minister for Public Health (Prof. Ongeri): Mr. Temporary Deputy Chairman, Sir, I think we need to be very sober about this issue. I can borrow a leaf from the Public Health Act which stipulates certain fines. From what we have experienced, and this is what forced us to bring this under the Miscellaneous (Amendments) Bill to amend the category of fines and enhance them, people will commit an offence, go to court, be fined and go back to commit the same offence repeatedly. This was not taking us anywhere. It is time consuming and it costs money to apprehend them and take them to court.

Under such circumstances, it is only fair that a deterrent penalty is imposed because the regularity of such offences makes it ridiculous. Consequently, the offenders will commit the offence every now and then since they know that the fines are petty and affordable. They will pay the fines and go to commit a bigger crime than that. I think we should support the Minister for Finance on this approach.

Mr. Shitanda: Mr. Temporary Deputy Chairman, Sir, as much as I sympathise with the Minister for Finance, in proposing these fines, the problems in the Customs Department have got nothing to do with the courts or fines. The problem lies in the attitude of the staff in the Customs Department. Rather than proposing to increase fines, could the Minister explain how many offences have been committed by the offenders and how many have been taken to court? What statistics do you have to support these hefty fines you are trying to impose?

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, if this House has not trusted the Minister's performance when the fines are low, how then can this House trust his performance when the fines are raised? That is basically what we are saying.

Mr. Donde: Mr. Temporary Deputy Chairman, Sir, I heard the Minister very clearly and the reason he gave for increasing these fines three times is for purposes of revenue collection which is a decrease---

Hon. Members: No!

Mr. Donde: Yes! That is what he said! I think we ought to take this House very seriously. If there is an amendment to be done, the Minister must explain to this House properly because we have people out there to protect against abuses through fines. We are Members of Parliament and it is our right to protect those people who are fined arbitrarily without justification at all.

The Temporary Deputy Chairman (Mr. Musila): Mr. Donde, if I heard the Minister correctly, he referred to revenue when we were dealing with clause 2 which has nothing to do with this Clause.

Mr. Donde: I wish to withdraw my remarks.

The Temporary Deputy Chairman (Mr. Musila): Thank you.

Mr. Biwott!

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, what is important is to see this fine in relation to practice; that is how the business people have been conducting themselves. I think we are much more aware of this because we get involved in business all the time. Had I known that this issue would come up, I would have actually produced statistics of many cases of law-breaking and so on.

I think it is a matter of sheer common sense to know that if you are liable to be charged a bigger fine, you will think twice before you commit an offence. If one is to pay a Kshs10 fine then this will give that individual an incentive to continue committing the offence regardless of the law. The Minister has made it very clear that this is not a revenue issue, but a law enforcement requirement. Therefore, I think the hon. Members will just go by their own sheer sense of balance to see that it is actually necessary to allow the Minister to impose this fine so that there is order and businessmen conduct themselves properly when going about their

businesses as opposed to simply undermining the credibility of the Customs Officers who are doing wonderful job.

Mr. Ngure: Mr. Temporary Deputy Chairman, I do not agree with the Minister when he says that heavy fines will be a deterrent. Fines are never deterrents in this country and the heavier they are the bigger the bribe. We always see overloaded matatus passing through road blocks. What is a deterrent to them? They know very well that those policemen will take bribes. The Minister should be concerned with the integrity of the implementors and not imposing heavy fines.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I think there is considerable misunderstanding on this issue. We are saying that we should raise the level of the fines to a certain maximum. We are not saying that offenders will be necessarily fined that maximum amount. This will be at the discretion of the courts. We are simply raising the levels of the fine. There is no scientific basis as such for doing so. Our concern is that these offences are repeatedly committed because the fines are not sufficient to deter the commission of such offences. I want to give one illustration. We know that in this country we have a problem of certain people selling fake seed. This can have a disastrous effects on farmers. If you are found selling fake seed you are fined only Kshs2,000. So, when they pay the fine they continue doing the same thing.

This is our experience. I have looked at the statistics concerning this case and we are talking about people who are involved in very huge businesses. These are people who import plant and machinery and place them in warehouses. The next thing you know is that the man will divert these to Uganda or some other place. If that man is found doing that, the law insists that he gives an account of what he has done with that plant and machinery. If he does that once he is fined Kshs500,000. A person doing business at that level finds it very easy to pay Kshs500,000. If we raise this to a maximum of Kshs1 million or more, that person will think twice before he does that.

We are asking this House to understand that problem so that it can serve as a deterrent. I believe that it is the concern of the Members of this House to ensure that the laws that they pass in this House are enforced. If they are not enforced, then we are not helping in bringing order in this country.

I would like to urge hon. Members to understand the motive of this Bill. If there are weaknesses in my Ministry, we will handle them if they are brought to my attention. I think it is important to give this matter the gravity it deserves.

*(Clauses 11, 12, 13, 14, 15, 16,
17, 18, 19 and 20 negatived)*

Clauses 21-30

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, if you look at the amendments again proposed, it is the same story. If you look at Clauses 21 and 22, the word "forty" is being deleted and substituting therefor the words "one hundred and twenty". The same applies to Clauses 25 to 30, where the word "five hundred" is being deleted and substituting therefor the words "one million five hundred". It goes on and on. I need not talk much since this is not time for debate. I merely need to say that this is wrong, there is no basis for it and we reject it.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I think we are missing the point here. If only the Ministers could listen to me, we are missing the point. The Minister for Finance has tried to explain the matter. Although he probably did not have details with him, he did not think this House would come and oppose this matter. However, the point we are missing is this: Who are we protecting when we are opposing these fines? Are we protecting the "big fish" who are doing big business and running away with a lot of our revenue? Is that what we want to do in this House? We do not want to do it that way. I mean, we may all be right on this side, that we are opposing the Government, but I think we are making a mistake. We are reducing these fines to a level that these "big people" will find it very easy to pay if they can default in payment of tax. I think it is wrong! I think we are making a mistake. I think we should support the Minister in these amendments.

(Applause)

Mr. Khamasi: Mr. Temporary Deputy Chairman, Sir, I support what hon. Kajwang has proposed. What hon. Keriri is not telling us is how many of these "big fish" have even paid these small fines? How many of them have paid? None of them has ever been taken to court. So, I support hon. Kajwang's proposal.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, could you respond to that?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, everyday there are offenders under these sections of our laws who are taken to court but the fine is so low that it does not attract any attention from anybody. We sit in this House and complain about diversion of sugar into the local industry. We talk about "killing" the sugar industry. We are talking about our own industries and a lot of that is done through diversion. We are saying that offenders found doing so, for the sake of this economy, should be fined heavily in order to create the impact we need.

Mr. Sambu:
y (Inaudible).

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Sambu! If you want to say something, I will give you the Floor. Could we have some order please?

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. I would very much wish to support an amendment that is going to catch those who import sugar and sell it in the local market. Could the Minister show us the particular clause that is increasing the fine for the diversion of sugar so that we can support it?

The Temporary Deputy Chairman (Mr. Musila): But Mr. Muite, you know that that is not a point of order. You stood on a point of order and you just asked a question!

Mr. Muite: But he is misleading the House!

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Muite! Could the Minister continue?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am a little disappointed because hon. Members have come here with predetermined minds. However, if the hon. Member for Kikuyu cared to go through the amendments, he would find that in areas where we are proposing amendments to raise the fines, we are talking basically about measures that will stop people from committing offences under this law. I believe that we will enhance our capacity to raise revenues considerably if we raised the levels of our fines.

*(Clauses 21, 22, 23, 24, 25, 26,
27, 28, 29 and 30 negatived)*

(Clauses 31, 32 and 33 agreed to)

Clause 34

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 34 be amended in paragraph (b)-

(a) by deleting the proposed provision in sub-paragraph (ii) and substituting therefor the following new provision -

"Provided that duty may be remitted under this section -

(i) in respect of motor vehicles which are donated by any person for the official use of any public boy; and

(ii) where maize, wheat, sugar milk, edible vegetable fats and oils, rice, textiles, new and used clothing and footwear are imported during periods of civil strife, national calamity or disaster declared under any law for the time being in force, or where they are intended for use in officially recognised refugee camps in Kenya".

(b) by inserting the following new paragraphs immediately after paragraph (ii) -

(iii) by inserting the following new paragraphs immediately after paragraph (g) -

(h) goods including motor vehicles and aircraft imported or purchased by an person authorised to explore or licensed to exploit geothermal resources pursuant to the provisions of the Geothermal Resources Act, 1982, who has entered into a production-sharing contract with the Government of Kenya;

(i) materials, equipment and supplies imported or purchased by the Office of the President for use in the issuance of national identity cards.

The Temproray Deputy Chairman (Mr. Musila): Mr. Minister, could you please explain?

(Loud consultations)

Order, hon. Members! I think the Minister is entitled to some time to consult.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we did agree that---

(Loud consultations)

Mr. Temporary Deputy Chairman, Sir, I will need your protection.

The Temporary Deputy Chairman (Mr. Musila): Yes, you will have my protection. Hon. Members, please give the Minister time to explain!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, the object of these amendments is basically to allow donation of motor vehicles to public institutions in this country, particularly passenger motor vehicles with a carrying capacity of beyond 26 passengers, to be allowed in the country duty-free. I believe that this was a view expressed by very many Members of this House and those of the public that although we had given exemption to donations of motor vehicles with a passenger capacity of less than 26 passengers, it was argued that this should be extended to cover any type of passenger vehicle imported as a donation to the public. So, this is the intention of these amendments.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, have you finished?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I have finished. It is the same argument for part (b). There are donations which come to public institutions, including the Government, from organisations abroad. The measure that we are proposing is intended to facilitate exemptions on a 100 per cent basis.

(Question of the amendment proposed)

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, the only slight clarification that I needed to get from the Minister is: When we talk of public bodies, does it include churches? Are they included here?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, that aspect is covered separately.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, could the Minister tell the House how the Ministry will ensure that items imported under paragraph (b) remain within the units that have imported them? This is because we have had situations, as reported in the previous Public Accounts Committee Reports, of goods imported, like it is being suggested here, finding their way elsewhere. For example, under part (ii), it states:-

"goods, including motorvehicles and aircraft imported or purchased by any person authorised to explore or licensed to exploit geothermal resources---"

If these are private organisations, why should we be allowing them to import goods here free of taxation? Could the Minister explain that one?

The Temporary Deputy Chairman (Mr. Musila): Did you get that?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I think he is not dealing with the correct amendment.

The Temporary Deputy Chairman (Mr. Musila): It is on page 651, part (b). That is what he was reading out. It is on the next page. It is the same clause; Clause 34(b). So, he is in order.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, it is obvious. I think the proposed amendment does refer to the Geothermal Resources Act 1982, which is the saving statute. That is the guarantee; that, it has to be in accordance with that Act.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, he is trying to evade the issue. Could the Minister answer the question I asked? I asked very specifically why are we---

The Temporary Deputy Chairman (Mr. Musila): For the purposes of clarity, I would ask Mr. Achola to repeat his question so that he is satisfied with the answer that he gets. I will ask the Minister to respond.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, after reading what he had suggested under paragraph (b), he is saying that he wants to give exemptions to companies that might come here and want to get involved in geothermal survey. I am asking: Why are we giving that exemption? Otherwise, they will take these things and use them elsewhere.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, our Act already gives them that privilege. We want to say here that the part of the geothermal exploration is not covered, but hon. Members will remember that this facility has been extended to people doing exploration of oil, or similar exploration. We are extending this to people doing explorations on energy like the geothermal projects so that they

can enjoy similar facilities because we believe that this is important in terms of our exploring our resources for the future.

Mr. Sambu: Mr. Temporary Deputy Chairman, Sir, is the Minister in order to divert from answering the question by Mr. Achola? Regarding the people who carried out geothermal exploration, have they reduced what we pay for the electricity? Regarding the people who were doing oil exploration, how much crude oil is flowing now into our refinery from the Kenyan explorers who have been exploring oil in our country? Is he in order to mislead us? This is just a way of facilitating people to bring in heavy plants duty-free in the pretext of geothermal exploration and oil drilling.

The Temporary Deputy Chairman (Mr. Musila): Mr. Sambu, I will let you get out of it, but it was not a point of order. It was a good point which the Minister should not respond to.

Mr. Gitonga: Mr. Temporary Deputy Chairman, Sir, I think it is important that the Minister should clarify the point raised by Mr. Mwenje. We need to have a clear definition of what this "public body" means, whether it includes religious organisations.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, did you get Mr. Gitonga's question? I will let you answer them together with Mr. Sambu's question. Are you ready to answer the two because I do not want to overload you?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I want to say that I am not misleading this Committee. The intention is that we are granting these facilities to people doing exploration on oil because we want to give them encouragement to be able to do so in the hope that, at some point in the near future, they will be able to discover oil which will be good for us. We are saying that this facility should be extended to people doing geothermal exploration because the assignment that they are undertaking is equally important. We feel that there is no basis at all for discriminating against those people as opposed to those doing exploration of oil.

Mr. Temporary Deputy Chairman, Sir, on the question raised by Mr. Gitonga, I would like to say that, that provision covers donations to public institutions, ambulances to public institutions and so on; and food for charitable purposes. That is what it is intended to cover. In the case of church organisations and others, I believe that they can make a case to show that what they are seeking exemption for is for public good.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I suppose that you agree that this matter has been--- Mr. Kariuki has not asked a question this afternoon.

Mr. Kariuki: Mr. Temporary Deputy Chairman, Sir, could the Minister tell this House what provision he has made to ensure that these motorvehicles and aircraft that are being imported duty-free are not resold within a short time as a way of companies importing vehicles and thereby trying to avoid duty for the purpose of reselling them? Could he state the duration of time he has put to limit these vehicles from being sold? Within what period of time should they not be sold?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we know that imports under this category will be for a specific purpose and lasting over a period of time. If the people who have been given this exemption decide to sell the property, it will be liable to duty like any other.

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, regarding the amendment to Clause 34, where he talks of materials, equipment, supplies imported or purchased by the Office of the President for use in the issuance of a National Identity Cards, you will recall that at that time, the Office of the President did what is called "single-sourcing" and the procurement of equipment was very much inflated by the officers who were procuring the equipment using a French firm. Is it fair to ask this country to request those people who overinflated the procurement of the equipment not to pay duty at this hour? Is it fair?

The Temporary Deputy Chairman (Mr. Musila): I will take the last question from Mr. Donde and then put the Question.

*(Mr. M.M. Galgalo consulted other
hon. Members while standing)*

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. M.M. Galgalo! Could you sit down?

(Mr. M.M. Galgalo sat down)

Mr. Donde: Mr. Temporary Deputy Chairman, Sir, I rise to support the proposed amendment on this particular aspect. But I think the issue here is really for the Minister to ensure that seriousness prevails as we

encourage the importation of this equipment. We know that this equipment is expensive for the firms undertaking oil exploration. However, the Minister should ensure that this provision is not abused.

The only problem we are going to have with this provision is when it is abused. Otherwise, the amendment is good, and I will urge hon. Members to support it. If the Minister fails to use this provision appropriately, we will withdraw it next year.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to request the Chair that, in this proposed amendment, we dispose of parts (a) and (b) in turns rather than deal with them together. We have different opinions on the two parts of the amendments.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, do you have anything to say before I put the Question?

The Minister for Finance (Mr. Obure): No, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I am going to put the Question for the entire Clause, as per the proposal. The amendment proposal is for Clause 34, and not for parts (a) and (b) of the clause separately.

Hon. Members: In that case, we will vote against the whole Clause. We better deal with parts (a) and (b) individually. We have no problem with part (a); our problem is with part (b) of the amendment.

*(Question, that the words to be left out
be left out, put and negated)*

(Clause 34 agreed to)

Clause 35

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 35 be amended-

- (a) in paragraph (i) by deleting the words "for use" appearing in the proposed paragraph
- (f) and substituting therefor the word "used"; and,
- (b) by deleting paragraph (ii) and inserting the following new paragraph-
- "(ii) by deleting paragraph (ii) and inserting the following new paragraph -
- (g) used in the manufacture of goods for home use where such goods have been manufactured using wheat or refined industrial sugar as basic raw materials".

Hon. Members: What is the explanation for the proposed amendment? He should explain!

The Temporary Deputy Chairman (Mr. Musila): Order! Order! Hon. Members, the Minister has only moved the amendment. I have to propose the question, so that it can be open for debate.

Mr. Minister, could you once again move the amendment to Clause 35?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 35 be amended-

- (a) in paragraph (i) by deleting the words "for use" appearing in the proposed paragraph
- (f) and substituting therefor the word "used"; and,
- (b) by deleting paragraph (ii) and inserting the following new paragraph-
- "(ii) by deleting paragraph (ii) and inserting the following new paragraph -
- (g) used in the manufacture of goods for home use where such goods have been manufactured using wheat or refined industrial sugar as basic raw materials".

Mr. Temporary Deputy Chairman, Sir, I will give the explanation as deliberations on the amendment progress.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Musila): Now, does anyone want to contribute to this amendment?

Mr. Sambu: On a point of order, Mr. Temporary Deputy Chairman, Sir. I would like to seek your indulgence. Could the Minister explain the import of part (b) of the amendment, which seeks to delete paragraph (ii) and insert a new paragraph (g)? We do not understand what the Minister intends to achieve by this amendment. We might reject it when in actual sense it is meant for something good.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, you have heard Mr. Sambu.

*(Mr. Obure consulted with the Chair
briefly and proceeded to consult with
his officers on the Civil Servants' Bench)*

An hon. Member: On a point of order! Must the Minister consult his officers to answer this question?

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, the Minister is at liberty to consult with his officers. Meanwhile, I will give the Floor to Prof. Ogeri.

The Minister for Public Health (Prof. Ogeri): Mr. Temporary Deputy Chairman, Sir, I think hon. Members should realise that when whole wheat and refined sugar are used in the manufacture of bread, they have a nutritional value; both are necessary ingredients of human diet. We use them as **[The Minister for Public Health]**

sources of micro-nutrients such as Vitamin A and other minerals in our diet. Why would one want to misuse something that is wholesome to ourselves?

(Loud consultations)

The Temporary Deputy Chairman (Mr. Musila): Order! Order!

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

The Temporary Deputy Chairman (Mr. Musila): What is it, Mr. Maore?

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, there is a Standing Order regarding relevance. Is Prof. Ogeri in order to filibuster by taking the time the Minister for Finance was using to consult, to actually dwell on irrelevance?

The Temporary Deputy Chairman (Mr. Musila): Mr. Maore, that is not the case. Prof. Ogeri had requested for the Floor, which I gave to him. So, he did not take advantage of anything.

Mr. Minister, are you now in a position to proceed?

The Minister for Finance (Mr. Obure): Yes, Mr. Temporary Deputy Chairman, Sir. I would like to impress upon hon. Members that this is a mere re-alignment in order to conform with what we have already done. The remission of duty referred to on white refined sugar and bread means that if you, for example, import industrial sugar for the manufacture of soft drinks, biscuits and other things, you can get remission of duty. That is the objective. We are doing this so that, for example, the soft drinks industry can be competitive. This is exactly what we are doing in the case of wheat. We are allowing remission on imports of wheat so that those who use wheat as a raw product for the manufacture of items can obtain remission. That is the objective.

Mr. Sambu: Mr. Temporary Deputy Chairman, Sir, as I speak now wheat farmers in Uasin Gishu District, and in other wheat-growing areas are suffering miserably because they cannot sell their wheat due to the existing loopholes.

Sugar that is purported to be meant for industrial use is found on tables in our hotels as well as on shelves in our supermarkets. Meanwhile, our sugar factories are closing down. Why are we doing this to our farmers?

Eng. Toro: Mr. Temporary Deputy Chairman, Sir, could the Minister explain the difference between the wheat being imported and that which is grown in Kenya?

The Temporary Deputy Chairman (Mr. Musila): I will take one more question from Mr. Ochilo-Ayacko and then the Minister will respond.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, could the Minister explain how he intends to ensure that this particular arrangement is not going to be abused?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I did not quite get the question. Could he repeat it?

The Temporary Deputy Chairman (Mr. Musila): Mr. Ochilo-Ayacko, the Minister requests that you repeat the question.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, how is the Minister going to ensure that those who will be allowed to import this commodity will not abuse the arrangement to the detriment of Kenyans?

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, could you now respond to the questions by Mr. Sambu, Eng. Toro and Mr. Ochilo-Ayacko?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I would like to tell hon. Members of this House. that we are here enacting law under the Finance Bill, which will be applied generally. We

know that there are cases such as the one Mr. Sambu has referred to; of weakness in enforcing that law. We will deal with that separately. Mr. Sambu has referred to wheat. In this case, I know that wheat farmers have entered into an arrangement with the millers to buy all their wheat. I am not sure whether that arrangement is working as effectively as it was intended to. I will look into that, but it should not prejudice our minds in considering this general provision.

With regard to the question of abuse, I have already said that we would like to look into it to ensure that the provisions we create here through this law are not abused. I also wanted to explain the issue of wheat. We are not self-sufficient in wheat production and, therefore, we have to import large quantities of wheat from abroad. In particular, all kinds of manufacturers who need wheat or wheat products as a raw material, need to get tax remission in order to make their production costs affordable. Most of this is hard wheat, which we do not even grow here.

Mr. Sambu: Mr. Temporary Deputy Chairman, Sir, as we speak now, Mumias Sugar Company is holding over 70,000 tonnes of sugar, yet Miwani Sugar Factory has a refinery for refining sugar into industrial sugar. Why can we not take the plant in Miwani, instal it in Mumias Sugar Factory and refine the sugar into industrial the sugar? After all, Miwani Sugar Factory is owned by the Government because of the outstanding loans.

Mr. Nguni: Mr. Temporary Deputy Chairman, Sir, normally, when we waive duty on items that are consumable, we intend to pass the benefit to the consumer. But it is well known in this country that when goods are imported free of duty, the consumer does not benefit from the waiver of duty. Could the Minister tell us how imported wheat will end up being cheaper to the consumer than the wheat that is grown in the country?

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, do you have a response to what Mr. Nguni and Mr. Sambu have said?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, let me clarify here that the wheat we grow in Kenya is called "soft wheat". A lot of wheat which is used as raw material for manufacture of products is called "hard wheat", which is not grown here. The whole objective of the amendment I have moved here is basically to assist local manufacturers to promote the local industry by making inputs affordable for them.

In other words, we want to encourage them to be more competitive in the wider sense. Mr. Sambu knows that the question of Miwani Sugar Factory, where there is a facility to produce industrial sugar, is already being addressed. He knows that we cannot resolve the matter at this Committee Stage. It is something which is being pursued separately. We have had some weaknesses, as a result of which sugar companies have accumulated huge stocks of sugar, but these are issues which will be addressed administratively and we are determined to do so.

*(Question, that the words to be left out
be left out, put and negatived)*

(Clause 35 agreed to)

The Minister for Public Health (Prof. Ongeri): On a point of order, Mr. Temporary Deputy Chairman, Sir. I rise on a serious point of order because of what we have just done. I would like to know whether the Chair will put me in order or in perspective. Part of this industrial sugar is what is used for coating some of the medicines that are required in --- I want the hon. Members to know that they will suffer the consequences.

The Temporary Deputy Chairman (Mr. Musila): Order, Prof. Ongeri! The Committee has made a decision on that matter and there is no way we can go back.

*(Clauses 36, 37, 38, 39, 40, 41, 42, 43, 44,
45, 46, 47, 48, 49, and 50 agreed to)*

Clause 51

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 51 be amended-

(a) in paragraph (a)-

(i) by inserting the following new subparagraph immediately after subparagraph (i)-

(iA) in item 12, by deleting paragraph (6);

(ii) by inserting the following new subparagraph immediately after (v)-

(vA) in item 27, by deleting paragraph (e);

(b) in paragraph (b)(ii)-

(i) by deleting the proposed item 10 and substituting therefor the following new item-
10. Protective apparel, clothing accessories and equipment

Articles of apparel, clothing accessories and equipment, specially designed for safety or protective purposes for use in registered hospitals and clinics or by local authorities in fire fighting.

(iii) in paragraph (c)-

(a) by deleting subparagraph (ii) and substituting therefor the following new item-

"(ii) by deleting item 1 and substituting therefor the following new item-

1. Fuel for coasting vessels

Light amber mineral fuel oil, for use in high-speed engines, shipped as stores in quantities approved by the Commissioner in any coasting vessels of not less than 10 tonnes register, engaged in fishing for export and registered by the Director of Fisheries for that purpose:

Provided that importers under this item shall furnish export returns to the Commissioner."

Mr. Temporary Deputy Chairman, Sir, this amendment relates to the question of exemptions of duty on goods imported by charitable organisations. Up to now, the Commissioner is allowed under the law to grant duty waiver of up to 50 per cent subject to a maximum limit of Kshs500,000. The amendment seeks to give the Commissioner power to grant exemptions on goods imported by charitable organisations of up to 100 per cent provided, of course, the maximum limit does not exceed Kshs500,000.

The objective of this amendment is to limit the number of appeals and cases brought to the Minister. It is hoped that it will reduce the burden on the Minister, and that the Commissioner will be able to handle a lot of these cases on his own.

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I have no quarrel with what appears on page 651. But could I ask the Minister to explain part (b)(iii) of the amendment to Clause 51 on fuel for coasting vessels which states:-

"Light amber mineral for use in high-speed engines, shipped as stores in quantities approved by the Commissioner in any coasting vessels not less 10 tonnes register, engaged in fishing for export--"

Who are these? How many Kenyans do we have with these sort of vessels and engines? Who is it that we are protecting here?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we are trying to limit the number of appeals and cases that are being brought to the Ministry because this was a privilege extended to people who have vessels, and we found out that in the past this privilege had been subjected to some abuse. If there are any such people with vessels and who wish to get duty exemption for fuel used to run those vessels, such people should only be those who are running vessels for purposes of fishing, specifically for export. So, we are denying all other categories of vessels duty exemption and restricting that privilege to only those who are doing fishing for the purposes of export.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, you have heard the Minister say that the objective of amending this clause is to reduce the number of appeals directed to the Minister. Could the Minister expound further on that and tell us whether it is the Commissioner who has been abusing the authority conferred upon him, or why have these appeals increased?

Dr. Murungaru: Mr. Temporary Deputy Chairman, Sir, these fuel products that the Minister proposes to exempt from duty are specifically meant for vessels used to do fishing for export, yet there are many other enterprises which use fuel to produce goods for export.

Is the Minister satisfied that there is, indeed, a need to exempt duty on fuel for vessels doing fishing for export purposes only and not for others purposes, for example, irrigation and other crops like coffee, horticultural products which are almost entirely produced for export purposes? Why is there a special bias in favour of fish vessels that deal with fish for export?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, with regard to the

question raised by Mr. Ochilo-Ayacko, I would like to say that this authority has not been abused by anybody. It has neither been abused by the Minister nor the Commissioner. All we are saying here is that the Minister needs to be given time to attend to, perhaps, more important policy issues and that is why we are simply reducing the burden on the Minister's shoulders. That is all it means and it is well-intended. I would like to tell my friend, the Member for Kieni, Dr. Murungaru, that there is no bias intended in this case because we are talking about vessels, and we decided that duty exemption should be done on fishing vessels that do fishing for export purposes. I am very sympathetic to the request that the hon. Member made. If he makes that proposal in good time, we will consider it for irrigation purposes.

(Several Members stood up in their places)

The Temporary Deputy Chairman (Mr. Musila): Order! Order, hon. Members! I think I have allowed sufficient extension for this issue.

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, if you look at the amendments proposed, and the treatment the Bill is likely to get, it will be like throwing it out with "bad water". Can we remove the "bad water" and leave the Bill? We are pleading with the Minister to remove part "(ii)" of the amendment that he is seeking to make so that we can pass the rest of the clause, otherwise, he risks losing all of the amendments?

Mr. Kariuki: Mr. Temporary Deputy Chairman, Sir, with regard to Item 10, which relates to protective apparels, clothing accessories and equipment, has the Minister deliberately left out airports and aerodromes? Are they adequately served under these items, or he will come back to do it next year? With regard to airports, the Minister has only included hospitals, clinics and local authorities on page 652, Item 10.

Mr. Temporary Deputy Chairman, Sir, we have requested that only registered hospitals, clinics and local authorities should be exempted from duty when importing fire equipment. I am wondering why aerodromes have not been included, whereas they serve the same purpose of fighting fire realising that their area of operation is even more critical. Why have they been omitted? Has it been done deliberately or is it just a mere omission?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, Mr. Kariuki has raised an important issue. This is precisely what we are trying to achieve. The current provisions in the law tends to suggest that this is only restricted to importation of protective apparels, clothing and the other equipment for fire fighting purposes. But all this is only restricted to clinics, hospitals and local authorities. We want to open up this issue so that anybody importing these items, not necessarily for hospitals and so on, can be free to do so, including for aerodromes and other areas.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Minister has omitted a very important request from Mr. Maore. Mr. Maore had requested the Minister that we agree to the whole of Clause 51, with an exception of a small part; (A) "(iii)" on fuel for fishing vessels. We feel that, that section is definitely going to be misused and it is the only section that we are disagreeing with. So, we are asking the Minister to remove this section so that we can pass the other sections of the clause. If the Minister does that, then we are prepared to compromise on the other one.

The Temporary Deputy Chairman (Mr. Musila): Order! The Minister can make a comment on that now. Mr. Obure, do you want to make a comment on that?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I think we have gone a long way by saying that we wanted to promote exports of fish and we are allowing vessels which, hitherto have had the privilege of getting duty exemption to concentrate on fishing.

Hon. Members: Exemption should be given to other sectors also! Why only on fish for export?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am pleading with my hon. colleagues here to accept this section because our intention is good. I think it will make a difference to somebody's life.

The Temporary Deputy Chairman (Mr. Musila): The Minister is pleading with you, hon. Members, to accept the clause as it is. Therefore, I am going to proceed and put the Question.

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

The Temporary Deputy Chairman (Mr. Musila): Mr. Maore, I have already given you a chance. I will only give Mr. Munyai a chance because he has not had a chance to ask anything.

Mr. Munyai: Would I be in order to suggest that he should avoid losing a very important point which we have covered in that clause? Can he accept that we vote on part "(ii)"? He should separate this part from the others so that we can agree to the first part and then we can come back to the rest later on, otherwise, he may lose the whole clause, although it is very important. Let the Minister separate these parts of the clause.

The Temporary Deputy Chairman (Mr. Musila): I think the Minister has already responded to that. He has pleaded with the House and, therefore, I will put the Question.

Mr. Kereri: On a point of order, Mr. Temporary Deputy Chairman, Sir. I thought it was the Chair's discretion to separate these two items by proposing one section at a time so that we can review the whole clause.

The Minister for Agriculture (Dr. Godana): We want proposals! If you do not want aerodromes to fight fires, let--

Mr. Kereri: Aah! No! That is becoming irresponsible!

The Temporary Deputy Chairman (Mr. Musila): Order! Order! I will now put the Question.

Mr. Wanjala: Thank you, Mr. Temporary Deputy Chairman, Sir. I appreciate the effort the Minister is making to assist the fishermen along the Coast, but they have forgotten, for a long time, the people who live along Lake Victoria. We also do fishing for export. Why could they also not consider to include the fishermen who live along Lake Victoria?

Hon. Members: They are included!

Mr. Wanjala: Mr. Temporary Deputy Chairman, Sir, they are not included because this was done by the same people.

The Temporary Deputy Chairman (Mr. Musila): Order! Let us listen to what the Minister has to say.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, precisely, that is what we are trying to achieve. We are trying to encourage people to go out there and fish for purposes of export. If this provision is there, people will go out there to fish for purposes of export.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 51 as amended agreed to)

(Clause 52 agreed to)

Clause 53

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to move:- THAT, Clause 53 be amended by deleting the proposed definition of "residential buildings".

I do not know whether the Chair would like me to explain that now.

The Temporary Deputy Chairman (Mr. Musila): Yes! Indeed, this is for your benefit!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, this amendment is as a result of the deletion of the definition of "residential buildings" from the clause. The Chair will recall that during the Budget, it was proposed that the VAT be payable on rent--- The import of this amendment is to exempt taxation on rent from non-residential properties. I believe that this has been a matter of debate in the public domain and we feel that it has been very cumbersome on our part. We are withdrawing that in order to have time to modify it in future. For now, I believe that it will give considerable relief to some of the people who are involved. Really, we are responding to public demand, as it were.

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I support the amendment, but you will remember that the Minister for Finance gave an undertaking to this House that he would remove the VAT on commercial premises. I would have thought that this is the clause that he would have amended in order to remove the VAT on commercial properties. Is he suggesting that there is another clause where he will remove that VAT?

The Assistant Minister for Education, Science and Technology (Mr. Ojode): This is the one! He is doing it now officially!

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, where is the clause which says---

The Temporary Deputy Chairman (Mr. Musila): Order! Mr. Ojode, if you want to respond, please---

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I just want to be very clear.

The Temporary Deputy Chairman (Mr. Musila): I think the question Mr. Muite has put is very important. He is saying that there was a proposal that commercial buildings would be subjected to the VAT. Mr. Muite wants clarification as to whether there will be no VAT on commercial properties after this amendment.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, in fact, his predecessor in the Ministry of Finance and Planning gave an undertaking to this House that when this Bill reaches the Committee Stage, he will propose an amendment to do away with the VAT on commercial properties. I would like to get an assurance from the Minister that the amendment which is talking about residential properties, in fact, is the clause that is removing the VAT on commercial properties.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I would like to appeal to hon. Members to read these proposals in the context of the words contained in the actual Bill. Because of the various difficulties which have been encountered and, because of the fact that values on the property market are depressed at the moment, and in order to give us an opportunity to consider the viability of this proposal, we are withdrawing rent on commercial properties for the VAT purposes. That is what we are doing. The VAT will be exempted in total.

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Temporary Deputy Chairman, Sir, I do agree with what Mr. Muite has just said. What is here is different from what we are amending. This is because what is here is for commercial and residential properties, but what we are amending now is only for residential properties. What about commercial properties?

Hon. Members: He is an Assistant Minister in this Government! Could he sit down!

The Temporary Deputy Chairman (Mr. Musila): Mr. Ojode, you should have consulted your colleagues because you are an Assistant Minister!

I had given Mr. Obwocha a chance to say something!

Hon. Members: He will be sacked!

The Temporary Deputy Chairman (Mr. Musila) Order, hon. Members! I ruled Mr. Ojode out of order because he should not have asked that question in the first place. Being an Assistant Minister, he should have consulted his colleagues!

Proceed, Mr. Obwocha!

Mr. Wanjala: He will be sacked!

The Temporary Deputy Chairman (Mr. Musila): Order! I have given Mr. Obwocha a chance!

(Mr. O.K. Mwangi stood up in his place)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, could you protect me from the only Mr. Kihara who has a *kihara*?

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Obwocha! Be serious now!

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, Section 53 of the Finance Bill, which I am holding, only talks about residential buildings and not commercial buildings. In the Minister's amendment, he is talking about residential buildings, and now, he has given us an assurance here, which is not in writing. I am saying this because I moved an amendment to the Pensions Act, which we passed in this House. When this (Act?) was interpreted by the Speaker, I was told that it was not part of the written amendments. I would like the Minister to tell us where the commercial buildings are in the original Finance Bill, otherwise, we will reject Clause 53, in its original form.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, I think that the VAT was to apply to commercial buildings, and here, we are talking about residential buildings. I think this is the confusion. Could we get clarification from the Minister? Meanwhile, could we hear from Mr. Keriri and Mr. Murungi?

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I think the Minister needs to do a lot of homework on this clause because it is confusing. I am sure the House will agree with me that Clause 53 in the Finance Bill is about definitions. There must be a clause in this Bill where the Minister imposed VAT on commercial properties. That clause is the one we should be amending somewhere along the way before we finish. I know the Minister is new in the Ministry and he may have some problems in knowing what his officers are doing. Even if it means consulting with those officers, could he tell us what he thinks we are doing now?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I would like Clause 53 to be read in conjunction with Clause 65, and in particular, paragraph 10. We in the Ministry, want more time to investigate the viability and practicability of imposing VAT on rent from commercial properties. Section II of the VAT Act was amended by deleting the definition of residential buildings. This is in line with the amendment to

Clause 65, and in particular, Item 10 in the Fifth Schedule of the Finance Bill which will now include exemption of all rental buildings from VAT. I confirm to hon. Members here that the intention is to exempt VAT on rent from commercial buildings.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 53 as amended agreed to)

(Clauses 54 and 55 agreed to)

Clause 56

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, in the Order Paper, on page (663)(J), there is a proposed amendment to Clause 56 by hon. Ndicho. I confirm that he has written to the Chair seeking to withdraw his amendment. Therefore, we proceed.

(Clause 56 agreed to)

(Clauses 57 and 58 agreed to)

Clause 59

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, the Bill be amended by deleting Clause 59 and replacing it with the following new Clauses -

Amendment Section 23 of Cap. 476. 59. Section 23 of the Value Added Tax Act is amended in subsection (3)(a) -
(a) by deleting the proviso and substituting therefor the

following new proviso -

"Provided that remission may be granted under this paragraph -

- (i) where motor vehicles are donated by any person for the official use of any public body; and
- (ii) where maize, wheat, sugar, milk, edible vegetable fats and oils, rice, textiles, new and used clothing and footwear are imported or purchased locally during periods of civil strife, national calamity or disaster declared under any law for the time being in force or where

[[The Minister for Finance]

they are intended for use in officially recognised refugee camps in Kenya".

(b) by renumbering paragraph (f), as paragraph (i) and inserting the following new paragraphs -

- (f) projects funded through donations by any person to non-profit making organisations or other institutions approved by the Government for the benefit of the poor and needy persons;
- (g) goods, including motor vehicles and aircraft, imported or purchased by any person authorised to explore or licensed to exploit geothermal resources pursuant to the provisions No.12 of 1982 of the Geothermal Resources Act, 1982, who has entered into a production-sharing contract with the Government;
- (h) materials, equipment and supplies imported or purchased by the Office of the President for use in the issuance of national identity cards.

Mr. Temporary Deputy Chairman, Sir, the proviso to subsection 3(b) of the VAT Act was amended in order to grant remission to public institutions and local authorities in respect of all vehicles donated for official use. To safeguard revenue, Section 23(c) was amended to give the Minister powers to grant remission on the supply of taxable services meant only for the benefit of the poor and needy people. This amendment contained in the Finance Bill had opened the benefit to any project that had been approved by the Government which included those for the benefit of private persons. So, we want to ensure that it only benefits the poor and the needy because that was the initial objective.

(Question of the amendment proposed)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I think when we dealt with Clause 34, we were dealing with duty. But in this clause we are also dealing with VAT. We rejected the duty bit. We cannot be seen to be making law which is inconsistent. If we rejected duty, then we should reject VAT as well. Otherwise, it seems as if VAT will be allowed while duty has been rejected. It will be conflicting.

Mr. Temporary Deputy Chairman, Sir, I propose that the Minister withdraws this one so that he can bring it next financial year properly, explain it well and we will pass it for him.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, for the same reasons given by hon. Kajwang, on the geothermal resources, I feel we should reject the duty part in order for this clause to be consistent with the earlier one passed.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, if we pass this clause the way it is, there will be inconsistency. We rejected the earlier clause on duty. We know that VAT is charged after duty is paid. Therefore, there will be no duty charged on these items. We cannot charge VAT on something that is not dutiable.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I understand the sentiments expressed by the hon. Member. I am in a big dilemma because the objective of this clause was to try and deal with the energy crisis. We intended to encourage people to go into geothermal exploration. That was the intention. At that time, I tried to explain that the intentions are good because they are for the good of the country. So, I am in a big dilemma.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I do want to support the Minister. I think hon. Members if you refresh your memory, the aspect which you rejected under Customs is the one which deals with what is contained in part "g". It is only contained in part "g" of it.

Mr. Temporary Deputy Chairman, Sir, the other parts of the clause, by the way, were not yet examined under the Customs and Excise Act. So, they only appeared under the VAT. So, it is only part "g" which you can say you need to repeal. For consistency, it is only part "g", that we should repeal and not the whole of it.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, I hope the Vice-President will realise the mistake here and not separate the two. That is what we have been talking about. While we do not want to reject the whole of this clause, the Vice-President should tell us how we can separate the two. Could we now leave part "g"? Could the Chair request the Minister to read the clause, paragraph by paragraph?

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, if the Minister proposes to withdraw the amendment, he can do so. But it is up to the Minister.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, in light of what has been suggested, and in order to give accommodation to everybody, I would like to withdraw Subclause 59(g).

The Temporary Deputy Chairman (Mr. Musila): Mr. Obure, the procedure would be that you now move a further amendment to delete Subclause 59(g).

Subclause 59(g)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, a further amendment be made to Clause 59 by deleting Subclause 59(g); "Goods, including motor vehicles and aircraft, imported or purchased by any person authorised to explore or licensed to exploit geothermal resources pursuant to the provisions of the Geothermal Resources Act, 1982, who has entered into a production-sharing contract with the Government".

Mr. Maore: On a point of order, Mr. Temporary Deputy Chairman, Sir. For ease of time, so that you could put the Question, Subclause 59(g) is included in what we had rejected in Clause 34. The Minister for Agriculture is introducing something to the contrary. He is making a lot of noise!

The Temporary Deputy Chairman (Mr. Musila): I think the Minister may wish to look at what is being pointed out. But we cannot go back to what we have already passed.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and negatived)*

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, it would save a lot of time if we listened. Because, judging by what you have done, you proposed that Subclause 59(g) be deleted, and then you voted against it. So, that obviously means there is some---

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. The amendment was put to the vote, and negatived. Under what rule are you now repeating?

The Temporary Deputy Chairman (Mr. Musila): I put the Question of the further amendment to delete Subclause 59(g) and, not the original amendment. I will now put the Question of the original amendment.

Mr. Achola: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think we are going to make a mistake here. Clause 59 is a mirror-image of Clause 34, which we had already rejected in totality. Therefore, Clause 59 cannot pass.

The Temporary Deputy Chairman (Mr. Musila): Mr. Achola, we have not yet voted. I am just about to put the Question. Let me put the Question, so that I get your verdict.

(Question of the amendment proposed)

*(Question, that the words to be left out,
put and negatived)*

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Mr. Musila): Ring the Division Bell!

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! Could you sit down? Could we have the doors locked and the Bar drawn? The doors have now been locked and the Bar drawn. Let us have the names of the Tellers. The following are the tellers: For the AYES, it is Mr. Obwocha and Capt. Ntwiga. For the NOES, it is Messrs. Mwenje and Maundu.

Hon. Members, when the Question is put, those for the AYES will proceed to the lobby on my right and those for the NOES will proceed to the lobby on my left. Those who do not wish to vote may register their names with the Clerk-at-the Table.

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

The Temporary Deputy Chairman (Mr. Musila): No! We are on Division and there are no points of order! The procedure is very clear.

The Temporary Deputy Chairman (Mr. Musila): Order! I now call upon the House to order, to receive the results of the Division.

DIVISION

(Question put and the House divided)

(Question negatived by 52 votes to 22)

AYES: Mr. Biwott, Dr. Godana. Messrs. Gumo, Kamotho, Col. Kiluta, Messrs. Lomada, Lotodo, Marrirmoi, Maundu, Mkalla, Moroto, Mrs. Mwewa, Capt. Ntwiga, Messrs. J. Nyagah, Obure, Odongo, Odoyo, Ojode, Poghisiyo, Eng. Rotich, Prof. Saitoti and Mr. Samoei.

[The Temporary Deputy Chairman]

Tellers of the Ayes: Mr. Obwocha and Capt. Ntwiga.

NOES: Messrs. Achola, Ayoki, Donde, Gatabaki, Gitonga, Githiomi, Imanyara, Kajwang, Kamau, Kathangu, Katuku, Khamasi, Kibicho, Kitonga, Kirwa, Kiunjuri, Kombo, Dr. Kulundu, Messrs. Maina, Maore, Mboko, Muchiri, Munyao, Mrs. Mugo, Messrs. Muiruri, Muite, Murathe, Murungi, Muturi, Mwakiringo, O.K. Mwangi, Mwenje, Mwiraria, Nderitu, Ndwiga, Mrs. Ngilu, Messrs. Ngure, Obwocha, Ochilo, Omamba, Dr. Omamo, Messrs. Opore, Parpai, Sambu, Shaaban, Mrs. Seii, Messrs. Shitanda, Sungu, Eng. Toro, Messrs. Wamalwa, Wamunyinyi and Wanjala.

Tellers of the Noes: Messrs. Mwenje and Maundu.

The Temporary Deputy Chairman (Mr. Musila): Therefore, the effect of that, hon. Members, is that

Clause 59 is deleted and the amendment is defeated.

(Clause 59 deleted)

*(Clauses 60, 61, 62, 63, 64,
65, 66 and 67 agreed to)*

Clause 68

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 68 be amended in paragraph (b)(ii) by deleting the expression "8".

The Temporary Deputy Chairman (Mr. Musila): That is on page 715 of the original Bill.

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, could the Minister explain to us or draw our attention to what expression "8" means and why he wants to delete it and leave expressions "9" and "11"?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, this relates to the cost in vessels. We have already deleted it in respect to duty on Customs and we are saying that the VAT aspect should also be deleted in the main Act.

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 68 as amended agreed to)

(Clauses 69, 70, 71 and 72 agreed to)

Clause 73

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 73 be amended -

(a) by renumbering the existing paragraph (a) as paragraph (b) and inserting the following new paragraph (a) -

(a) by deleting words "five sources" appearing in paragraph (a) and substituting thereof the words "six sources".

(b) by renumbering the existing paragraph (b) as paragraph (c) and inserting the following new paragraph -

(d) by inserting the expression "(ivA)" immediately after the expression "(iv)" appearing in paragraph (e).

It is a cleaning up exercise to ensure the numbering is correct.

(Question of the amendment proposed)

*(Question, that the words to be left be left out,
put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 73 as amended agreed to)

(Clause 74 agreed to)

Clause 75

The Temporary Deputy Chairman (Mr. Musila): We have three proposed amendments on that clause, one by the Minister, another by Mr. Gatabaki and the last one by Mr. Murungi. The one by hon. Gatabaki proposes that the whole clause be deleted. I am obliged to start with the proposal for deletion so that we dispose of it. But I will go to Mr. Murungi first.

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, my proposed amendment is meant to exclude small-scale farmers who earn less than Kshs360,000 per annum from the application of the presumptive income tax. In the last financial year---

The Temporary Deputy Chairman (Mr. Musila): Mr. Murungi, what are you trying to do? If you want to withdraw your proposed amendment, do so.

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, we think it is better for this tax to be done away with entirely because this House did away with it last year. Given those considerations, I would like to withdraw my proposed amendment in favour of Mr. Gatabaki's amendment.

The Temporary Deputy Chairman (Mr. Musila): Very well. Mr. Gatabaki, could you move your amendment?

Mr. Gatabaki: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Finance Bill be amended by deleting Clause 75

Mr. Temporary Deputy Chairman, Sir, I cannot find words to describe the damage that the Presumptive Income Tax can do. In its wisdom, two years ago, this House did away with this tax completely. This House passed this amendment unanimously and the President went around the country telling the farmers that they will not pay taxes. The Minister for Agriculture has been fighting for the empowerment of farmers. We passed the Coffee Bill, the Tea Bill and we are about to pass the Sugar Bill. There cannot be any more argument about the wisdom of this House.

I beg to move the amendment.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I had intended to raise some money on this tax, but in light of the fact that it will benefit farmers directly, and since I am very much for farmers, I concur with this amendment.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 75 was deleted)

Clause 76

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:
THAT, Clause 76 be deleted and replaced with the following new Clause:-

Amendment of 76. Section 19A

section 19A of the Income Tax Act

Cap. 470. is amended in subsection (4) -

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph -
"(a) eighty-five per centum of its gross income from dividends and interest (other than interest from its members)";
(b) by inserting the expression "(excluding royalties)" immediately after the word "income" appearing in paragraph (d).

Mr. Temporary Deputy Chairman, Sir, section 19(a) of the Income Tax Act has been amended to exempt savings and credit co-operative societies from taxation on income tax royalties. The effect of this amendment is to achieve exactly that intention.

(Question of the amendment proposed)

*(Question that the words to be left out
be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 76 as amended agreed)

(Clauses 77, 78, 79 and 80 agreed to)

Clause 81

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 81 be deleted and a replaced with the following new Clause:-

Amendment of 81. The First Schedule to
the First the Income Tax Act is amended in
Schedule paragraph (10) by deleting the operative to part and substituting therefor the following-
Cap.470. "(10) Subject to section 26, the income of an institution, body of
persons or irrevocable trust, of a public character established solely for the purposes of
the relief of the poverty or distress of the public, or for the advancement of religion or
education -
(a) established in Kenya; or
(b) whose regional headquarters is situated in Kenya, in so far as the
Commissioner is satisfied that the income is to be expended either in Kenya or in circumstances in
which the expenditure of that income is for the purposes which result in
the benefit of the residents
of Kenya:"

Mr. Temporary Deputy Chairman, Sir, paragraph 10 of the First Schedule to the Income Tax Act has been amended to make it possible for charitable institutions having their regional headquarters here in Kenya to enjoy exemption if their income is to be expended for purposes which have economic and social benefits to Kenyans.

We want to make it possible for charitable organisations which are working here for the benefit of our country and Kenyans to enjoy exemption.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 81 as amended agreed to)

The Temporary Deputy Chairman (Mr. Musila: Hon. Members, there is a new clause on page 655 and we will come to it when we have finished the other clauses.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Chairman, Sir. I have given notice of an amendment.

The Temporary Deputy Chairman (Mr. Musila): Mr. Obwocha, I suppose I got your notice of amendment, but this is supposed to be on the new clause on page 6; is it not? It will come in the new clause.

The New Clause on page 655 states that:-

"THAT, the Bill be amended by inserting the following new clauses immediately after Clause 85

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. I had an amendment on

Clause 85. It is not a new clause since it was proposed in the original Bill.

The Temporary Deputy Chairman (Mr. Musila): Yes, so we are going to go to Clause 84, touch your amendment and then we come back to the new clause. Please, be patient.

(Clauses 82, 83 and 84 agreed to)

Mr. Shitanda: On a point of order, Mr. Temporary Deputy Chairman, Sir. What about the proposed amendment on Clause 84 by hon. Angwenyi?

The Temporary Deputy Chairman (Mr. Musila): But as you all know, this afternoon, hon. Angwenyi was expelled from the House by the Speaker and there is a previous ruling by the Speaker that once a Member has been expelled, he cannot benefit from any proceedings of that day. This has been done before.

(Mr. Angwenyi stood up in his place)

Mr. Angwenyi, you are back? How comes? Order, Mr. Angwenyi! You are a stranger in this House! This is a very serious matter! You should be going that way and not coming this way!

(Mr. Angwenyi consulted with the Chairman and then withdrew from the Chamber)

Hon. Members: Mr. Temporary Deputy Chairman, Sir, why are you entertaining this?

The Temporary Deputy Chairman (Mr. Musila): Order! The Member has been consulting me and I think we have agreed. There is reason for consultation.

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. I think we need some guidance from the Chair. This is a serious matter. A Member who was expelled from the House, by your own admission, and by the Speaker himself for the remainder of the day, not only comes to the Chamber to sit but, in fact, comes to consult with the Chair and you lend him your ear. He has no stake of presence here!

The Temporary Deputy Chairman (Mr. Musila): Allright! I think I owe the House an explanation. All that Mr. Angwenyi told me was that he had an audience with the Speaker who agreed that he returns after 6.30 p.m. Now, I have told him that I did not have any such information and until I get it, he cannot sit in the Chamber. So, it was only consultation on that and I think it is perfectly in order for a Member to come here and consult with me.

(Applause)

Mr. O.K. Mwangi: On a point of order, Mr. Temporary Deputy Chairman, Sir. I would like to have some guidance from the Chair in respect of the proposed amendment. Even though the Member who proposed the amendment has been expelled from the House---

Hon. Members: Which clause is that?

Mr. O.K. Mwangi: It is Clause 84. Mr. Temporary Deputy Chairman, Sir, in respect of hon. Angwenyi having been sent away and the proposed amendment is on the Order Paper, does that not become the property of the House? It is no longer hon. Angwenyi's!

The Temporary Deputy Chairman (Mr. Musila): Order! The Chair rules as follows: It becomes the property of the House after it is moved. Now, the Member who proposed to move it is not [**The Temporary Deputy Chairman**] here to do that. Therefore, it is not property of the House!

(Applause)

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. Could we appeal to you to put the Question up to Clause 83 because some of us would like to vote against Clause 84? We do not want them lumped together. Let us go clause by clause.

The Temporary Deputy Chairman (Mr. Musila): It is okay. I have no problem with that. You are entitled to clause by clause. So, I will now put the Question on Clause 82 alone.

Hon. Members: No! On a point of order, Mr. Temporary Deputy Chairman, Sir!

The Temporary Deputy Chairman (Mr. Musila): Order! I have already recognised Mr. Poghio.

The Assistant Minister for Education, Science and Technology (Mr. Poghio): On a point of order,

Mr. Temporary Deputy Chairman, Sir. I need your guidance because you proposed a different question and put in a totally different question. This is because you proposed the three clauses together and now you are putting a question one by one. Could you propose each individually and then put the question?

The Temporary Deputy Chairman (Mr. Musila): Order! Hon. Members, by the way, when we read more than one clause, it is just for the convenience of the House if there is no issue to be raised on a particular clause. However, if Members feel that we should go clause by clause, you are actually entitled to that. So, I do not see the problem in going clause by clause, and it is for the convenience of the House.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. You have already proposed Clauses 81 to 84. We have moved and it should be okay.

The Temporary Deputy Chairman (Mr. Musila): No!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, but HANSARD is there and we cannot go back on that!

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members. I just need that clarification. Is it true we have finished?

Hon. Members: Yes, we have finished! We are going to Clause 85 now.

The Temporary Deputy Chairman (Mr. Musila): Mr. Clerk, is that true?

(The Chair consulted with Mr. Clerk)

Hon. Members: We are on Clause 85!

The Temporary Deputy Chairman (Mr. Musila): Order! But if there is doubt, what is the problem with---

The Minister for Public Health (Prof. Ongeri): On a point of order, Mr. Temporary Deputy Chairman, Sir. You earlier on ruled me out when I was about to raise a substantive issue related to industrial sugar as it relates to drug manufacturing. This particular clause has already been passed over. It is the same case. Therefore, would you be in order to continue removing it again?

Hon. Members: On a point of order, Mr. Temporary Deputy Chairman, Sir!

The Temporary Deputy Chairman (Mr. Musila): Order! If one point has been raised, why do you not let me respond to it?

Mr. Keriri: On a point of order, Mr. Temporary Deputy Chairman, Sir. Now, what you have done is that you proposed the three clauses together, but you did not put them together. So, if you intend to go back one by one, that is alright, provided you propose the questions and put them.

Hon. Members: No! No!

The Minister for Trade and Industry (Mr. Biwott): On a point of order, Mr. Temporary Deputy Chairman, Sir. We are not actually trying to be difficult, but we would like the correct procedure to be followed so that we get consistency. You proposed the three clauses up to Clause 84, put the question and it was carried. The HANSARD will bear me out. Then an hon. Member from the other side stood to ask about hon. Angwenyi's presence in the House and that is how you again brought us back. So, for all honesty, I think we should not repeat ourselves.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Chairman, Sir. The reason why you noticed that Mr. Angwenyi was here--- When you came to Clause 84, and you realised that there was an amendment proposed by Mr. Angwenyi, and the HANSARD is here to tell the truth, all you did was that you proposed the three clauses. Before they were debated, and before you mentioned anything, Mr. Angwenyi stood up, and that is when you recognised him. I want to ask you not to be coerced by a few hon. Members here. That is the true position, and if they are not careful, then, we may throw out the three clauses when the Question is put.

(Loud consultations)

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! I think time has come when the Chair has to make a ruling. I cannot [**The Temporary Deputy Chairman**] expressly recall whether I had put the Question or not. It is possible that I did, and I am not saying that, absolutely, I did not. It is possible that I did, but, maybe, we will defer this until the HANSARD is brought here. If I had put the Question and announced the results, then the matter would be determined. So, I am deferring that

particular clause and proceeding on. That is my ruling.

(Loud Consultations)

Order hon. Members! A ruling has already been made. We now proceed to Clause 85. The Chair has made a ruling, and you have to abide by it. So, we have deferred Clauses 82 to 84 until we get the HANSARD. We now move to Clause 85.

(Clauses 82, 83 and 84 deferred)

Clause 85

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, first and foremost, I want to give it a lot of reservation. We dwelt with this matter last year and at that time the attempt was to amend the Banking Act. This year, it was an attempt to amend the Penal Code and these are very serious matters. When you talk about the Penal Code, we are talking about penalties and convictions, and it has a lot of ramifications and you cannot sneak in an amendment which is likely to cause so much damage to so many people in a Finance Bill. If the Minister is serious, then, he should tell the Attorney-General to move an amendment to the Penal Code so that we discuss this section properly. But for a provision to be included in the Finance Bill which confronts us with the situation in which if you write a cheque and it bounces, then, you would be taken to have, by deceit, or other problem, or means assisted somebody to obtain credit. It is a very dangerous amendment.

So, I am proposing that if the Minister is serious, he should withdraw this amendment and bring a proper amendment to the Penal Code. Even as a miscellaneous amendment, we may deal with it there, but not in the Finance Bill. This is because it is now fashionable for the Minister for Finance to bring amendments which have very far-reaching effects in all other Bills and Acts of Parliament, when they have nothing to do with finance raising and appropriating finances. So, I am proposing that we delete the proposed amendment Clause 85. It is on page 663(k).

(Question of the amendment proposed)

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, I want to add on to what Mr. Kajwang has said; that, this particular provision does not in any way further or make the Finance Bill efficient. In fact, it is irrelevant in position upon the Finance Bill. Mr. Temporary Deputy Chairman, secondly, if you look at the offence that is being created here, such an offence already exists under the Penal Code. This is redundancy.

The Temporary Deputy Chairman (Mr. Musila): I will now put the Question.

(Question, that Clause 85 be deleted, put and ---)

The Minister for Finance (Mr. Obure): On a point of order, Mr. Temporary Deputy Chairman, Sir ---

The Temporary Deputy Chairman (Mr. Musila): Order! I think we have already got the one-side vote. So, I have to put the other one.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I stood first, and you told me that you wanted to move on.

Hon. Members: No! No!

The Temporary Deputy Chairman (Mr. Musila): We are already in the middle of a vote.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I stood at the beginning to try and explain, but you asked me to wait until the Clause is moved. What you are trying to do here is, in fact, to reduce the burden.

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

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Mwenje! You cannot stand when the Minister is on a point of order. Could the Minister explain?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I want to say that this is a---

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Obure! It is now a point of order. I am not giving you a chance to explain anything.

The Minister for Finance (Mr. Obure): How do we vote if I have not said anything?

The Temporary Deputy Chairman (Mr. Musila): But, Mr. Minister, could you take a seat? I have already put the Question, and I have already taken the vote of one side. I was just in the middle of taking the other side, whether it is Ayes or Noes, when the Minister stood up. But you cannot do that.

Let me finish putting the Question and the Minister may record an objection, if he wishes, because there is nothing that I can do in accordance with the procedure. I will, therefore, put the Question---

Mr. Odoyo: You have apologised to the House!

The Temporary Deputy Chairman (Mr. Musila): I have not apologised to the House!

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

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! I think I have to put the Question.

*(Question, that Clause 85 be deleted,
put and agreed to)*

(Clause 85 deleted)

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Chairman, Sir, in all fairness, and with due respect to the Chair, I remember very well that when the Minister for Finance stood up to speak on that issue, you asked him to hold on because you would give him time; that, certain hon. Members needed to make comments before the Minister made his. But you did proceed to put the Question. That is where the dilemma is; we need guidance from you.

The Temporary Deputy Chairman (Mr. Musila): All right, Mr. Samoei. Let me say this: It is true that I did tell the Minister that I will give an hon. Member a chance to speak first and then I will give him later. But after the last hon. Member finished speaking, I did put the Question. The Minister stood up when I got the Ayes vote. If he had stood up before, I would have given him a chance. I do not---

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

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! I have already announced the results and if anyone wishes to challenge the results, they would have stood up for a Division. I think it is only fair that you respect the Chair. We must now proceed.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I previously served in the same capacity you are now serving.

Hon. Members: Aah! So what?

The Temporary Deputy Chairman (Mr. Musila): Order! Order! Dr. Godana, it does not matter that you previously served in the capacity in which I am now serving. I am sorry, but I do not take that remark kindly. Are you implying that you served the House better than I am doing?

Hon. Members: Throw him out!

Mr. Mwenje: He should apologise to the Chair!

The Temporary Deputy Chairman (Mr. Musila): Order! Order!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I am a gentleman.

Hon. Members: On a point of order! On a point of order!

The Temporary Deputy Chairman (Mr. Musila): Order! Order! Dr. Godana has the Floor.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I was only giving a preface to the issue I was about to raise. I did not intend to intimidate or ridicule the Chair. I just meant to say that I thought I recollected the rules. Indeed, as part of the convention of the House, an hon. Member catches the Chair's eye or the Chair moves to the next stage. That is a fact. However, when the Chair tells a Minister: "I will give you a chance to explain the law you have proposed", I think it is incumbent upon the Chair to ask the Minister: "Do you now have something to explain?" So, I think this is one case where you need to withdraw your ruling and give the Minister a chance to explain the amendment he has proposed to the Act.

The Temporary Deputy Chairman (Mr. Musila): Order! Dr. Godana, I am not going to withdraw my ruling on this matter. I stand by my ruling. First of all, the Minister had not proposed to amend the particular law. I said that the Minister should have stood immediately after the last person had spoken, and before I put the question. The Chair would have had no reason to put the question when a Minister wanted to explain something. So, I do not know why you are implying that I prevented the Minister from explaining something.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am very disappointed.

Much as I respect your decision, I would like to say that I was relying on you to give me an opportunity to make some clarifications because you had promised to give me the opportunity later. In fact, when I stood to make my point, you had already put the question, and told me to sit down. However, for the purpose of the record of this House, the question of bouncing cheques has been misunderstood very badly. I know that the House has taken a decision on the matter, but I want my views recorded because I think I have a right to have them recorded.

If hon. Members read the wording of this Act, they should have realised that we were really talking about any person who, by deceit or any other fraudulent means, assists any person to obtain credit or money on the basis of a cheque. So, we were talking about people who, wilfully, and knowing that they have no funds in their accounts, issue cheques and obtain credit, or issue cheques only for the payee to be turned back by the drawee bank. That is the aspect we had intended to address because I think it is our responsibility to instill discipline in our financial system.

Hon. Members: On a point of order! On a point of order!

The Temporary Deputy Chairman (Mr. Musila): Order! Order! Hon. Members, the Minister [**The Temporary Deputy Chairman**]

is entitled to issue a statement after the vote on a question has been taken.

Hon. Members: It is too late!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I may be explaining this rather too late, but you owe it to this House to see that its business is conducted with fairness.

The Temporary Deputy Chairman (Mr. Musila): Very well, Mr. Minister; I must, once again, emphasise that fairness has prevailed throughout our sitting this evening. I have been fair, and will always be fair. Let us proceed to the next amendment.

(Clause 86 agreed to)

Clause 87

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 87 be amended by inserting the following new paragraph immediately after paragraph (a)-
(b) by deleting the expression "three per centum" and inserting the expression "two per centum".

Mr. Temporary Deputy Chairman, Sir, in this amendment, we are seeking to reduce the level of penalty from 3 per cent to 2 per cent.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 87 as amended agreed to)

Clause 88

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 88 be amended-

(a) in Sub-Section (1) of the proposed Section 25, by deleting the expression "Part I" and substituting therefor the expression "Part III"; and,

(b) by inserting the following proviso-

Provided that in the case of the Customs and Excise Act, this section shall apply only in respect of locally manufactured goods and in the case of Value Added Tax Act, this section shall apply only in respect of the local supply of goods and services.

Mr. Temporary Deputy Chairman, Sir, allow me a few moments to consult with my officers.

The Temporary Deputy Chairman (Mr. Musila): That is all right, Mr. Minister.

*(The Minister proceeded to the
Civil Service Bench)*

(Loud consultations)

Order! Order! As the Minister consults with his officers, let me say that we are still waiting for a copy of the HANSARD which we requested for to verify our proceedings with regard to Clauses 82 to 84.

Hon. Members: What are we doing now?

The Temporary Deputy Chairman (Mr. Musila): I have given the Minister a chance to consult with his officers on the amendment before us.

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

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Wanjala!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, once again, this is a simple cleaning up exercise. The set-off, as provided under the law, is not possible in all under part II. Therefore, we are creating part III in order to introduce this.

(Question of the amendment proposed)

*(Question, that the words to be left be left
out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 88 as amended agreed to)

The Temporary Deputy Chairman (Mr. Musila):

Order, hon. Members! I have now received a copy of the HANSARD as I had requested. I would now like to confirm that, actually, what Mr. Biwott raised was correct. He had said that Clauses 82, 83, and 84 had been agreed to. Therefore, that matter rests there. The HANSARD is there, and you can go and check it.

There is a proposed amendment by Mr. Obwocha on page 663JJ of the Order Paper.

Mr. Muiruri: On a point of order, Mr. Temporary Deputy Chairman, Sir. Now that you have received the HANSARD and there was total confusion---

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Muiruri! Sit down! you must first of all withdraw the remark you made, that there was total confusion. There was no confusion!

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I withdraw that remark. But my point of order is: Now that the HANSARD has been received and it has confirmed that the result was in favour of the Government side---

The Temporary Deputy Chairman (Mr. Musila): It was not in favour of the Government's side.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, there should have been a division then.

The Temporary Deputy Chairman (Mr. Musila): Order! Do you know the procedure in a division?

I was saying that we have a proposed amendment by Mr. Obwocha on page 663jj of the Order Paper and another one by Mr. Angwenyi. I want to confirm that I have received a note from the Clerk of the National Assembly's office that Mr. Shitanda has been authorised to move Mr. Angwenyi's amendment. So, if Mr. Shitanda will be there, we will give him that chance.

Clause 89

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, Clause 89 deals with two issues. The Minister for Finance has sought to amend Cap.494 and the National Hospital Insurance Fund Act of 1998. In fact, these two issues are issues that were agreed in the Departmental Committee on Finance, Planning and Trade. The Minister is transferring the duties of the hotels and restaurant's Catering Levy Trustees (CLT) and the NHIF to the Kenya Revenue Authority (KRA).

But as you will remember, last year this House rejected this amendment for two reasons. The Minister was to go back and harmonise the law. Secondly, you cannot amend Cap.494 using the Finance Bill. You cannot

use an Act of Parliament to amend another Act of Parliament. You either address that Act properly, or you do not. The Minister for Finance has not done this. We can go on and on to say that the performance of the KRA has, in as far as this is concerned, changed. But Parliament is telling the Minister to go back and consult the Attorney-General, harmonise the law, amend the Act properly and then come here and transfer those duties.

The Temporary Deputy Chairman (Mr. Musila): I am sorry to cut you short, but I wanted you to clarify something. You have made a proposal to delete Clause 89. I just want to know whether you want the whole clause deleted? This is because we have other proposed amendments by Mr. Mbela who, as you know, is unwell, and Mr. Angwenyi, which is supposed to be moved by Mr. Shitanda, which deletes only item (iv).

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, Mr. Mbela, Mr. Angwenyi and Mr. Shitanda are Members of the Departmental Committee on Finance, Planning and Trade. So, they proposed their amendments for similar reasons to my reason. So, if my amendment has covered all our reasons, when it comes to their turn, they will just withdraw their amendments.

The Temporary Deputy Chairman (Mr. Musila): Can you then move the amendments?

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

THAT, Clause 89 be amended by deleting Clause 89.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, first of all, I want to clarify that we are not transferring the functions of the CLT to the KRA. We are also not transferring the functions of the NHIF to KRA. All we are doing is to transfer the aspect related to the collection of funds. That is all. Otherwise, these bodies will continue to exist and carry out their other functions as usual.

My concern has mainly been on the question of efficiency in collection of revenue. After all, after the money has been collected, it will be remitted to the two respective institutions. I considered the following aspect: There are several advantages in KRA collecting NHIF funds because KRA has a database of 70,000 employees while NHIF has a database of only 36,000 employees. This means that KRA is better placed to collect revenue because it handles many more employees. Mr. Temporary Deputy Chairman, Sir, secondly, in the last three months, the exercise has been done by KRA and we have collected Kshs30 million from members. That has been done only in three months. Therefore, in our opinion, this would enable us---

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

The Temporary Deputy Chairman (Mr. Musila): Order! Mr. Gatabaki, you will be given a chance! Please, let the Minister finish first.

The Minister for Finance (Mr. Obure): It means, therefore, that the National Hospital Insurance Fund (NHIF) will, in this case, be enabled to receive more funds to be able to carry out its activities. At the moment, by vesting this responsibility on the NHIF, the Fund is spending as much as 24 per cent of its revenue in meeting the expenses involved in collecting that tax, when, in fact, the KRA is spending only 1.5 per cent. That is the fee they charge for collecting those funds. Therefore, I feel that there is a strong case for transferring this function to the KRA, because there would be no duplication of jobs whatsoever. I know hon. Members are worried about jobs and so on. We believe that there will be efficiency in the whole exercise. For example, in the case of Catering Levy Trustees, money was provided and they carried out a full retrenchment programme and there will be no impact in terms of employment at the Catering Levy Trustees. On the other hand, the NHIF is expanding so rapidly because there are more revenues coming, and we believe they will use the same people on other assignments.

The next point which I want to make is that the NHIF will still continue to collect money from the informal employees who are not registered as employees of legal organisations. So, they will deal with those people who are self-employed in the informal sector. So, there is nothing lost, except to enhance efficiency. So, I am appealing to hon. Members to re-consider their decision and accept these proposals.

Mr. Shitanda: Mr. Temporary Deputy Chairman, Sir, although the Minister is trying to justify the work of KRA, the Authority has become so greedy that it is trying to grab all centres that collect revenue. He has not addressed himself to the conflict in law about the Act that empowers the Catering Levy Trustees and the NHIF to operate as autonomous bodies.

In fact, the figures the Minister is quoting the KRA has over-collected as revenue are not true. What the KRA has been doing for the last six months is that there were some under-collections like in the Catering Levy Trustees. The Catering Levy Trustees have under-collected by about Kshs11 millions in one month, and in some months, up to Kshs16 million. So, what is the justification for transferring this department to the KRA, when we

know that they are so inefficient?

(Applause)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I just want to deal with the question raised by Mr. Shitanda. That law which worries Mr. Shitanda is exactly what we are trying to address. So, there will be no conflict in law whatsoever. I also want to bring to his attention that, in the month of September alone, the KRA collected a total of Kshs29 million on behalf of the Catering Levy Trustees. This was the highest amount ever collected. The highest amount ever collected by Levy Trustees in the past is, in fact, Kshs14 million.

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

The Temporary Deputy Chairman (Mr. Musila): Order! Order, hon. Members! Let us hear from Mr. Ochilo-Ayacko.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, the Minister has been trying to mislead the House. Yesterday, the Director of NHIF appeared before the Committee on Health, Housing, Labour and Social Welfare, and I had occasion to consult with the Chairman of that Committee, and the information we have is that, for the last two months, the KRA has fallen short of the target. For instance, in the month of October, 2001, they collected and lost Kshs50 million, in comparison with what NHIF was collecting.

(Applause)

(Mr. Obure stood up in his place)

Hon. Members: No! No! Let him sit down!

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, in the month of November, there was a shortfall by the NHIF of a figure amounting to Kshs23 million. So, the issue of efficiency does not arise. But more importantly, this House does not want to engage in futility. We cannot give the Finance Bill authority over other existing laws. Where other laws empower some other bodies to do the work, we cannot send them away. So, this House cannot do an illegality.

(Applause)

The Temporary Deputy Chairman (Mr. Musila): The Minister was on his feet, so I give him a chance.

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

The Temporary Deputy Chairman (Mr. Musila): Order! Order! Mr. Mwenje, you are out of order.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I have figures to [**The Minister for Finance**]

prove what I am saying. I have also received a letter from the Director of the NHIF confirming that, in fact, he was surprised that they were able to raise that amount of money. So, if we are trying to do good---

Hon. Members: Table that letter! You have to table that letter!

The Minister for Finance (Mr. Obure): Well, I will table the letter, if you so decide.

Hon. Members: Yes, table it! We want it tabled now!

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 89 deleted)

(Clause 90 agreed to)

Clause 91

THAT, Clause 91 be amended by deleting that table thereon and inserting the following table in place thereof:-

Minimum core capital

Compliance Date	Bank and Mortgage Finance Companies (Kshs.Millions)	Finance Institutions (Kshs.Millions)
31st December, 1999	100	50
31st December, 2000	120	60
31st December, 2001	150	70
31st December, 2004	160	80
31st December, 2005	200	100

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Musila): I have proposed the amendment on Clause 91, on page 669 of the Supplementary Order Paper. Do we have any hon. Member requested to move that clause on behalf of Mr. Angwenyi.

An hon. Member: Mr. Soita Shitanda is here!

The Temporary Deputy Chairman (Mr. Musila): Mr. Shitanda, do you have instructions to move an amendment on Clause 91?

Mr. Shitanda: Yes, Mr. Temporary Deputy Speaker, Sir.

An hon. Member: But he was expelled! When did he instruct Mr. Shitanda to move the clause on his behalf?

The Temporary Deputy Chairman (Mr. Musila): Continue, Mr. Shitanda!

An hon. Member: He should be disallowed!

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Order, Dr. Godana! I did say that I have a note here from the Clerk's office, which, I have no doubt, originates from the authority of Mr. Speaker, that Mr. Shitanda has been authorized to move Mr. Angwenyi's amendment. I did say that.

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. I recall very vividly that earlier on, when Mr. Angwenyi came into the Chamber, you said that there is a ruling by the Speaker that a Member who has been expelled for the balance of the day cannot benefit, in any way, from the procedures. What has changed that ruling that now, Mr. Angwenyi is going to move an amendment by proxy?

The Temporary Deputy Chairman (Mr. Musila): Order! Let me explain what the hon. Minister has said. I did say what he has referred to and I was referring to a previous ruling by the Chair in relation to another hon. Member who had been ordered out of the Chamber and he had a Question to ask. It was requested that the Question be deferred and the Chair ruled that the Question could not be deferred because the hon. Member had been ordered to withdraw from the Chamber.

Now, when Mr. Angwenyi consulted the Chair and said that he had been told to come back at 6.30 p.m., I did say that I could not accept that unless I had something in writing. Now, I have got something in writing from the Clerk of the National Assembly, and it must be under the authority of Mr. Speaker, authorising Mr. Shitanda to move Mr. Angwenyi's amendment.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Oduyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. With all due respect to our Clerk and the Chair, I would like to point out that, that ruling was made by the Speaker. The Clerk is an *ex-Officio* of this House. I would presume that if a paper was signed by the Speaker, perhaps, it would apply. But here is an *ex-officio* member of this House--- May I propose that we either defer or suspend---

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Oduyo! Your sentiments have been noted. Mr. Shitanda, you may move your amendment!

Hon. Members: No!

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. Our interest is nothing but to ensure that the proper procedure is followed. I think a slight move can set a terrible precedent. You have said that you have referred to an earlier ruling, which can only be overruled, changed or

varied by the Chair and not the Clerk to the National Assembly, unless you want to make a ruling varying the Speaker's earlier ruling. What applies to Questions in times of expulsion, as you have said, must apply *mutatis mutandis* to proposed amendments. I would like to plead with the Chair not to allow the precedent of a Clerk of this House actually making a rule to change the ruling of the Chair, which is to change the rule of the House.

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for Dr. Godana, perhaps, just because he acted as the Deputy Speaker, to refuse to accept the ruling of the Chair? We all know that the Clerk acts on the instructions of the Speaker. Surely, if you received a note from the Clerk, the presumption is that he was acting on the instructions of the Speaker. Is it in order for Dr. Godana to continue defying your order? Should you not actually exercise your authority and throw him out of this House?

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

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Well, Dr. Godana, you have already made your point! Proceed, Mr. Biwott!

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think this House actually ought to be a House of integrity. Presumably, the Speaker made a ruling when he was on the Chair. You, as the Temporary Deputy Chairman, have also made a ruling on the same issue. How come that we should now get instructions and rulings from an official of this House? I think this is undermining the authority of this House because we cannot allow a Clerk to overrule the Chair in the House. If the Speaker wanted to communicate with you, he should have done that directly as the Chair.

Can the Clerk of the National Assembly sit on that Chair? If, indeed, he has that power, he should come to this House, sit on that Chair and make the ruling instead of writing a note to us and then we will know that they are now doing it.

(Applause)

If he cannot sit on that Chair and make a ruling, then we should not obey him.

The Temporary Deputy Chairman (Mr. Musila): I will hear one more hon. Member and then I will make a ruling!

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, you have made a ruling, but I would like to draw your attention to something for record purposes. I heard you say the following when I was sitting here - this is meant for record purposes and I do not want to ask you to reverse your ruling - "A Member who has been expelled from the House cannot benefit---" You will refer to the HANSARD. After that, the ruling was followed by other rulings. I would like to urge you to keep to your ruling and, please, look at the HANSARD to find out what you had ruled earlier on.

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! I have listened to your views. I have listened to the arguments by Dr. Godana, Mr. Biwott and Mr. Keriri. I have also heard what other hon. Members have said. Admittedly, it has been confirmed that the notes which have been brought from the Clerk were brought by authority of Mr. Speaker. However, in view of the earlier ruling and, perhaps, even by the nature of the notes which I am holding, I think I will abide by the earlier ruling. Therefore, we will not allow Mr. Shitanda to proceed.

(Applause)

Mr. Shitanda: Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Musila): That is the ruling and you cannot go back to it! Let us proceed!

(Clauses 91 and 92 agreed to)

Hon. Members: No! We want a division!

The Temporary Deputy Chairman (Mr. Musila): Rise up!

(Prof. Ogeri stood up in his place)

Order! You should rise up in your places! What should I do if you do not rise up?

New Clause

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, the Bill be amended by inserting the following new Clause immediately after Clause 92 -

Repeal of repealing of Cap.493B	92A. The Kenya Post Office section 13.	Section Section 13	Bank Act is amended by
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(Question of the amendment proposed)

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I rise to oppose amendments on Clause 92 on the following grounds. The Kenya Post Office Savings Bank operates under an Act of Parliament, and this clause seeks to withdraw the Government's support from this bank. If the Government withdraws support from the Kenya Post Office Savings Bank, there is a risk of the bank collapsing. We agree that the bank should be independent, but we can only pass this amendment if it can operate with authorised capital. If we pass this clause as it has been amended, the Kenya Post [Office Savings Bank stands a chance of collapsing.

Mr. Temporary Deputy Chairman, Sir, with those few remarks, I beg to oppose the amendment.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Chairman, Sir. What this proposal means is that the Minister for Finance is trying to withdraw the Treasury's support to the Kenya Post Office Savings Bank so that this bank can now capitalise on this and sell shares to wananchi to raise money. But they are doing this with the hope that the Kenya Post Office Savings Bank will become a micro-finance organisation. But to hope that it will become a micro-finance organisation before we bring a Bill to this House to create micro-finance institutions will, most probably, leave this bank without support and it will collapse. So, let us continue to support it until we bring to this House the Micro-Finance Bill and then the Kenya Post Office Savings Bank can be a micro-financier. In the meantime, let the Government give this bank the support it requires until we bring a Bill before this House to create micro-finance institutions, so that we can benefit from this bank.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, do you have anything you would like to say?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I think Kenya Post Bank has really come of age. In an era of liberalised financial services, I feel that they have a strong capital base to be able to compete with other banking institutions, and that they do not need the support of the Government.

The present arrangement is such that, if they make losses, the Government reimburses that institution for those losses. Therefore, the public will support the bank at their own expense. I feel that the amendments we are proposing will force this particular bank to introduce measures that will make it more efficient and reliant on its own resources. I do not think that the taxpayers should continue to subsidize the activities of that bank. Therefore, I support the amendment.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, this is a very serious situation. I hope everybody understands what the Minister is trying to do here. If Kenya Post Savings Bank has no capital base, how will it operate? The only reason why people deposit money with this bank is because of the Government guarantee.

Mr. Temporary Deputy Chairman, the Minister is proposing that the Government withdraws its guarantee and leaves the bank without capital. How can the Government come up with that kind of amendment? Kenyans who have deposited their money in that bank have done so believing that the Government guarantee will cover them in case that bank collapses.

Mr. Temporary Deputy Chairman, Sir, what the Minister is now telling us is that we need to leave those people open to risks, with neither capital nor guarantee. How can we leave our people so open? We will be killed by our people if their money gets lost. This is a serious situation and I hope the Minister will reconsider it and withdraw this clause.

Mr. Temporary Deputy Chairman, Sir, alternatively, we can delete the whole clause because it is dangerous even for you in KANU. What will you tell your people if they lose their money because there is no Government guarantee?

The Temporary Deputy Chairman (Mr. Musila): Very well, Mr. Mwenje.

Hon. Members, I would have liked to hear a different view from the one presented by hon. Mwenje. In view of the time, there is no need to repeat what someone else has said. So, I can ask an hon. Member with a different view from Mwenje to say it.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I hope to say something different from what hon. Mwenje said, I will say it differently from how he said it, and not necessarily to oppose him. I think the reason why things are going wrong is because we are doing things piecemeal. We have the Kenya Post Savings Bank which has existed for a long time. It may have come of age and is now in a position to operate independently. However, we should take this important step in a comprehensive manner.

Mr. Temporary Deputy Chairman, Sir, let us reform it and make it a macro finance institution first, before we withdraw the Government support. Right now, we are only doing one thing in piecemeal; that is, we are withdrawing support from it. Why can we not reform it? We should not accept that particular amendment.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I have listened very carefully to the sentiments by hon. Members.

I am convinced that hon. Members are making a very convincing case.

Mr. Temporary Deputy Chairman, Sir, in the circumstance and in the interest of the people of the bank, I withdraw the amendment.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, you have withdrawn Clause **The**

Minister for Finance (Mr. Obure): Yes, Mr. Temporary Deputy Chairman, Sir.

(New Clause 92A withdrawn)

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. Closely connected to just what we have voted---

The Temporary Deputy Chairman (Mr. Musila): Order! We have already finished with that clause. Let us move on to the next clause.

Clause 93

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, in the light of the Committee decision to repeal Section 89, this clause, therefore, becomes redundant and should be repealed.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed)

(Clause 93 was deleted)

(Clauses 94, 95, 96 and 97 agreed to)

New Clauses

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, the Bill be amended by inserting the following new Clauses immediately after clause 85 -

Amendment of 85A. Section 2 of the Exchequer and Section Audit Act is amended by deleting the definition
2 of "Auditor-General (Corporations)".
Cap. 412"

Amendment of 85B. The Exchequer and Audit Act is
Section 29 of amended by repealing section 29 and
Cap. 412. replacing it with the following new section -

Accounts of 29. (1) Notwithstanding anything
State to the contrary in any other written law for

Corporations the time being in force, the accounts of every state corporation shall be audited by the Controller and Auditor-General; and in the exercise of his duties under this section, the Controller and Auditor-General

- - (a) shall have, in relation to such state corporation and its members, officers and employees, the same powers as are conferred on him by sections 7 and 8 in relation to public moneys, stamps, securities, stores or other Government property;
 - (b) may authorize any person publicly carrying on the profession of accountant or any officer to inspect, examine or audit the books and accounts of any state corporation which he may be required to examine and audit pursuant to the provisions of this section, and such person or officer shall report thereon to the Controller and Auditor-General in such manner as the Controller and Auditor-General may direct.
- (2) The Controller and Auditor-General shall report on his examination and audit of the accounts referred to in this section, and shall transmit such report to the appropriate Minister for presentation to the National Assembly:

Provided that-

- (i) the appropriate Minister shall obtain the observations of the state corporation on any matter to which attention has been called by the Controller and Auditor-General in his report, and such observations shall be presented to the National Assembly with the report.
 - (ii) if the appropriate Minister fails within a reasonable time to present such report to the National Assembly, the Controller and Auditor-General shall transmit such report to the Speaker of the National Assembly to be presented to the said Assembly.
 - (3) A reference in any written law to the Auditor-General (Corporations) shall, after the commencement of this section, be deemed to be a reference to the Controller and Auditor-General.
 - (4) The officers who, immediately before the commencement of this section, were appointed to assist the Auditor-General (Corporations) under section 29 (now repealed) shall, upon the commencement of this section, be deemed to be members of the staff appointed to assist the Controller and Auditor-General under section 9.
- 85C. Section 30A of the Exchequer and Audit Act is amended by deleting the words "Auditor-General (Corporations)" and substituting therefor the words "Controller and Auditor-General".
- 85D. Section 31 of the Exchequer and Audit Act is amended by deleting the words "Auditor-General (Corporations)" wherever they occur and substituting therefor the words "Controller and Auditor-General".

Mr. Temporary Deputy Chairman, Sir, we have the office of the Controller and Auditor-General and the Auditor-General (Corporations) office. Under the current arrangement, the Controller and Auditor-General who usually examines books of Government Ministries and others is, by Constitution, protected through a guarantee on his tenure of service. He is, therefore, able to conduct his activities independently without fear or favour. In the case of the Auditor-General (Corporations), he does not have a guarantee in his tenure of service. In the circumstances, he is subject to considerable influence and occasional intimidation. We, therefore, feel that we should strengthen the Office of the Auditor-General (Corporations), so that, together with his staff, they can conduct their audit work independently without fear. That way, we shall enhance audit services and obtain a more effective delivery of services.

(Question of the new clauses proposed)

(New Clauses read the First Time)

(Question, that the new clauses be read a Second Time, proposed)

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, it would be wrong for this House to consider positively what the Minister is asking us to consider. We are talking about reform in a constitutional office, and the time-frame within which we have to debate that kind of reform is not enough. More so, what we are debating today is the Finance Bill. I do not see how the passage of these particular clauses will enhance the efficacy of the Finance Bill. If the Attorney-General wishes to have this reform or amendments introduced in respect of the Exchequer and Audit Act, then it should come as an item on its own to enable this House exhaustively debate it. Otherwise, we are about to pass something whose implications we cannot exhaustively perceive in this limited

debate.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, the Minister is purporting to abolish the office of the Auditor-General (Corporations) using the Finance Bill. The Auditor-General (Corporations) falls under the Exchequer and Audit Act. You cannot amend the Exchequer and Audit Act using the Finance Bill. You remember, through the Public Accounts Committee, this Government went ahead and gave judges a salary increase without amending the Exchequer and Audit Act. The former Chief Justice, Mr. Majid Cocker, had a case running for a long time in order to be paid his pension, because the Exchequer and Audit Act was never amended. The Finance Minister is trying to tell us that we pass this Bill, and then he will do the necessary amendments. What had been agreed on was that they form a national audit office combining the office of the Controller and Auditor-General and the Auditor-General (Corporations), so that they can address the issue of audit. One has tenure of office, whereas the other one does not have. I would like these new clauses to be rejected.

The Temporary Deputy Chairman (Mr. Musila): Indeed, I had notice from Mr. Obwocha, but I wanted to get the proposal for the amendment by the Minister then I give him the chance. So, Mr. Obwocha, do I take it that you have moved the amendment? You must be very clear for the purpose of the records.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I have given notice that I propose to delete the new clauses. I beg to move.

The Vice-President and Minister for Home Affairs, Heritage and Sports (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, the scenario is, in the original duties of the Auditor-General (Corporations), that he was in charge of public funds, including the parastatals.

Then later on, it was found that there were quite a number of parastatals and, therefore, it was appropriate to assign an Auditor-General to be in charge of Corporations. That was done through the amendment of the Exchequer and Audit Act. But that was also done through the Finance Bill, because in the Finance Bill, you can actually do quite a number of things. Of late, it has become necessary that the position of the Auditor-General (Corporations), which is spelt out clearly in the Constitution, be also in charge of Government expenditure of the Ministry including those of the parastatals, for the simple reason that those resources and the budget of the parastatals are both public funds. That is why it is being proposed that the person who actually is empowered by the Constitution to be in charge of public funds, continues to do his work without any discrimination. I hope hon. Members will consider this proposal seriously.

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, we would like to make one issue very clear; that we are not opposed to the idea of abolishing the office of the Auditor-General (Corporations) because we know that office was created to undermine the Controller and Auditor-General's office. In fact, it has performed very poorly because of what the Minister was talking about; intimidation, especially by the Executive. As the supreme authority and the watchdog of this country in financial matters, we should support this kind of amendment. What we are quarrelling about is the manner in which it has been brought before this House. The Finance Bill serves specific purposes with regard to finances, for purposes of raising taxes. In fact, it merely deals with tax laws. The Exchequer and Audit Act is a bit broader. So, we would like to request the Minister to withdraw this amendment from the Finance Bill and bring it through the Statute Law (Miscellaneous Amendments) Bill, which will be coming before this House very soon, and then we will support it. As for now, we are rejecting it because it has been brought through the back door.

Mr. Mwiraria: Mr. Temporary Deputy Chairman, Sir, Mr. Murungi has said almost everything that I wanted to say, but let me just clarify one point. I was in the "system" when the amendment to introduce the Auditor-General (Corporations) was brought before this House. The history was that the Controller and Auditor-General had written a private report on the Kenya Posts and Telecommunications Corporation, which was very damaging to the managers then, and they did not know what to do with him. So, they amended it and created a weak body without any security of tenure, so that they could manipulate him. I agree with the Minister that we need to have one Controller and Auditor-General auditing all Government funds. My plea to him is that, reading the mood of the House, he should withdraw this amendment now and bring it later as suggested by Mr. Murungi.

The Temporary Deputy Chairman (Mr. Musila): I will give a chance to Prof. Ongeru to speak and then put the Question!

The Minister for Public Health (Prof. Ongeru): Mr. Temporary Deputy Chairman, Sir, it is quite obvious that the revision of anything dealing with finances has come through the Finance Bill. Even if you shifted it to the Miscellaneous Amendments Bill, it is going to have the same effect as being dealt with under the Exchequer and Audit Act, under the Finance Bill.

We all agree that anything that deals with the collection and management of finances properly falls under

the Finance Bill. Therefore, I do not see any reason why you want to say that the amendment should be brought under the Miscellaneous Amendments Bill, rather than the Finance Bill that we are discussing at the moment. If I remember very well, it is quite clear that some of my colleagues in this House were very vocal in wanting to delete the functions of the Auditor-General (Corporations) and have them incorporated in the Controller and Auditor-General's Office because of the tenure of office. Now, we are there! What is the impediment? That is what I do not understand!

The Temporary Deputy Chairman (Mr. Musila): Do you want to say something, Mr. Minister? After the Minister has spoken, I will put the Question!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I get surprised sometimes! Hon. Members are telling me that we are doing the right thing to make the amendment now, and that there are weaknesses in the current arrangement. They are saying that we should rather make the correction later and accommodate damage until that time. I find that argument a bit strange! Even the Auditor-General (Corporations) is concerned with budgetary issues, the enhancement of revenue collection and the manner in which we use our taxes. Therefore, I see nothing wrong in bringing this amendment under the current Bill. In any case, I have checked the records, and as has been said here before, even to separate the Controller and Auditor-General and the Auditor-General (Corporations) was done through the Finance Bill. So, I see nothing wrong in the light of the gravity of the matter in bringing the amendment at this time. I still plead with hon. Members to accommodate the amendment for purposes of efficiency, so that we can continue to be an effective watchdog of public funds.

*(Question, that the new clauses be read a
Second Time, put and agreed to)*

(The new clauses were read a Second Time)

*(Question, that the new clauses be added
to the Bill, put and negatived)*

MOTION

EXTENSION OF SITTING TIME

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the House do sit until it does dispose of the Finance Bill.

The Minister for Public Health (Prof. Ongeru) seconded.

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Musila): Therefore, we will proceed until 9.00 o'clock! So, I do hope we will have finished.

(Resumption of consideration of the Finance Bill)

New Clause

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, in the light of the decision just taken, these clauses become superfluous and not required at all. So, they should be deleted.

The Temporary Deputy Chairman (Mr. Musila): Very well! So, we do not have to move anything. The new clauses are, therefore, withdrawn!

(The new clause was withdrawn)

New Clause

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am realigning myself. I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 88 -

Insertion of **88A.** The Kenya Revenue Authority in Section 88A in Act is amended in the First Schedule Cap.469 by inserting the following new Part- Cap.469. the following new Part -

PART III (s.25)

1. The Income Tax Act (Cap.470.)
2. The Customs and Excise Act (Cap.472.)
3. The Value Added Tax Act (Cap.476.)
4. The Entertainment Tax Act (Cap. 479.)

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we had already dealt with this amendment under Section 88A Part III. The intention of the amendment is to provide for set-off. Having agreed on Section 88A, this amendment becomes necessary and that is why we have introduced it to facilitate the set-off. It is a measure intended to benefit taxpayers.

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 92 A

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, because of what happened when we discussed the question of the Kenya Post Office Savings Bank Act, this is not necessary now, and it should be deleted.

The Temporary Deputy Chairman (Mr. Musila): Therefore, the new Clause 94A is withdrawn by the Minister and we will proceed to new clauses 98 and 99.

(New Clause 92 A withdrawn)

New Clauses 98 and 99

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, these suffer the same consequence. Because we did not approve the measures on the National Hospital Insurance and the Catering

Levy Trustees, these new clauses should be deleted.

The Temporary Deputy Chairman (Mr. Musila): Very well. The Minister has withdrawn New clauses 98 and 99. Therefore, it stands withdrawn.

(New Clauses 98 and 99 withdrawn)

Second Schedule

Mr. Kombo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Second Schedule of the Bill be amended by deleting the expression "Shs1,085" appearing in the new rate of duty in respect of items falling under Tariff No."2710.00.45" and substituting therefor the expression "Shs550."

New Clause

Mr. Kombo: Mr. Temporary Deputy Chairman, Sir, I beg to move that a new clause be added as follows:-

Amendment of Finance Act 2000

THAT, Finance Act 2000, be amended in Part 1 by introducing the following immediately after Section "1(a):-

1(a)(i) on 16th June, 1995 and in 1(f) by deleting figure "48."

Mr. Temporary Deputy Chairman, Sir, I will be brief on this one. Section 39 of the Finance Bill 2000 as amended, did provide a refund for outstanding Customs Duty in cases where set off was not possible due to lack of taxable profits for various organisations. In other words, if a company is making profits, then the Customs Duty paid on capital equipment is set off. However, the problem with the amendment I have just referred to is that it did not refer to investments prior to 1st January, 2001.

During these hard times, there are various organisations which did invest prior to this period. We would rather have them benefitting from this legitimate incentive to ensure that jobs are kept. It is better for the Minister to have an organisation that stands on its feet, albeit paying little tax.

With those remarks, I beg to move.

(Question of the new clause proposed)

(New Clause read the First Time)

(Question, that the new Clause be read a Second Time, propped)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I fully appreciate the sentiments of hon. Kombo. But the amendment he is seeking to make will have very serious implications on revenue. In effect, what he is asking for is that we backdate the effective date of this refund of import duty paid on importation of capital goods from 1st January, 2000, to 16th June, 1995. That is the effect of hon. Kombo's amendment.

Mr. Temporary Deputy Chairman, Sir, backdating these measures to 1995 will have serious revenue implications. A lot of the refunds have not been budgeted for. Therefore, it is very difficult at this stage to even quantify the expenditure because we do not know how many people will claim. There could be numerous people claiming. This is the reason why I have said that this is a bad law because it backdates the effective date. Therefore, I will oppose it out of that principle, that we cannot backdate this provision. In any case, it will be effective from 1st January this year. I do not think it will be right, because we simply have not made any provision for the refund.

With those few remarks, I beg to oppose.

Mr. Kombo: Mr. Temporary Deputy Chairman, Sir, I think it is a question of interpretation. I have done my research and there are various interpretations. I know that the Kenya Revenue Authority has one interpretation and the Attorney-General has another. I do not see any difficulties at all on this issue.

*(Question, that the new clause be read a
Second Time, put and negatived)*

New Clause 98

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, New Clause 98 is on your supplementary Order Paper, page 669.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, having taken the decisions we took earlier on, it is my view that this clause now becomes superfluous and unnecessary. It should be deleted.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, for the purpose of record, you ought to be specific and withdraw it.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I agree that in the light of the decisions we took earlier on, this amendment should now be deleted.

The Temporary Deputy Chairman (Mr. Musila): Very well! It is withdrawn.

(New Clause 98 withdrawn)

First Schedule

The Temporary Deputy Chairman (Mr. Musila): The First Schedule is on page 735 of the main Finance Bill. There is a proposed amendment by the Minister on page 662

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, the First Schedule to the Bill be amended by inserting the following new Tariff Number, description and statistical code in proper alphabetical order.

Heading No.H.S. CodeTariff No.Amendments to TextImport S.I.T.C.Unit of

No.DutyNo.Quantity

CHAPTER 38

Insert the following
Tariff number and its
corresponding description,
Import Duty, SITC and
Unit of Quantity.

38083808.103808.10.30Aerosol insecticides15%591 130 00Kg

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(First Schedule as amended agreed to)

(A cell phone rang)

The Temporary Deputy Chairman (Mr. Musila): Order! An hon. Member's cell phone is ringing

and it is really out of order. Whoever it is should be honourable enough to stand up and apologise.

Very well, I will not waste a lot of time asking about the issue, but I hope that will not be repeated again.

Second Schedule

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to move: THAT, the Second Schedule be amended by inserting the following tariff numbers, descriptions and rates of duty in their proper sequence.

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
1504.10.00	Cod liver oil.	5%
1504.20.00	Fats and oils and their fractions, of fish, other than liver oils, whether or not refined, but not chemically modified	5%
2102.10.10	Bakers' and household yeasts	25%
2505.10.00	Silica sands and quartz sands	5%
2515.90.00	Solid sodium hydroxide (caustic soda)	5%
2709.00.10	Gas condensates.	Free
2709.00.90	Other petroleum oils and oils obtained from bituminous minerals.	Free
2710.00.10	Partly refined oils including topped crudes.	Free
2710.00.21	Aviation spirit (gasolene).	Free
2710.00.22	Motor spirit (gasolene), premium.	Free
2710.00.23	Motor spirit (gasolene), regular.	Free
2710.00.24	Jet fuel, spirit type.	Free
2710.00.25	Special boiling point spirit and white spirit.	Free
2710.00.29	Other light petroleum oils and preparations.	Free
2710.00.31	Jet fuel (Kerosene type).	Free
2710.00.32	Kerosene.	Free
2710.00.39	Other medium petroleum oils and preparations.	Free
2710.00.41	Diesel oil (industrial, heavy, black, for low speed marine and stationary engines).	Free
2710.00.42	Gas oil (automotive, light, amber, for high speed engines).	Free
2710.00.43	Other gas oil.	Free
2710.00.44	Residual fuel oils (marine, furnace and similar fuel oils) of 125 Centistokes (cSt).	Free
2710.00.45	Residual fuel oils of 180 Centistokes (cSt).	Free
2710.00.46	Residual fuel oils of 280 Centistokes (cSt).	Free
2710.00.47	Other residual fuel oils.	Free
2815.11.00	Hydrazine and hydroxylamine and their inorganic salts	Free
2825.10.00	Hydrazine and hydroxylamine and their inorganic salts	3%
2825.50.00	Copper oxides and hydroxides	3%
2833.19.00	Other sodium sulphates, other than disodium sulphate.	15%
2833.22.00	Sulphates of aluminium.	15%
2835.31.00	Sodium triphosphate (sodium tripolyphosphate)	Free
2842.10.00	Double or complex silicates	3%
2849.10.00	Carbide of calcium whether or not chemically defined.	3%
2901.21.00	Unsaturated ethylene	3%
2905.14.00	Other butanols	3%
2915.33.00	n-Butyl acetate	3%
2917.19.00	Other acyclic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives	3%
2918.22.00	O-Acetylsalicylic acid, its salts and esters	3%
2918.90.00	Other carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids;	3%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	their hacogenated, sulphanated, nitrated or nitrosated derivatives	
2922.19.00	Other amino-alcohols and their salts	3%
2933.21.00	Hydantoin and its derivatives	3%
3204.15.00	Vat dyes (including those usable in that state as pigments) and preparations based thereon	3%
3206.42.00	Lithophone and other pigments and preparations based on zinc sulphide.	3%
3215.90.91	Ink of a kind used in ballpoint pens, whether or not concentrated	Free
3402.11.00	Anionic organic surface active agents	3%
3404.10.00	Artificial waxes and prepared waxes of chemically modified lignite.	3%
3701.30.00	Other photographic plates and film, in the flat, sensitised, unexposed, of any material other than paper, paperboard or textiles with any side exceeding 255 mm.	3%
3806.10.00	Rosin and resin acids	15%
3806.20.00	Salts of rosin or of resin acids	25%
3808.10.30	Aerosol insecticides	15%
3809.91.00	Other finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in textile industry not elsewhere specified or included.	3%
3811.90.00	Other prepared additives for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils other than additives for lubricating oils.	3%
3823.12.00	Oleic acid	3%
3824.40.00	Prepared additives for cements, mortars or concretes	3%
3824.60.00	Sorbitol other than that of subheading No. 2905.44	3%
3901.30.00	Ethylene-vinyl acetate copolymers	15%
3901.90.00	Other polymers of ethylene, in primary form	15%
3902.20.00	Polyisobutylene, in primary forms	3%
3902.30.00	Propylene copolymers, in primary forms.	3%
3903.11.00	Expansible polystyrene.	15%
3903.19.00	Other polystyrene.	3%
3903.20.00	Styrene-acrylonitrile (SAN) copolymers, in primary form.	15%
3903.30.00	Acrylonitrile-butadiene-styrene (ABS) copolymers, in primary forms.	15%
3903.90.00	Other polymers of styrene, in primary form	15%
3904.40.00	Other vinyl chloride copolymers in primary forms.	15%
3906.90.00	Other acrylic polymers in primary forms.	3%
3907.91.00	Other unsaturated polyesters, in primary forms.	5%
3907.99.00	Other polyesters, saturated in primary forms.	15%
3908.10.00	Polyamide-6, -11, -12, -6,6, -6,9, -6,10 or -6,12 in primary forms.	5%
3909.10.00	Urea resins; thiourea resins in primary forms.	15%
3909.30.00	Other amino-resins in primary forms.	5%
3909.40.00	Phenolic resins in primary forms.	5%
3912.39.90	Other cellulose and their chemical derivatives n.e.s. in primary form	5%
3912.90.00	Of polymers of propylene: Unprinted	3%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
3920.20.10	Other plates, sheets, film, foil and strips	5%
4016.99.10	Flexible containers of 200 litres or more for storage or transport of liquid of vulcanized rubber other than hard rubber.	3%
4016.99.90	Other articles of vulcanised rubber other than hard rubber.	3%
4801.00.00	Newsprint, in rolls or sheets.	35%
4802.40.00	Wallpaper base in rolls or sheets.	15%
4803.00.90	Other toilet or facial tissue stock, towel or napkin stock and similar paper of a kind used for household or sanitary purposes; cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled, embossed, perforated, surface-coloured, surface decorated or Yprinted in rolls.	35%
4804.11.00	Unbleached kraftliner.	35%
4804.19.10	Other kraftliner of a kind used for dry battery lining (battery separator)	35%
4804.19.90	Other kraftliner	35%
4804.21.00	Unbleached sack kraft paper in rolls or sheets, uncoated.	35%
4804.29.00	Other sack kraft paper in rolls or sheets, uncoated.	35%
4804.31.00	Other kraft paper and paperboard weighing 150 g/m ² or less, unbleached in rolls or sheets, uncoated.	35%
4804.39.00	Other kraft paper and paperboard weighing 150 g/m ² or less, in rolls or sheets, uncoated.	35%
4805.30.00	Sulphite wrapping paper, in rolls or sheets, uncoated.	15%
4805.40.00	Filter paper and paperboard, in rolls or sheets, uncoated.	15%
4805.50.00	Felt paper and paperboard, in rolls or sheets, uncoated.	35%
4805.60.10	Watermarked security paper.	15%
4805.60.90	Other paper and paper board more than 150 g/m ² or less in rolls or sheets, uncoated.	35%
4806.10.90	Vegetable parchment paper, in rolls or sheets, printed.	35%
4807.10.00	Paper and paperboard, laminated internally with bitumen, tar or asphalt, in rolls or sheets.	35%
4807.90.00	Other composite paper and paperboard not surface-coated or inprignated, whether or not internally reinforced, inrolls or sheets.	35%
4808.10.00	Corrugated paper and paperboard, whether or not perforated, in rolls or sheets.	35%
4808.20.00	Sack kraft paper, creped or crinkled, whether or not embossed or perforated, in rolls or sheets.	35%
4808.30.00	Other kraft paper, creped or crinkled, whether or not embossed or perforated, in rolls or sheets.	35%
4808.90.00	Other paper and paperboard, (with or without glued flat surface sheets), creped,	35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	crinkled, embossed or perforated, in rolls or sheets, other than that of heading No. 48.03 or 48.18.	
4809.10.00	Carbon or similar copying papers in rolls of a width exceeding 36 cm or in rectangular (including square) sheets with at least one side exceeding 36 cm in unfolded state.	35%
4809.90.00	Other copying or transfer papers (including coated or impregnated paper for duplicator stencils or offset plates), whether or not printed, in rolls or sheets.	15%
4810.11.90	Paper and paperboard of a kind used for writing, printing or other graphic purposes, not containing fibres obtained by a mechanical process or of which not more than 10% by weight of the total fibre content consists of such fibres weighing more than 120 g/m ² but not less than 150 g/m ² in rolls and sheets.	15%
4810.12.00	Paper and paperboard of a kind used for writing, printing or other graphic purposes, not containing fibres obtained by a mechanical process or of which not more than 10% by weight of the total fibre content consists of such fibres weighing more than 150 g/m ² in rolls or sheets, coated.	35%
4810.29.00	Other paper and paperboard of a kind used for writing, printing or other graphic purposes, of which more than 10% by weight of the total fibres content consists of fibres obtained by a mechanical process, in rolls or sheets, coated.	35%
4810.31.00	Kraft paper and paperboard, other than that of a kind used for writing, printing or other graphic purposes, bleached uniformly throughout the mass and of which more than 95% by weight of the total fibre content consists of wood fibres obtained by a chemical process and weighing not more than 150 g/m ² in rolls or sheets.	15%
4810.32.00	Kraft paper and paperboard, other than that of a kind used for writing, printing or other graphic purposes, bleached uniformly throughout the mass and of which more than 95% by weight of the total fibre content consists of wood fibres obtained by a ch	35%
4811.10.00	Tarred, bituminised or asphalted paper and paper-board, in rolls or sheets other than goods of heading No. 48.03, 48.09, 48.10 or 48.18.	35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
4811.29.90	Other gummed or adhesive paper and paperboard in rolls or sheets, other than goods of heading No. 48.03, 48.09, 48.10 or 48.18 in rolls or sheets, printed.	35%
4811.39.90	Other paper and paperboard coated, impregnated or covered with plastics (excluding adhesives) of a kind for dry cell battery labelling.	35%
4811.40.10	Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol in rolls or sheets, other than goods of heading No. 48.03, 48.09, 48.10 or 48.18, unprinted	35%
4814.20.00	Wallpaper and similar wall coverings, consisting of paper coated or covered, on the face side, with a grained, embossed, coloured, design-printed or otherwise decorated layer of plastics.	15%
4818.10.00	Toilet paper.	35%
4818.30.00	Table cloths and serviettes.	35%
4818.40.00	Sanitary towels and tampons, napkins and napkin liners for babies and similar sanitary articles.	35%
4818.50.00	Articles of apparel and clothing accessories.	35%
4818.90.00	Other articles of paper pulp, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 mm or cut to size or shape.	35%
4822.10.00	Bobbins, spools, cops and similar supports of paper pulp, paper or paperboard (whether or not perforated or hardened), of a kind used for winding textile yarn.	35%
4822.90.00	Other bobbins, spools, cops and similar supports of paper pulp, paper or paperboard (whether or not perforated or hardened).	35%
4823.11.00	Gummed or adhesive paper, in strips or rolls, self- adhesive.	35%
4823.19.00	Other gummed or adhesive paper, in strips or rolls.	35%
4823.20.00	Filter paper and paperboard.	35%
4823.40.00	Rolls, sheets and dials, printed for self-recording apparatus of paper, paperboard or cellulose wadding.	35%
4823.51.00	Other paper and paperboard, of a kind used for writing, printing or other graphic purposes, printed, embossed or perforated.	35%
4823.90.00	Other paper, paperboard, cellulose wadding and webs of cellulose fibres cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres.	35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5208.11.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain weave, weighing not more than 100 g/m ² .	Per sq. m. Shs.10.00 or 35%
5208.12.10	Canvas of woven fabrics of cotton, plain weave, weighing more than 100 g/m ² but not more than 200 g/m ² containing 85% or more by weight of cotton, unbleached.	Per sq. m. Shs.10.00 or 35%
5208.12.90	Other woven fabrics of cotton, plain weave, weighing more than 100 g/m ² but not more than 200 g/m ² , containing 85% or more by weight of cotton, unbleached.	Per sq. m. Shs.10.00 or 35%
5208.13.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² unbleached.	Per sq. m. Shs.10.00 or 35%
5208.19.10	Weftless fabric, of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² , for tyre manufacture.	Per sq. m. Shs.10.00 or 35%
5208.19.90	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² .	Per sq. m. Shs.10.00 or 35%
5208.21.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing not more than 100 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5208.22.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing more than 100 g/m ² but not more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5208.23.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton containing 85% or more by weight of cotton, weighing not more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5208.29.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5208.31.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing not more than 100 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5208.32.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing more than 100 g/m ² but not more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5208.33.00	Woven 3-thread or 4-thread twill, of cotton, including cross twill, weighing not more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5208.39.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing not more than 100 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5208.41.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing not more than 100 g/m ² , of yarns	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	of different colours.	
5208.42.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing more than 100 g/m ² but not more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5208.43.00	Woven 3-thread or 4-thread twill, of cotton, including cross twill, weighing not more than 200 g/m ² , of yarn of different colours.	Per sq. m. Shs.10.00 or 35%
5208.49.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5208.51.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing not more than 100 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5208.52.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, plain weave, weighing more than 100 g/m ² , but not more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5208.53.00	Woven 3-thread or 4-thread twill, of cotton, including cross twill, weighing not more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5208.59.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5209.11.10	Canvas of woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, unbleached.	Per sq. m. Shs.10.00 or 35%
5209.11.90	Other woven fabrics of cotton (other than canvas), containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, unbleached.	Per sq. m. Shs.10.00 or 35%
5209.12.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5209.19.10	Weftless fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , for tyre manufacture.	Per sq. m. Shs.10.00 or 35%
5209.19.90	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5209.21.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, bleached.	Per sq. m. Shs.10.00 or 35%
5209.22.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5209.29.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5209.31.00	more than 200 g/m ² , bleached. Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, dyed.	Per sq. m. Shs.10.00 or 35%
5209.32.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5209.39.00	Other woven fabrics of cotton, containing 85% by weight of cotton, weighing more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5209.41.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5209.42.00	Denim of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5209.43.00	Other cotton fabrics of 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5209.49.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5209.51.00	Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , plain weave, printed.	Per sq. m. Shs.10.00 or 35%
5209.52.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5209.59.00	Other woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5210.11.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , plain weave, unbleached.	Per sq. m. Shs.10.00 or 35%
5210.12.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5210.19.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5210.21.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , plain weave, bleached.	Per sq. m. Shs.10.00 or 35%
5210.22.00	Woven 3-thread or 4-thread twill, including cross twill, containing less than 85% by weight mixed mainly or solely with man-made fibres weighing 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5210.29.00	Other woven fabrics of cotton, containing less than 85%by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5210.31.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , plain weave, dyed.	Per sq. m. Shs.10.00 or 35%
5210.32.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5210.39.00	Other woven fabrics of cotton, containing less than 85%by weight of cotton, mixed mainly or solely with man-made fibres weighing not more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5210.41.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , plain weave, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5210.42.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5210.49.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5210.51.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , plain weave, printed.	Per sq. m. Shs.10.00 or 35%
5210.52.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	solely with man-made fibres, weighing not more than 200 g/m ² , printed.	
5210.59.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5211.11.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , plain weave, unbleached.	Per sq. m. Shs.10.00 or 35%
5211.12.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5211.19.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5211.21.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , plain weave, bleached.	Per sq. m. Shs.10.00 or 35%
5211.22.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5211.29.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5211.31.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , plain weave, dyed.	Per sq. m. Shs.10.00 or 35%
5211.32.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5211.39.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5211.41.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , plain weave,	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5211.42.00	of yarns of different colours. Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres weighing more than 200 g/m ² denim, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5211.43.00	Other woven fabrics of 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5211.49.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5211.51.00	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , plain weave, printed.	Per sq. m. Shs.10.00 or 35%
5211.52.00	Woven 3-thread or 4-thread twill, including cross twill, of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5211.59.00	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5212.11.00	Other woven fabrics of cotton, weighing not more than 200g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5212.12.00	Other woven fabrics of cotton, weighing not more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5212.13.00	Other woven fabrics of cotton, weighing not more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5212.14.00	Other woven fabrics of cotton, weighing not more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5212.15.00	Other woven fabrics of cotton, weighing not more than 200 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5212.21.00	Other woven fabrics of cotton, weighing more than 200 g/m ² , unbleached.	Per sq. m. Shs.10.00 or 35%
5212.22.00	Other woven fabrics of cotton, weighing more than 200 g/m ² , bleached.	Per sq. m. Shs.10.00 or 35%
5212.23.00	Other woven fabrics of cotton, weighing more than 200 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5212.24.00	Other woven fabrics of cotton, weighing more than 200 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5212.25.00	Other woven fabrics of cotton, weighing	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	more than 200 g/m ² , printed.	or 35%
5309.11.10	Canvas, woven, containing 85% or more by weight of flax, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5309.11.90	Other woven fabrics of flax containing 85% or more by weight of flax, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5309.19.10	Other canvas, containing 85% or more by weigh of flax, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5309.19.90	Other woven fabrics of flax, containing 85% or more by weight of flax.	Per sq. m. Shs.10.00 or 35%
5309.21.00	Woven fabrics of flax, containing less than 85% by weight of flax, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5309.29.00	Other woven fabrics of flax, containing less than 85% by weight of flax.	Per sq. m. Shs.10.00 or 35%
5310.10.00	Woven fabrics of jute or of other textile bast fibres, of heading No. 53.03, unbleached.	Per sq. m. Shs.10.00 or 35%
5310.90.00	Other woven fabrics of jute or of other textile bastfibres of heading No. 53.03, bleached.	Per sq. m. Shs.10.00 or 35%
5311.00.10	Woven fabrics of hessian and sacking (not including matting).	Per sq. m. Shs.10.00 or 35%
5311.00.20	Woven fabrics of true hemp.	Per sq. m. Shs.10.00 or 35%
5311.00.30	Woven fabrics of paper yarn.	Per sq. m. Shs.10.00 or 35%
5311.00.90	Woven fabrics of other vegetable textile fibres.	Per sq. m. Shs.10.00 or 35%
5407.10.00	Woven fabrics obtained from high tenacity yarn, of nylon or other polyamides or of polyesters.	Per sq. m. Shs.10.00 or 35%
5407.20.00	Woven fabrics obtained from strip or the like.	Per sq. m. Shs.10.00 or 35%
5407.30.00	Woven fabrics consisting of layers of parallel textile yarns superimposed on each other at acute or right angles and bonded at intersections by an adhesive or by thermal bonding.	Per sq. m. Shs.10.00 or 35%
5407.41.00	Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5407.42.00	Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides, dyed.	Per sq. m. Shs.10.00 or 35%
5407.43.00	Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5407.44.00	Other woven fabrics, containing 85% or more by weight of filaments of nylon or other polyamides, printed.	Per sq. m. Shs.10.00 or 35%
5407.51.00	Other woven fabrics, containing 85% or	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	more by weight of textured polyester filaments, unbleached or bleached.	or 35%
5407.52.00	Other woven fabrics, containing 85% or more by weight of textured polyester filaments, dyed.	Per sq. m. Shs.10.00 or 35%
5407.53.00	Other woven fabrics, containing 85% or more by weight of textured polyester filaments, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5407.54.00	Other woven fabrics, containing 85% or more by weight of textured polyester filaments, printed.	Per sq. m. Shs.10.00 or 35%
5407.61.00	Other woven fabrics containing 85% or more by weight of non-textured polyester filaments.	Per sq. m. Shs.10.00 or 35%
5407.69.00	Other woven fabrics, containing 85% or more by weight of polyester filaments.	Per sq. m. Shs.10.00 or 35%
5407.71.00	Other woven fabrics, containing 85% or more by weight of polyester filaments, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5407.72.00	Other woven fabrics, containing 85% or more by weight of polyester filaments, dyed.	Per sq. m. Shs.10.00 or 35%
5407.73.00	Other woven fabrics, containing 85% or more by weight of polyester filaments, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5407.74.00	Other woven fabrics, containing 85% or more by weight of polyester filaments, printed.	Per sq. m. Shs.10.00 or 35%
5407.81.00	Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5407.82.00	Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton, dyed.	Per sq. m. Shs.10.00 or 35%
5407.83.00	Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5407.84.00	Other woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton, printed.	Per sq. m. Shs.10.00 or 35%
5407.91.00	Other woven fabrics of synthetic filament yarn, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5407.92.00	Other woven fabrics of synthetic filament yarn, dyed.	Per sq. m. Shs.10.00 or 35%
5407.93.00	Other woven fabrics of synthetic filament yarn, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5407.94.00	Other woven fabrics of synthetic filament yarn, printed.	Per sq. m. Shs.10.00 or 35%
5408.10.00	Woven fabrics obtained from high tenacity yarn, of viscose rayon.	Per sq. m. Shs.10.00 or 35%
5408.21.00	Other woven fabrics, containing 85% or	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	more by weight of artificial filament or strip or the like, unbleached or bleached.	or 35%
5408.22.00	Other woven fabrics, containing 85% or more by weight of artificial filament or strip or the like, dyed.	Per sq. m. Shs.10.00 or 35%
5408.23.00	Other woven fabrics, containing 85% or more by weight of artificial filament or strip or the like, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5408.24.00	Other woven fabrics, containing 85% or more by weight of artificial filament or strip or the like, printed.	Per sq. m. Shs.10.00 or 35%
5408.31.00	Other woven fabrics of artificial filament yarn, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5408.32.00	Other woven fabrics of artificial filament yarn, dyed.	Per sq. m. Shs.10.00 or 35%
5408.33.00	Other woven fabrics of artificial filament yarn, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5408.34.00	Other woven fabrics of artificial filament yarn, printed.	Per sq. m. Shs.10.00 or 35%
5512.11.00	Woven fabrics of synthetic staple fibres, containing 85% or more by weight of polyester staple fibres, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5512.19.00	Other woven fabrics of synthetic staple fibres, containing 85% or more by weight of polyester staple fibres.	Per sq. m. Shs.10.00 or 35%
5512.21.00	Woven fabrics of synthetic staple fibres, containing 85% or more by weight of acrylic or modacrylic staple fibres, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5512.29.00	Other woven fabrics of synthetic staple fibres, containing 85% or more by weight of acrylic or modacrylic staple fibres.	Per sq. m. Shs.10.00 or 35%
5512.91.00	Other woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5512.99.00	Other woven fabrics of synthetic staple fibres, containing 85% or more by weight of other synthetic staple fibres.	Per sq. m. Shs.10.00 or 35%
5513.11.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5513.12.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5513.13.00	Other woven fabrics of polyester staple	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , unbleached or bleached.	or 35%
5513.19.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5513.21.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5513.22.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5513.23.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5513.29.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5513.31.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5513.32.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5513.33.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5513.39.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5513.41.00	Woven fabrics of polyester staple fibres,	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , printed.	or 35%
5513.42.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5513.43.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5513.49.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5514.11.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5514.12.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5514.13.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5514.19.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5514.21.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5514.22.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5514.23.00	Other woven fabrics of polyester staple	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	fibres, containing less than 85% by weight of such fibres, mixed mainly as solely with cotton of a weight exceeding 170g/m ² , dyed.	or 35%
5514.29.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , dyed.	Per sq. m. Shs.10.00 or 35%
5514.31.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5514.32.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5514.33.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5514.39.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5514.41.00	Woven fabrics of polyester staple fibres, plain weave, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5514.42.00	Woven 3-thread or 4-thread twill, including cross twill, of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5514.43.00	Other woven fabrics of polyester staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5514.49.00	Other woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² , printed.	Per sq. m. Shs.10.00 or 35%
5515.11.00	Other woven fabrics of polyester staple fibres, mixed mainly or solely with viscose rayon staple fibres.	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5515.12.00	Other woven fabrics of polyester staple fibres, mixed mainly or solely with man-made filaments.	Per sq. m. Shs.10.00 or 35%
5515.13.00	Other woven fabrics of polyester staple fibres, mixed mainly or solely with wool or fine animal hair.	Per sq. m. Shs.10.00 or 35%
5515.19.00	Other woven fabrics of polyester staple fibres.	Per sq. m. Shs.10.00 or 35%
5515.21.00	Other woven fabrics of acrylic or modacrylic staple fibres, mixed mainly or solely with man-made filaments.	Per sq. m. Shs.10.00 or 35%
5515.22.00	Other woven fabrics of acrylic or modacrylic staple fibres, mixed mainly or solely with wool or fine animal hair.	Per sq. m. Shs.10.00 or 35%
5515.29.00	Other woven fabrics of acrylic or modacrylic staple fibres.	Per sq. m. Shs.10.00 or 35%
5515.91.00	Other woven fabrics, mixed mainly or solely with man-made filaments.	Per sq. m. Shs.10.00 or 35%
5515.92.00	Other woven fabrics, mixed mainly or solely with wool or fine animal hair.	Per sq. m. Shs.10.00 or 35%
5515.99.00	Other woven fabrics, of synthetic staple fibres.	Per sq. m. Shs.10.00 or 35%
5516.11.00	Woven fabrics of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5516.12.00	Woven fabrics of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, dyed.	Per sq. m. Shs.10.00 or 35%
5516.13.00	Woven fabrics of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5516.14.00	Woven fabrics of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, printed.	Per sq. m. Shs.10.00 or 35%
5516.21.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with man-made filaments, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5516.22.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with man-made filaments, dyed.	Per sq. m. Shs.10.00 or 35%
5516.23.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with man-made filaments, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5516.24.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of	Per sq. m. Shs.10.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
5516.31.00	artificial staple fibres, mixed mainly or solely with man-made filaments, printed. Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with wool or fine animal hair, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5516.32.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with wool or fine animal hair, dyed.	Per sq. m. Shs.10.00 or 35%
5516.33.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with wool or fine animal hair, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5516.34.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with wool or fine animal hair, printed.	Per sq. m. Shs.10.00 or 35%
5516.41.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with cotton, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5516.42.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with cotton, dyed.	Per sq. m. Shs.10.00 or 35%
5516.43.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with cotton, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5516.44.00	Woven fabrics of artificial staple fibres, containing less than 85% by weight of artificial staple fibres, mixed mainly or solely with cotton, printed.	Per sq. m. Shs.10.00 or 35%
5516.91.00	Other woven fabrics of artificial staple fibres, unbleached or bleached.	Per sq. m. Shs.10.00 or 35%
5516.92.00	Other woven fabrics of artificial staple fibres, dyed.	Per sq. m. Shs.10.00 or 35%
5516.93.00	Other woven fabrics of artificial staple fibres, of yarns of different colours.	Per sq. m. Shs.10.00 or 35%
5516.94.00	Other woven fabrics of artificial staple fibres, printed.	Per sq. m. Shs.10.00 or 35%
5607.50.00	Other twine, cordage, ropes and cables of other synthetic fibres	3%
5608.11.00	Made up fishing nets of man-made textile materials.	15%
5608.90.10	Made up fishing nets of textile materials.	15%
5809.00.00	Woven fabrics of metal thread and woven	Per sq. m. Shs.10.00

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	fabrics of metallized yarn of heading No. 56.05, of a kind used in apparel, or furnishing fabrics or for similar purposes, not elsewhere specified or included.	or 35%
5810.10.00	Embroidery without visible ground, in the piece, in strips or in motifs.	Per sq. m. Shs.10.00 or 35%
5810.91.00	Other embroidery of cotton, in the piece, in strips or in motifs.	Per sq. m. Shs.10.00 or 35%
5810.92.00	Other embroidery of man-made fibres, in the piece, in strips or in motifs.	Per sq. m. Shs.10.00 or 35%
5810.99.00	Other embroidery of other textile materials, in the piece, in strips or in motifs.	Per sq. m. Shs.10.00 or 35%
5811.00.00	Quilted textile products in the piece, composed of one or more layers of textile materials assembled with padding by stitching or otherwise, other than embroidery of heading No. 58.10.	Per sq. m. Shs.10.00 or 35%
5902.10.00	Tyre cord fabric of high tenacity yarn of nylon or other polyamides.	3%
5911.10.00	Textile fabrics, felt and felt-lined woven fabrics, coated, covered, or laminated with rubber, leather or other material of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes	3%
5911.40.00	Straining cloth of a kind used in oil presses or the like, including that of human hair	3%
5905.00.00	Textile wall coverings.	Per sq. m. Shs.10.00 or 35%
5906.91.00	Rubberised textile fabrics, knitted or crocheted.	Per Kg. Shs.100.00 or 35%
6001.10.00	"Long pile" fabrics, knitted or crocheted.	Per Kg. Shs.100.00 or 35%
6001.21.00	Looped pile fabrics, of cotton, knitted or crocheted.	Per Kg. Shs.100.00 or 35%
6001.22.00	Looped pile fabrics, of man-made fibres, knitted or crocheted.	Per Kg. Shs.100.00 or 35%
6001.29.00	Looped pile fabrics, of other textile materials, knitted or crocheted.	Per Kg. Shs.100.00 or 35%
6001.91.00	Other pile fabrics, of cotton.	Per Kg. Shs.100.00 or 35%
6001.92.00	Other pile fabrics, of man made fibres.	Per Kg. Shs.100.00 or 35%
6001.99.00	Other pile fabrics, of other textile materials.	Per Kg. Shs.100.00 or 35%
6002.10.00	Other knitted or crocheted fabrics, of a width not exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread.	Per Kg. Shs.100.00 or 35%
6002.20.00	Other knitted or crocheted fabrics, of a width not exceeding 30 cm.	Per Kg. Shs.100.00 or 35%
6002.30.00	Other knitted or crocheted fabrics, of a width exceeding 30 cm, containing by	Per Kg. Shs.100.00 or 35%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	weight 5% or more of elastomeric yarn or rubber thread.	
6002.41.00	Other fabrics, warp knit (including those made on gallon knitting machines), of wool or fine animal hair.	Per Kg. Shs.100.00 or 35%
6002.42.00	Other fabrics, warp knit (including those made on gallon knitting machines), of cotton.	Per Kg. Shs.100.00 or 35%
6002.43.00	Other fabrics, warp knit (including those made on gallon knitting machines), of man-made fibres.	Per Kg. Shs.100.00 or 35%
6002.49.00	Other fabrics, warp knit (including those made on gallon knitting machines), of other fibres.	Per Kg. Shs.100.00 or 35%
6002.91.00	Other knitted or crocheted fabrics, of wool or fine animal hair.	Per Kg. Shs.100.00 or 35%
6002.92.00	Other knitted or crocheted fabrics, of cotton.	Per Kg. Shs.100.00 or 35%
6002.93.00	Other knitted or crocheted fabrics, of man-made fibres.	Per Kg. Shs.100.00 or 35%
6002.99.00	Other knitted or crocheted fabrics, of other fibres.	Per Kg. Shs.100.00 or 35%
6115.93.00	Stockings, socks and other hosiery, of synthetic fibres, knitted or crocheted.	Per pair Shs. 60 or 35%
6309.00.00	Worn clothing and other worn articles.	Per Kg. Shs.100.00 or 35%
7208.36.00	Other flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more in coils not further worked than hot-rolled, of a thickness exceeding 10 mm.	3%
7210.61.00	Flat-rolled products of iron or non-alloy steel of a width of 600mm or more plated or coated with aluminium zinc alloys.	35%
7213.91.00	Other bars and rods, hot rolled, in irregularly wound coils, of iron or non-alloy steel, of circular cross-section measuring less than 14 mm in diameter.	Per Kg. Shs.1.00 or 3%
7213.99.00	Other bars and rods, hot rolled, in irregularly wound coils, of iron or non-alloy steel, of circular cross-section measuring 14 mm or more in diameter.	Per Kg. Shs.1.00 or 3%
7214.20.00	Other bars and rods of iron or non-alloy steel containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling.	15%
7216.10.00	U, I or H sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extended, of a height of less than 80mm.	3%
7216.21.00	L sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded, of a height of less than 80 mm.	3%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
7216.31.00	U sections of iron or non-alloy steel not further worked the hot-rolled, hot-drawn or extruded, of a height of a height of 80 mm or more.	3%
7216.32.00	I sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more.	3%
7216.33.00	H sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more.	3%
7216.50.00	Other angles, shapes and sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded.	5%
7217.30.00	Other bars and rods of free cutting steel.	3%
7306.40.00	Other angles, shapes and sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded.	3%
7801.10.00	Refined lead.	3%
7803.00.00	Lead bars, rods, profiles and wire.	3%
8110.00.00	Antimony and articles thereof, including waste and scrap.	3%
8207.60.00	Tools for boring or broaching.	3%
8207.80.00	Tools for turning.	3%
8209.00.00	Plates, sticks, tips and the like for tools, unmounted, of cermets.	3%
8212.20.00	Safety razor blades including razor blade blanks in strips.	Free
8212.90.00	Other parts of razors and razor blades.	Free
8302.20.00	Castors with mountings of base metal.	3%
8309.90.10	Ends and lids for compressed gas containers, of base metal.	3%
8309.90.90	Other packing accessories, of base metal.	3%
8311.30.00	Coated rods and cored wire, of base metal, for soldering, brazing or welding by flame.	3%
8448.19.00	Other auxiliary machinery for machines of heading Nos. 84.44, 84.45, 84.46 or 84.47.	3%
8448.20.00	Parts and accessories of machines of heading No. 84.44 or of their auxiliary machinery.	3%
8448.32.00	Parts of machines for preparing textile fibres, other than card clothing.	3%
8448.59.00	Other parts and accessories knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace embroidery, trimmings, braids, net or tufting of heading 84.47 of their auxiliary.	3%
8451.90.00	Parts of Machinery (other than machines of heading No.84.50) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics of made	3%

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate Of Duty</i>
	up textiles	
8452.90.00	Other parts of sewing machines.	3%
8454.90.00	Parts of converters, ladles, ingot moulds and casting machines of heading No. 84.54.	3%
8466.93.00	Other parts and accessories suitable for use solely or principally with machine-tools and machines of headings Nos. 84.56 to 84.61.	3%
8479.89.00	Other machines and mechanical appliances having individual functions n.e.s.	3%
8704.22.10	Unassembled motor vehicles for the transport of goods with a compression-ignition internal combustion engine (diesel or semi-diesel) of a gross vehicle weight exceeding 5 tonnes but not exceeding 20 tonnes.	3%
8704.23.10	Unassembled motor vehicles for the transport of goods with a compression-ignition internal combustion engine (diesel or semi-diesel) of a gross vehicle weight exceeding 20 tonnes.	3%
9608.99.10	Pressure points for ball point pens.	Free

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have received notice of a further amendment to this Schedule from hon. Musikari Kombo. Mr. Kombo, please, go ahead.

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

THAT, the Second Schedule of the Bill be amended by deleting the expression "Kshs1085" appearing in the new rates of duty falling under tariff No.2710.00.45 and substituting thereof, the expression "Kshs550".

The Temporary Deputy Chairman (Mr. Musila): Mr. Kombo, could you guide the House on the Second Schedule on the main Bill? It is on page 811. That is Tariff No.271.00.45. Mr. Kombo, could you now proceed!

Mr. Kombo: Mr. Temporary Deputy Chairman, Sir, this is really about industrial fuel and it is always my struggle to make sure that we make our industries competitive. Last year, I brought it down from Kshs1,485, to Kshs1,085. I did say last year that this, in fact, should be zero-rated. It used to be zero-rated until 1993. So, our industries are forever struggling because they are paying very heavily.

Mr. Temporary Deputy Chairman, Sir, now, if we reduce this duty, we will make sure that such industries like Bamburi and even KenGen, which use a lot of this industrial oil, will have their tariffs approved before they can pass them to their consumers of electricity, which, probably, can reduce electricity bills through this procedure. As I said, it was zero-rated up to 1993 when it was pushed in.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, do you have a comment?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, first of all, I would like to say that as much as I appreciate hon. Kombo's concerns and reasoning, I would like to point out that the amendment he is proposing will have serious and very deep financial implications on our revenue.

Mr. Temporary Deputy Chairman, Sir, secondly, I would like to say that it is this same House and we, as hon. Members, who made an amendment to bring down the rate of tax from Kshs1,485 to the current Kshs1,085, a reduction of Kshs300 per 1,000 litres. So, although there was a mistake in printing, indicating Kshs10,485, the actual figure should have been Kshs1,085.

Therefore, I oppose the amendment proposed by hon. Kombo on the grounds that it would deny the Government the necessary revenue which it needs, and it is in the Budget anyway. Secondly, the adjustment in the rate of duty for fuel oil had been reduced substantially following recommendations of this House.

Therefore, once again, I would plead with hon. Members to understand the predicament this amendment would put us in because it will involve substantial loss of revenue, and until we come up with alternative sources of raising revenue, it has dire complications.

The Temporary Deputy Chairman (Mr. Musila): One final word from Mr. Kombo and then I will put the Question.

Mr. Kombo: Mr. Temporary Deputy Chairman, Sir, it would appear that the Minister would want to kill local industries. We want our local industries to be competitive and I think this issue should be in the interest of hon. Biwott who is the Minister for Trade and Industry. Therefore, what I am proposing is to ensure that our local industries do not collapse, and if the Minister for Finance wants to see people losing jobs, then I do not think we are serious about this country at all.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, indeed, what Mr. Kombo has said is true; that, there is need to reduce cost of inputs, one of which is fuel. But reduction only in industrial oil will not help the industry.

If we want to do it, we would have to reduce, first of all, electricity, which is the killer. Therefore, because it will not by itself make any change in the plight of the industry, I do oppose this particular one. If we want to bring change in the industry, we would have to bring a comprehensive reduction of costs of inputs, which would include this other one.

With these few remarks, I beg to oppose, and I support the amendment by the Minister.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I now put the Question. We cannot go indefinitely on that Schedule.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Second Schedule as amended agreed to)

Third Schedule

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Third Schedule to be amended by inserting the following tariff numbers, descriptions and rates of duty in their proper sequence-

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Rate of Excise Duty</i>
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher.	Per proof litre Kshs90 or 40%
2709.00.10	Gas condensates.	Per 1000L @ 20 deg. C. shs.6,225.
2709.00.90	Other petroleum oils and oils obtained from bituminous minerals.	Per 1000L @ 20 deg. C. Shs.1,000
2710.00.10	Partly refined petroleum products (including topped crudes).	Per 1000L @ 20 deg. C. Shs.1,000
2710.00.21	Aviation spirit (gasolene).	Shs.19,445 @ 1,000L. @ 20 deg. C.
2710.00.22	Motor spirit (gasolene), premium.	Shs.19,445 per 1000 litres @ 20 deg. C
2710.00.23	Motor spirit (gasolene), regular.	Shs.19,055 per 1000 litres @ 20 deg. C.
2710.00.24	Jet fuel, spirit type.	Shs.19,445 per 1000 litres @ 20 deg. C.
2710.00.25	Special boiling point spirit and white spirit.	Shs.7,050 per 1000 litres @ 20 deg. C.
2710.00.29	Other light petroleum oils and preparations.	Shs.7,050 per 1000 litres @ 20 deg. C.
2710.00.31	Jet fuel (Kerosene type).	Shs.5,755 per 1000 litres @ 20 deg. C.
2710.00.32	Kerosene.	Shs.5,755 per 1000 litres @ 20 deg. C.
2710.00.39	Other medium petroleum oils and preparations.	Shs.5,000 per 1000 litres @ 20 deg. C.
2710.00.41	Diesel oil (industrial, heavy, black, for low speed marine and stationary engines).	Shs.3,400 per 1000 litres @ 20 deg. C.
2710.00.42	Gas oil (automotive, light, amber, for high speed engines).	Shs.10,005 per 1000 litres @ 20 deg. C.
2710.00.43	Other gas oil.	Shs.6,000 per 1000 litres @ 20 deg. C.
2710.00.44	Residual fuel oils (marine, furnace and similar fuel oils) of 125 Centistokes (cSt).	Shs.1,710 per 1000 litres @ 20 deg. C.
2710.00.45	Residual fuel oils of 180 Centistokes (cSt).	Shs.1,485 per 1000 litres @ 20 deg. C.
2710.00.46	Residual fuel oils of 280 Centistokes (cSt).	Shs.1,337 per 1000 litres @ 20 deg. C.
2710.00.47	other residual fuel oils.	Shs.1,260 per 1,000 litres @ 20 deg. C.

Again, this is a tidying up process in order to facilitate easier reference and for purposes of clarity.

(Question, that the words to be inserted be inserted, put and agreed to)

(Third Schedule as amended agreed to)

Fourth Schedule

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Fourth Schedule to the Bill be amended -

- (a) in paragraph (1) by inserting the following tariff numbers and descriptions in their proper numerical sequence -

Tariff No. Description

1104.21.00 Barley grains, otherwise worked
1107.10.00 Malt, not roasted
1107.20.00 Malt, roasted

- (b) by deleting item 3.

This is merely another tidying up exercise for purposes of clarity and of ensuring that the sequence is correct for purposes of reference. It is purely intended to be no more than precisely that.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, Mr. Mwenje has given notice of his intention to move an amendment to the Fourth Schedule.

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

THAT, the Fourth Schedule be amended, in the incorporated Second Schedule, by deleting Part II of that Schedule.

Mr. Temporary Deputy Chairman, Sir, I have actually consulted with the Minister on this amendment, and I thought that he would include this aspect in his proposed amendment, which is almost similar to this one although not exactly. If we leave the Second Schedule the way it is now, and you buy a second-hand motor vehicle from me, for instance, you will be required to pay Value Added Tax (VAT). There has been representation from many second-hand car dealers to the Minister with regard to this issue. The Minister's predecessor had actually agreed to change this position, and I hope that the current Minister is not backtracking on that agreement. He has actually included this aspect in his amendment, but it is not as clear as it should have been. I have, therefore, brought this amendment, so that second-hand car dealers are not affected. If the amendment goes through, VAT will not be paid twice in respect of the same car. Normally, VAT is paid for a vehicle by its first owner. Charging VAT on the same vehicle when being sold to a second owner amounts to taking money from dealers for vehicles for which duty will already have been paid. I believe that the Minister is in agreement with me. We have no problem with this amendment. That is exactly what he was trying to say in his earlier amendment, but I feel that it is better to put it more clearly, as I have done, to avoid confusion in the whole matter.

(Question of the amendment proposed)

Mr. Maundu: Mr. Temporary Deputy Chairman, Sir, considering the fact that the Fourth Schedule provides for quite a number of critical items, I believe that the VAT chargeable on them should be looked at carefully. Indeed, the Minister must have considered these items very carefully. So, I believe that the Schedule should remain as it is. However, the Minister should give us reasons as to why the matter has recurred. We are conscious about importation of second-hand vehicles.

However, the rationale in restricting their importation has been to ensure that unroadworthy vehicles are not introduced on our roads to cause the kind of havoc and accidents that we see on our highways. So, I hope that the Minister will consider the plight of second-hand car dealers as well as those who operate car hire services and strike a balance with them, so that nobody loses completely. I believe that if the Minister considers all these facts, he will guide the House in a more appropriate manner.

Mr. Temporary Deputy Speaker, Sir, I have also looked at the aspect of land and residential buildings for VAT purposes. The Minister should also be able to guide us on this particular matter. I sincerely believe that Mr. Mwenje has made out a good case. However, I would like the Minister to guide us on how to proceed in this regard.

The Temporary Deputy Chairman (Mr. Musila): Mr. Maundu, could you conclude?

Mr. Maundu: Mr. Temporary Deputy Chairman, Sir, I believe that the Minister will comment on these matters, so that we can be guided on how to go about them.

The Temporary Deputy Chairman (Mr. Musila): Mr. Maundu, I am afraid that I have to cut you short. Could you now sit down and relax?

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, Mr. Mwenje has given notice of his intention to move an amendment to the Fourth Schedule.

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

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The Temporary Deputy Chairman (Mr. Musila): Mr. Maundu, could you conclude?

Mr. Maundu: Mr. Temporary Deputy Chairman, Sir, I believe that the Minister will comment on these matters, so that we can be guided on how to go about them.

The Temporary Deputy Chairman (Mr. Musila): Mr. Maundu, I am afraid that I have to cut you short. Could you now sit down and relax?

(Question, that the words to be left out be left out, put and negatived)

(Fourth Schedule agreed to)

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, it is now 9.00 o'clock and I said that we would adjourn at 9.00 o'clock.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move that the

Committee do report progress on its consideration of the Finance Bill to the House and seeks leave to sit on another day.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Chairman
(Mr. Imanyara) in the Chair]*

PROGRESS REPORTED

THE FINANCE BILL

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House is considering the Finance Bill and has instructed me to report progress and seek leave to sit another day.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Agriculture (Dr. Godana) seconded.

(Question proposed)

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, I had given notice to the Chair that before we adopt the Report of the Committee of the whole House, we reconsider Clause 84. I did this under Standing Order No.130(2).

The Temporary Deputy Speaker (Mr. Imanyara): I am sorry, Mr. Katuku; we have already taken a vote on that clause, and now it is for you to agree with the Committee in the said Report, and then we resume tomorrow from where we have left off today. That is all I can do because we have already passed issue.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, if I get Mr. Katuku right, he is saying that we agree with the Committee's Report minus clause 84; otherwise, we will defeat it all.

The Temporary Deputy Speaker (Mr. Imanyara): That is not what the Chairman of the Committee requested. He reported progress and sought leave for the Committee of the whole House to sit on another day. The Committee of the whole House agreed that progress be reported. Now, I cannot go back into the Committee and put that question again. So, I will have to put the question that the House doth agree with the Committee in the said Report, the effect of a positive vote being that we will then adjourn until tomorrow, when we will continue with the Finance Bill.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise on a point of order to seek your guidance. What will be the effect of the House voting against the question you intend to put? Will it mean that we will sit up to midnight, until we dispose of the matter? Can you clarify to us what the effect of voting against that question will be?

The Temporary Deputy Speaker (Mr. Imanyara): I will have to put the question because there was an extension of time up to 9.00 p.m. Hon. Members extended the time to 9.00 p.m. The question I can put to you, and that is what I am obliged to do, is whether the House doth agree with the Committee in the said Report.

(Question put and negatived)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! You do not have enough number of hon. Members standing to stop me from calling the Chairman who was chairing that Committee to come back so that we can go back to the Committee of the whole House.

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

Order! Order, hon. Members! Yes, Mr. Samoei!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I want to seek your guidance on the status of our sitting in this House this evening. To the best of my knowledge, there is no Motion that has been moved to extend the sitting time from the originally agreed time of 9.00 p.m. to any other time.

I do not know whether we are in order to sit in this House beyond the time that we had sought to extend. Therefore, I do not think we are going to transact any business---

The Temporary Deputy Speaker (Mr. Imanyara): You extended your own session! I have put a question and the House has made a decision. So, I am obliged to go back to the Committee Stage! I now call upon the Chairman of Committees---

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is either hon. Members are tired---

Hon. Members: No! No! We want to dispose of this matter!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, either hon. Members are tired or---

Hon. Members: No! No!

The Minister for Agriculture (Dr. Godana): I have the Floor! It is either hon. Members are tired, or they do not give a hoot about the seriousness of business before this House.

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

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members! Mr. Muturi, please, come and take the Chair. We will go back into Committee because that is how hon. Members have voted. Mr. Muturi, please!

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

Order! Order, hon. Members!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Muturi) took the Chair]*

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Chairman, Sir. When we were in the Committee, it had actually been decided by the then Temporary Deputy Chairman that, we would actually sit up to 9.00 p.m. We want this to be properly interpreted because the actual sitting of the Committee was supposed to be up to 9.00 p.m. Therefore, even though the Report which was given was not accepted, that did not in any way mean that we must extend the sitting time. The extension was only up to 9.00 p.m., so we ought to adjourn now.

Hon. Members: After we have disposed of the business!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): No! Not at all! We cannot go against the ruling of the Chair! We cannot do that at all!

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, if I heard correctly, at the time the request for extension of time was made, the Minister made a request that the time be extended until we finish with this Bill.

We are ready to sit until we finish with this Bill. We need to interpret the ruling which has been made by the Chair just now. This means that we go back to the Committee and continue.

Thank you, Mr. Temporary Deputy Chairman, Sir.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Chairman, Sir, I think it is in the interest of the integrity of this House that we follow the Standing Orders to the letter. The sitting of this House was extended by a Motion of the Leader of Government Business to 9.00 p.m.

Hon. Members: No!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Chairman, Sir, the HANSARD is there to bear me witness and I challenge the Chair to produce it. This is because the HANSARD says that the sitting of the House will be extended up to 9.00 p.m. I do not know on what basis we are still sitting here at this time. This is because there has been no Motion to extend the sitting time of the House from 9.00 p.m. to whatever time we have now. So, I would like to seek the Chair's clarification on what basis we are still sitting in this House.

The Temporary Deputy Chairman (Mr. Muturi): I think there is too much argument!

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, in fact, I am perplexed that the Ministers who are here do not understand the Standing Orders of this House. If the House refuses to report progress, it means that they will go back to the Committee.

Mr. Temporary Deputy Chairman, Sir, I am getting even more perplexed that Government Ministers dare challenge the ruling of the Chair. The Chair has ruled that we go back to the Committee and that is final. I think it is only appropriate that a Motion is moved to extend the sitting time of the House. That is all!

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir.

Mr. Mwenje: Under which Standing Order?

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, this House sat in a Committee of the whole House, went through the provisions of the Finance Bill, which are before the House, made amendments to many provisions, took a final vote in that Committee and agreed to report progress. Now, we are being told that the same House, without any additional Members coming in, has, in what is clearly a circus, decided that we reject the report which we gave. There were no additional Members who came in. We are the same Members and I think this is a circus. Therefore, if we had voted to report progress and now we are coming back to the Committee, I seek your guidance on the issues that should make us go back to the Committee.

The Temporary Deputy Chairman (Mr. Muturi): Order, hon. Members! Let me have your ears.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Chairman, Sir!

Mr. Murungi: On a point of order, Mr. Temporary Deputy Chairman, Sir. Hon. Members are not recognising the authority of the Chair. The Vice-President is just standing up on a point of order. Who has given him the Floor?

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Who has given you the Floor?

Mr. Murungi: None of us has been given the chance!

The Vice-President and Minister for Home Affairs (Mr. Prof. Saitoti): You sit down, Mr. Murungi.

Mr. Murungi: I am not going to sit down unless you sit down yourself.

*[The Temporary Deputy Chairman
(Mr. Muturi) left the Chair]*

[Mr. Deputy Chairman took the Chair]

Mr. Deputy Chairman: Order! What is the bone of contention? I can make clear one thing first. Mr. Speaker has the right and power to sit as the Deputy Chairman of Committees because the chairman of committee sits on his behalf. So, I am **[Mr. Deputy Chairman]** properly before the House. What is the problem?

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Chairman Sir, at the time when the Chair sat when you were not there, the Temporary Deputy Chairman made a ruling that the House would sit in the Committee Stage up to 9.00 p.m.

Hon. Members: No! No!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Chairman, Sir, at least, I must be allowed to explain the position.

Mr. Deputy Chairman: Order! As you all know, I have been actively following the proceedings of this House throughout, and I know exactly what happened.

Proceed, hon. Vice-President.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Chairman, Sir, the Temporary Deputy Chairman made a ruling that the House would be extended from 8.30 p.m. to 9.00 p.m. and then adjourn. As soon as it reached 9.00 p.m., he duly adjourned the consideration of the Report of the Committee. At the time of reporting to the House about the progress made by the Committee, some hon. Members felt that the report should not be accepted and that was carried. So, the question we are asking is: If it had already been decided and agreed that we sit in the Committee up to 9.00 p.m. and we adjourn, can we continue to sit again?

Dr. Ochuodho: On a point of order, Mr. Deputy Chairman, Sir. When the Minister requested for the adjournment, he did not specify the time. The Leader of Government Business is quoted in the HANSARD as saying, that we will sit until we complete the debate. It is only the Temporary Deputy Chairman, Mr. Musila, who said that we should conclude the business by 9.00 p.m. I would like to draw the attention of the House to Standing Order No.17(1) that gives the Speaker or the Chair the right to go beyond normal hours. It says:-

"Unless for the convenience of the House, Mr. Speaker otherwise directs".

Mr. Deputy Chairman, Sir, the Temporary Deputy Speaker, Mr. Imanyara, directed the House to go back to Committee Stage, and there was no objection. It is in this regard that I think we are proceeding properly. For the benefit hon. Members who are doubting, Mr. Deputy Chairman, Sir, you could put a vote so that the House approves the continuation.

Mr. Deputy Chairman: Order! I recall, when I was following the proceedings, that indeed, a Motion was put by the Leader of Government Business that the House sits until you have completed the Finance Bill. But the Chair, using the same Standing Order which you have referred to, did not accede to his request. He directed that the House sits until 9.00 p.m. When 9.00 p.m. arrived, this House was deemed to have completed the business for the day. What should, in fact, have happened, is that upon 9.00 p.m. arriving, the time that was set by the Chair and the House, progress automatically ought to have been reported. Any further extension beyond 9.00 p.m. was not sanctioned by the Motion, as directed by the Chair. Therefore, I direct that automatically, a report of progress be made, and if the time has already passed, the Committee will automatically meet tomorrow.

Mr. Mwenje: Mr. Deputy Chairman, Sir, you have misdirected yourself, and it is important to be told so. If you check in the HANSARD, which we have, the Temporary Deputy Chairman on the Chair acceded to the extension of the House until we dispose of the business of the House.

Hon. Members: No! no!

Mr. Deputy Chairman: Order, all hon. Members! First of all, I think we have grown out of the habit of heckling, and I expect that if an hon. Member is on his or her feet on the Floor of the House, all other hon. Members will give that hon. Member audience without unnecessary shouting or heckling. That will not help it either way. The person who will make the decision after all is the Chair.

Proceed, Mr. Mwenje!

Mr. Mwenje: Mr. Deputy Chairman, Sir, if you look at the HANSARD which we have, and having listened to the Temporary Deputy Chairman very clearly, he directed that, "until we have disposed of the business of the House". When he finished that, he continued to add: "Hopefully, by 9.00 p.m.". It is on record, and I beg to be corrected if I am wrong. But that is the truth.

Mr. Deputy Chairman: Order! We will not flog a dead horse. As I said, I listened very carefully throughout the proceedings of this House. All the time you were discussing here, I was dutifully listening, including during the time the proposal was made to extend the House. Certain hon. Members disputed a certain vote which was taken and, the HANSARD had to be sent for. We facilitated that and it came down here. I followed very clearly, and what the Leader of Government Business had claimed to move was that the House meets until they finish the business of the House. What the Chair decided, under Standing Order No.17, is that the House sits until 9.00 p.m. He repeated the same thing at the stroke of 9.00 p.m. He brought to the attention of the House that it was 9.00 p.m. Therefore, we cannot continue to sit.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir.

Mr. Deputy Chairman: Order! There is no further point of order on this matter! Now, time having elapsed, we are not sitting in accordance with the law! Consequently, any business that we purport to transact will not be within the law.

Mr. Muite: On a point of order, Mr. Deputy Chairman, Sir. As you have quite rightly said, at 9.00 o'clock, the Question was put. I assume that in terms of Standing Order No.129, when a Motion is made in the Committee to report progress and ask leave to sit again, the Question is put forthwith and decided without amendment or debate. The Question was put and the majority of the Members of this House declined.

Hon. Members: No! No! No!

Mr. Deputy Chairman: Order! Let him say his piece!

Mr. Muite: Mr. Deputy Chairman, Sir, there was a vote called. I assume and seek your guidance because the majority of Members were for continuing to sit until we dispose of the business before the House. So, what was the purpose or effect of that vote, where the majority declined that we should sit tomorrow, and decided that we should continue until we finish?

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

Mr. Deputy Chairman: Order! Everybody, sit down! I will make the final decision. I am the Speaker and the interpreter of the Standing Orders. Hon. Members, the Standing Orders set down not only the days of sitting of this House, but also the times upon which this House can lawfully sit. There is provision in the Standing Orders to extend time beyond the usual sitting hours as stipulated in the Standing Orders. In pursuant of that, the House extended time to 9.00 o'clock. Beyond that, there was no further business for this House. You have, indeed, mentioned to me this particular Standing Order. This particular Standing Order requiring a Committee to report progress and the House to vote on it presupposes that the Question is being put within the time that the House sits. Indeed, in normal circumstances - and this must be a normal circumstance - when it is 6.30 p.m., we do not argue at all about that issue, unless there has been a Motion. We interrupt business without question being put.

In fact, what should have happened is that the Chairman of the Committee should have interrupted business five minutes earlier, to receive the report which must, of necessity, follow the resolution of the House, and end the sitting of the House to the next Sitting Day, which is tomorrow!

So, I now direct that the Committee cannot sit at this time because it has no authority of the House to sit!

(The House resumed)

[Mr. Speaker in the Chair]

Mr. Speaker: Order, hon. Members! It is now time to adjourn business of the House! The House is, therefore, adjourned---

Mr. Muithia: On a point of order, Mr. Speaker, Sir. I seek guidance from the Chair!

Mr. Speaker: Okay! I will give you guidance, although we will be sitting illegally! Slow down! What is your guidance?

Mr. Muithia: Mr. Speaker, Sir, I would like to seek your guidance because you have rightly said that at 9.00 p.m., there should have been no further business going on. But after 9.00 o'clock, business was going on, and that was when the Question was put. May I seek your guidance as to whether the Question that was put was within the Standing Orders or not?

ADJOURNMENT

Mr. Speaker: Mr. Muithia, you have understood it properly. Once the time of this House elapses, you cannot transact any further business. So, our time has come to an end and tomorrow, we will resume from where we have stopped today, and the House will transact business as then. So, the Question of reporting progress does not arise because of the time lapse.

So, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 5th December, at 9.00 a.m.

The House rose at 9.35 p.m.