

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th November, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

ESTABLISHMENT OF AN INDEPENDENT ELECTORAL COMMISSION

Mr. Wamalwa: Mr. Speaker, Sir, I beg to give notice of the following Motion: THAT, noting that the present provisions of the Constitution have not secured the establishment of a truly independent Electoral Commission; aware that the present Electoral Commission was appointed before the election of the multiparty Parliament; recognising that the legitimacy of the Electoral Commission depends on the confidence accorded to it by all political parties and the public; and aware that the pattern and basis of establishing electoral boundaries have not been fair and just, this House resolves that the Constitution and the Electoral laws be reviewed and accordingly amended with a view to establishing a truly independent Electoral Commission and to ensure and facilitate free and fair elections.

(Applause)

ORAL ANSWERS TO QUESTIONS

Question No. 987

SACKING OF CHIEFS

Mr. Kirwa asked the Minister of State, Office of the President, if he could state why the following three (3) chiefs and one assistant chief were removed from office: Messrs Nepatao ole Monangoi, James R. ole Lempaka, Daniel S.O. Magiroi and Joseph ole Shunet.

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

The chiefs and assistant chief in question were removed from office for gross misconduct, while Chief Daniel S.O. Magiroi retired after attaining the retirement age, which is 55 years.

Mr. Kirwa: Mr. Speaker, Sir, while I do appreciate the answer given by the Assistant Minister, can he tell the House what were the specific mistakes committed by the Chief and the Assistant Chief?

Mr. Awori: Mr. Speaker, Sir, Chief Lempaka was retired in public interest because in 1989, a generator belonging to Narok County Council disappeared or was stolen and he was perceived to have knowledge which he concealed and refused to co-operate with the Government. Under the circumstances, including such other matters, he was retired in public interest. Mr. Nepatao ole Monangoi involved himself in clan problems. He, in fact, encouraged clans to be at logger heads with each other even though he was supposed to be the custodian of peace in the area. Mr. Daniel S.O. Magiroi is out of office because he attained the age of 55 years in 1994. Mr. Joseph ole Shunet was retired in public interest after failing to do the duties of his office. He was required to keep the peace, but instead he instigated clashes.

Mr. Kirwa: Mr. Speaker, Sir, I thought this House is not supposed to deal with perceptions of issues. Can the Assistant Minister tell the House whether the said chief was taken to court and convicted of the said crime?

Mr. Awori: No, Mr. Speaker, Sir. He was neither taken to court nor convicted. **Dr. Lwali-Oyondi:**

Mr. Speaker, Sir, in view of the fact that the Assistant Minister has stated by himself that these people were not taken to court, but they were penalised as a result of just a figment of his imagination, could he consider re-instating these chiefs or compensate them accordingly?

Mr. Awori: No, Mr. Speaker, Sir. The actions were not a figment of my imagination and I have no intention of re-instating this chief.

Question No. 503

PRIVATIZATION OF PARASTATAL

Mr. Anyona asked the Minister for Commerce and Industry:-

- (a) if he is aware of and satisfied with the manner and process of the privatisation of Kenya Wine Agencies Limited (KWAL) through the purported creation of Kenya Liquor Distributors Limited (KLD) as a Joint Venture between Kenya Wine Agencies Limited (KWAL) and International Distillers Kenya Limited (IDK);
- (b) the full details of the terms and conditions of the purported agreement between IDK and KWAL for the sale and distribution of wines and spirits in the Kenya domestic market; and,
- (c) the fate of the employees of KWAL and its distributors, in the process of the purported privatisation of this state corporation.

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

(a) I am aware of and satisfied by a re-structuring process necessitated by the liberalisation policy that has led to the creation of a Joint Venture, Kenya Liquor Distributors Limited (KLD) between Kenya Wines Agencies Limited (KLD) and the International Distillers Kenya Limited (IDK).

(b) The full details of this arrangement are that the products of Kenya Wines Agencies Limited and those of the International Distillers Kenya Limited which Kenya Wine Agencies Limited will have lost distributorship through liberalisation, will be distributed by the Kenya Liquor Distributors Limited through Kenya Wines Agencies Limited network of independent private distributor. This would benefit from handling both KWAL and the International Distillers Kenya Limited products other than KWAL's product alone.

(c) Through this restructuring some Kenya Wines Limited (KWAL) employees opted for early retirement and some were taken over by the Kenya Liquor Distributors Ltd (KLD) while KWAL distributors have been absorbed to market KWAL's products through the new organisation.

Mr. Anyona: Mr. Speaker, Sir, this Question was deferred the other day because the Assistant Minister claimed he was not satisfied with the answer which he had then. I happened to have got that answer before he sought the indulgence of the House to have the Question deferred. Today, he has read out exactly the same answer that I had, even though outside the House he had tried to explain to me why the answer must be the same. The question I would like to raise is this, that in liberalisation there is a procedure which involves advertisement and valuation of the assets of the State Corporation. Who initiated the process of privatisation of KWAL? Is it privatisation, restructuring or a joint venture? Can the Assistant Minister tell us if this process was advertised and what the valuation of the firm's assets was?

Mr. Osogo: Mr. Speaker, Sir, the reason why I craved the indulgence of this House to postpone answering this Question up to this week was because I had not been given the agreement which was made to produce the new company. I had only been given the draft agreement, but I wanted to know what exactly had happened. Indeed, the hon. Member is asking whether KWAL has been privatised, which it has not. As to what the hon. Member has asked just now, it is KWAL who initiated the privatisation process. They have been the sole distributors and sellers of wines and spirits imported into this country from various manufacturers in various countries. However, when liberalisation came KWAL had to decide quickly to battle with people who were going to import wines into the country and hence become competitors. That is why the company approached M/s International Distillery Kenya Limited (IDKL), which is in Kenya, so that they formed a distribution arm of their companies, which is a new company, M/s KLD.

Mr. Mwaura: Mr. Speaker, Sir, could the Assistant Minister tell the House the liquidity value of this State Corporation? How much public funds are involved in this company?

Mr. Osogo: Mr. Speaker, Sir, I do not know which company the hon. Member is referring to because three companies are involved here. One is the KWAL, IDKL and the---

Mr. Mwaura: Mr. Speaker, Sir, I meant the KWAL.

Mr. Osogo: Mr. Speaker, Sir, he says he meant the KWAL. The KWAL is wholly owned as a State

Corporation by the Kenya Government, and up to now it maintains its status quo.

Mr. Anyona: Mr. Speaker, Sir, the Minister says that the privatisation process was initiated by KWAL itself, but I have documents here which show that the process was started by a foreigner who wanted to acquire this State Corporation. He went **[Mr. Anyona]**

to the chief executive of the Executive Secretariat and Technical Unit (ESTU) of the Parastatal Reform Programme Committee (PRPC), Mr. Lawi Kiplagat. Mr. Kiplagat then instructed KWAL to participate in the privatisation process. So, his answer is not correct. Is it true that through the process I have described the workers of KWAL were required to enter into early retirement agreement and that the earlier agents of KWAL were equally rendered redundant and new ones were asked to apply for agency? I have documents to that effect. Why is it that the foreigners were given 51 per cent shareholding of the new company while KWAL got only 49 per cent shareholding? Is this the true position and if so, why is it so?

Mr. Osogo: Mr. Speaker, Sir, those are three questions rolled up into one and I will answer them as they have been asked. On the first one, the initiative of forming the new company was taken by the KWAL and not otherwise. The letter the hon. Member is referring to was written by ESTU in December, 1993 when negotiations had already started between the KWAL and IDKL on how to form a new distributing company. It is at that stage that the ESTU came and invited the IDKL to give to ESTU the proposals they were giving to KWAL.

Otherwise, KWAL had not been listed for privatisation by the ESTU. In the second question the hon. Member talks of workers having been forced into early voluntary retirement. This is not true. When KWAL found that its distillery had to be closed down due to competition in importation of many wines it--

Mr. Anyona: On a point of order, Speaker, Sir. I do not know why I should enter into dispute with the Assistant Minister when I have letters here from KWAL to workers forcing them to enter into early retirement agreement. I will lay these documents on the Table. I do not know why the Assistant Minister is saying that the workers were not forced to retire. Can he tell the House whether the workers and the agents are still with KWAL or what happened to them?

Mr. Osogo: Mr. Speaker, Sir, I too have the letters the hon. Member has. These letters are asking the employees to opt for early retirement and get certain benefits. In fact, the letter the hon. Member has is from the company asking the employees to opt for retirement. Those who opted for retirement were given benefits and one of them got very handsome early retirement benefits of over Kshs2 million. Those who did not opt for retirement are still working for KWAL. In fact, when I investigated this matter I found one particular case of an employee who opted not to retire but after four weeks he wrote to the company and said that his wife was pressuring him to retire under the retirement option so that he could get the lucrative money. But the company has not refused to retire him. These cases cannot be termed forced retirement. The employees were retiring at their own request and getting benefits. Indeed, quite a number of them have already been employed by the new distribution company. In fact, the person the letter is referring to was a driver in KWAL and is now employed by the new distribution company as a driver again after scooping over Kshs2 million from KWAL.

Mr. Speaker: Next Question!

Question No.821

PROVISION OF PHONE SERVICES

Mr. Ndzai, on behalf of **Mr. Mumba**, asked the Minister for Transport and Communications when the Ministry will provide telephone services to Matsangoni and Chumani Trading Centres in Roka Location, Mitangoni Trading Centre in Mavueni/Takaungu Location and Msumarini Trading Centre in Mtwapa Location in Bahari Constituency.

The Assistant Minister for Transport and Communications (Mr. Morogo): Mr. Speaker, Sir, I beg to reply.

Telephone services will be provided in Chumani Trading Centre during the 1995/96 financial year, while Matsangoni, Mitangoni and Msumarini Trading Centres have had engineering and demand surveys completed and they are awaiting funding before the project can be started. They will be provided with Subscriber Radio Terminal Services.

Mr. Ndzai: Mr. Speaker, Sir, Matsangoni, Mitangoni and Msumarini Trading Centres have just been surveyed. When will they be funded?

Mr. Morogo: Mr. Speaker, Sir, as I said, as soon as this survey is completed, we will seek funding for it. I believe that in the next financial year, we should be able to provide the service.

Mr. Ndzai: Mr. Speaker, Sir, we would like to know when these trading centres will be funded because, according to the reply from the Assistant Minister, it is only one trading centre which will be funded between 1995 and 1996. However, the other three will not be funded and the Assistant Minister has not told us when they will

be funded.

Mr. Morogo: Mr. Speaker, Sir, the hon. Member realizes that these surveys will give us the cost, that is, how much we will require to install these services. This will help us determine how much we need to look for and we will seek the funding for the same. I would like the hon. Member [**Mr. Morogo**] to also appreciate that the Kenya Posts and Telecommunications (KPTC) is doing its best to provide telephone services throughout the country. He should not think that we are forgetting the two centres.

Mr. Speaker: Next Question, Mr. Obwocha!

Question No. 118

LABOUR OFFICE IN NYAMIRA

Mr. Obwocha asked the Minister for Labour and Manpower Development:-

- (a) what has led to the lack of a labour office in Nyamira, despite the fact that Nyamira is now a fully fledged district; and,
- (b) if he could rectify this anomaly to avoid long travels by Nyamira residents to Kisii to be attended to on labour matters.

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

- (a) There are plans to open labour offices in districts as soon as funds become available.
- (b) For the time being, Nyamira residents will continue to be served from the neighbouring Kisii Labour Office.

Mr. Obwocha: Mr. Speaker, Sir, you do appreciate that the Minister has not answered part (a) of the Question which, in part, asks: What are the reasons---? "As soon as funds become available" is a common description for Henry Obwocha, MP for West Mugarango. This is even known countrywide. However, our people are suffering. They have got to travel to Kisii for NSSF forms in order to claim their dues. The Nyamira District Headquarters is a five floor building, so, there is no lack of space and I really do not know what the Minister is saying. Can the Minister now assure this House that he is going to make plans within this Ministry in the 1995/96 Budget to provide funds for a labour office in Nyamira?

Mr. Masinde: Mr. Speaker, Sir, I did not talk about buildings at all. I said, in general, that funds are not available. Opening up an office does not only require a building; it involves furniture, staff, transport and many other things. We would very much like to have a labour office and an NSSF office in every district. Coming back to the issue of the labour office, for now, as much as I would very much like each district to have a labour office, I cannot afford it because we do not have the necessary funds. However, it is not only hon. Obwocha's voters who have the problem of walking long distances to Kisii. For example, if residents of Tana River and Lamu districts have labour matters, they are being handled at Malindi, and my officer has to travel all the way across. So, you are not the only one, mheshimiwa.

Mr. Manoti: Mr. Speaker, Sir, from Nyamira to Kisii is very far, especially during the rainy season. It becomes very expensive for the residents of Nyamira to travel to Kisii. While appreciating what the Minister said, that they are looking for funds to build an office at Nyamira, can his Ministry post a clerk at Nyamira to serve those people temporarily, while waiting for the money?

Mr. Masinde: Mr. Speaker, Sir, when we open a labour office, it must be fully fledged to serve the wananchi properly. Posting a clerk to Nyamira does not solve the labour problems at all. If anything, a clerk cannot head a station because he will not know what to do with the people.

Prof. Mzee: Mr. Speaker, when a district is formed, the people who are responsible should realise that funds will be required to provide these offices and the workers in the offices. In this case, when a district is formed, people are happy because they want these services to be near them. If funds are not meant to be made available, they will never be available. Will the Minister tell this House now what steps he has taken to make sure that funds are made available to post a District Labour Officer to Nyamira?

Mr. Masinde: Mr. Speaker, Sir, I do not think it is true to say that when funds are not available, then they will never be available. I am very much concerned. To confirm that I am concerned about these issues, during the last recess, I toured all my stations and even these problems being raised now were raised by the people I met on the spot. I am definitely very anxious to make sure that the labour offices are opened where we can, as long as we can have the funds available. So far, we have 30 stations in the country in 30 districts. I hope that when I get some money,--- even if I were to get money before the coming financial year, I would definitely open a few more labour stations.

Mr. Speaker: Mr. Ndicho's Question!

Question No.378

SUB-DIVISION OF PLOT

Mr. Ndicho asked the Minister for Lands and Settlement:-

(a) if he is aware that the piece of land measuring 17 acres in Thika Municipality meant for a municipal dispensary and mortuary has been sub-divided and given out

[Mr. Ndicho]

to individuals; and,

(b) if he will nullify and revoke the allotment of this plot.

The Minister for Lands and Settlement (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that all the piece of land measuring approximately 17 acres in Thika Municipality which was originally meant for the construction of a council hospital has now been replanned and sub-divided and allocated to individual developers. The allocations were done after the Town Clerk advised the Ministry by his letter; A16A, dated 2nd March, 1993, that the proposal to build the hospital on the site had been abandoned by the Council due to lack of funds.

(b) There is no irregularity in the allocations as they were done after proper consultation with the Council, after replanning the site. There is no reason, therefore, to revoke the allocations.

Mr. Ndicho: Mr. Speaker, Sir, this is a very sad day for this country to hear what the Minister has said.

We have two tribes in this country which are notorious for land grabbing. These are Kalenjin and Kikuyu. I have here the plan of this area, where seven Kikuyus have each got one acre and one Kalenjin has got 10 acres.

The Minister has told us that this allocation was done on 3th March, 1993 and the General Election was done on 29th December, 1992, only two months. In fact, there was no council in Thika because no council had been constituted then. So, the Minister is misleading the House. His officers have misled him. My humble request to the Minister is to revoke this allocation because the purpose for which this area was granted was for the building of a hospital and a mortuary which are very important for the community. Can the Minister, in view of that, consider revoking it now?

Gen. Mulinge: Mr. Speaker, Sir, I have already said that I cannot revoke the allocation. I have seen the list of names which the hon. Member has and I have seen that these are quite different from the actual allottees that I have in my Ministry. So, the list that the hon. Member is talking about, I do not know where he got it from. The number of the allottees is quite different from what I have and the names are also different.

Mr. Mutahi: Mr. Speaker, Sir, I thought the most important point is not how many the allottees are or whether they are Kalenjins or Kikuyus. The revocation of the allocation is the major point here because it was done very poorly. Is the Minister in order to talk about the people who were allocated these plots while the question is about revocation?

Mr. Speaker: But it is not him who brought it up; It was Mr. Ndicho.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, the Minister has just stated that proper steps were taken in the allocation of this land. This land is within Thika Municipality. Could he give us the number of the minutes of the Council that approved this allocation of public land that was meant for a hospital?

Gen. Mulinge: Mr. Speaker, Sir, I have given out the reference letter from the Council which was written by the Clerk to County Council, Thika. Now, I do not have the number of the minute but if you do want it, you can get it from the Council.

Mr. Gitonga: Mr. Speaker, Sir, since the hon. Member has stated very clearly that the Council was not constituted at that time, who allocated this land to these individuals if there was no council? Would the Clerk have done that without the authority of the elected councillors?

Gen. Mulinge: Mr. Speaker, Sir, the letter was written by the Clerk to the County Council, Thika, and I believe that the Council was there. If the Councillors were not sworn in the Clerk was there and he is the one who wrote this letter.

Mr. Speaker: Next Question?

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

Mr. Speaker: Sorry! Mr. Ruhii's Question! Order, hon. Ndicho!

Mr. Ndicho: Mr. Speaker, Sir, I am pleading with the Chair. Please! Please!

Mr. Speaker: What is it?

Mr. Ndicho: Mr. Speaker, Sir, this is the only House in this land which can help solve these matters. You are the only person under the sun who can help solve this situation.

You have heard the Minister saying that the names I have are different from the names he has. Would I be in order now to list these seven names and lay this document on the Table for this House to verify and the Minister to compare with his document? It is very serious, we have---

Mr. Speaker: Order! Order, hon. Ndicho! First of all, that was not a point of order but if you want to lay your paper on the Table, fine.

(Hon. Ndicho laid the document on the Table)

Mr. Ruhii's Question!

Mr. Ndicho: Mr. Speaker, Sir, I want the Minister to also lay his document so that we compare them.

Question No. 928

LAW ON FEMALE CIRCUMCISION

Mr. Ruhii asked the Attorney-General:-

(a) whether he is aware

that female circumcision is extremely demeaning and cruel to womenfolk; and

(b) if the answer to "a" above is in the affirmative, what action he is taking to make this practice illegal.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the practice of female circumcision is not only demeaning and cruel, it is repugnant, abhorrent and obnoxious and should not be practised in civilized societies.

(b) Forced circumcision is illegal under Section 231, 234, 215 and 251 of the Penal Code. The Task Forces on the reform of Penal Laws and procedures under Task Force on women laws are considering whether or not female circumcision should be made an offence and if so, when the appropriate time would be to make the practise illegal. Female circumcision is a cultural practice reflecting beliefs, values and morals of communities which practice it. Studies have shown that it is widespread among certain communities in Kenya. The law can only be effective if it is well understood and respected by those it is meant to assist. The focus will, therefore, be on making the communities affected realise that this practice is outdated. I, therefore, take this opportunity to strongly appeal to political, religious, community and women leaders and the enlightened members of our communities to educate the public on---

Mr. Achieng'-Oneko: On a point of order, Mr. Speaker, Sir.

(Consultations)

Mr. Speaker: Order! Order, Mr. Attorney-General! What is it Mr. Achieng'-Oneko?

Mr. Achieng'-Oneko: On a point of order, Mr. Speaker, Sir. Since the Attorney-General started talking about female circumcision, the consultation on the other side and those who are supporting circumcision are making too much noise.

An hon. Member: We cannot hear what the Attorney-General is saying.

Mr. Speaker: Order! Can we hear the Attorney-General and, by the way, Mr. Attorney-General you are now turning it into a debate. It is too long a statement. So will you just answer the Question.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I have answered the Question.

Mr. Speaker: Mr. Ruhii, ask your question.

An hon. Member: Declare your interest!

Mr. Ruhii: Mr. Speaker, Sir, female circumcision in Kenya is nothing else other than genital mutilation. I agree with the Attorney-General's answer except that he forgot to describe female circumcision. He missed three words, degrading, appalling, barbaric and exposure of primitivity.

Mr. Speaker: Order! Mr. Ruhii, having been in this House for three years, you should surely know what you are expected to do when you are given the Floor to ask a question. You are not expected to stand there and volunteer opinions.

Mrs. Asiyu: Mr. Speaker, Sir, female circumcision is a very dehumanizing practice ---

The Assistant Minister for Local Government (Dr. Wameyo): No!

Mrs. Asiyu: I am surprised that some men who are even professional physicians in this House are behaving the way they are doing. I think it is primitive that hon. Members of this House would respond in this manner and I want to ask the Attorney-General to deny that all these years he has not taken a clear-cut decision---

Prof. Mzee: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Prof. Mzee, you are contributing to disorder. So, will you keep order. Shall we have some form of order so that we can hear what is being said? Proceed!

Mrs. Asiyu: Thank you, Mr Speaker, Sir. I will not repeat what I have said. Too many girls lives

have been lost in some communities as a result of the gravity of the operation. Can the Attorney-General tell this House what action he is going to take to outlaw this operation that is killing women, not men? I am sure that, if men were dying of circumcision, the Attorney-General would have outlawed this practice, but because the women die, he has not taken a decision to outlaw this practice. Could he tell us now, what definite steps and action he is going to take and how many people he has already charged in court, those who operate these women in the country?

(Applause)

Mr. Wako: Mr Speaker, Sir, I think, I have already answered that question, the fact is that female circumcision, where forced, of course, is illegal. The legal remedy is not the only way to deal with this particular issue in view of the fact that it is part of a cultural practice. That is why it is necessary for women leaders and Maendeleo ya Wanawake and so on, to educate and campaign against female circumcision, to create the enabling environment in which if this law is passed, it will be effective.

Mr Speaker, Sir, in United Kingdom (UK), the Prohibition of Female Circumcision Act was passed in 1985, and up to date, in spite of the fact that female circumcision does take place inside UK amongst the immigrant communities, no prosecution has ensued. Therefore, this is a problem that must be tackled on both fronts. From the view point of campaigning in changing the attitude ---

Mr. Speaker: Order! Order! I think, you are taking too much time.

Mr. Falana: On a point of order, Mr Speaker, Sir. I would like to know if the Attorney-General has ever taken into consideration the religion and cultures of some people in this country who have been circumcising from time immemorial and no one has ever died? Perhaps those who die, are those who do not know how to circumcise.

Mr. Speaker, Sir, when making this announcement that these things are illegal, the Attorney-General should take into account the morals, religion and culture of some communities in this country. We shall circumcise our women whether he likes it or not!

(Applause)

Mr. Mwaura: On a point of order, Mr Speaker, Sir. Hon. Falana is misleading the House because the Question at issue is the circumcision of women, not everybody. Now, he is saying people die, we are talking about circumcision of women.

Mr. Falana: Mr. Speaker, Sir, with your permission, hon. Mwaura says I was talking about women circumcision. Are men not circumcised? That has been obvious, I was not talking about men circumcision, it was women because in some cultures and religions in this country, there is no way, a girl can be married without being circumcised!

(Laughter)

Mr. Speaker: Order! Order! Mr. Attorney-General, would you like to respond to Mr. Falana?

Mr. Wako: If its a point of information, I would take it from Waziri.

The Minister for Culture and Social Services (Mrs. Mwendwa): On a point of information, Mr Speaker, Sir. What we are talking about here is the circumcision of girls and we are saying, yes, they are usually young girls who are circumcised, not old women. It is true and we can even bring figures here, a lot of girls have died from circumcision because the operation is done, under very unhygienic conditions and becomes septic and they die. How would the hon. Member, Mr Falana, know about this? He is a man, he does not know.

(Applause)

Mr Speaker, Sir, we are not talking about religion here, we are talking about deaths of girls; that is what is in question.

Mr. Farah: On a point of order, Mr Speaker, Sir. In view of the answer given by the hon. Attorney-General is he aware that even in Islam, it is not mandatory for girls to be circumcised? It is a culture of the hamitic communities in this country, and also in Sudan, while in Egypt, it is centuries and thousands of years old, and we the people from these communities, do see the difference between uncircumcised women and circumcised women and we know that the prevalence of AIDS right now in the country is very much attributed to girls not being circumcised. The more we circumcise girls, the less urge, the more they can maintain chastity.

Mr. Speaker, Sir, in view of that, is it in order? That is why we have in Nyanza Province most AIDS

victims and in North-Eastern Province, least. So, we will circumcise girls.

(Laughter)

Mr. Speaker: Order! Order! Mr. Attorney-General, have you got something to say? Order! Order! In all honesty, I do not see any progress we are making out of all this, It maybe entertaining, but we are not making any progress at all.

Mr. Wamalwa: On a point of order, Mr Speaker, Sir. Is the hon. Farah in order to impute improper motive because he alleged that people who come from communities that circumcise women know the difference between a circumcised woman and an uncircumcised woman? Is he implying that those of us who come from communities that do not circumcise women do not know the difference between a circumcised woman and an uncircumcised woman?

(Laughter)

Mr. Falana: I will clarify that.

Mr. Speaker: Order! Order, all of you! I am completely unable to assist in this case. Next Question, Mrs. Asiyo!

Question No.944

FINALIZATION OF COURT CASE

Mrs. Asiyo asked the Attorney-General:-

- (a) what caused the delay in finalisation of case No.HCCC.6002/93, Nairobi; and
- (b) whether he could

ensure that this case is finalised, since the complainant, Mr Barrack O. Ngar, has been suffering from injuries he suffered in the accident.

Mr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. I am saying that hon. Members are just about to fight in that corner there.

Mr. Speaker: Who?

Dr. Lwali-Oyondi: A Minister and Mr Falana.

Mr. Speaker: What is he saying?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) The delay has been occasioned by the fact that the court diary was not able to accommodate the cases because the court is currently hearing only the cases filed in 1992 and earlier years.

(b) The hon. Member's statement concerning the matter would be passed on to the Chief Justice for action as necessary.

Mrs. Asiyo: Mr. Speaker, Sir, the Attorney-General admits that there has been a delay in this case. Does he appreciate that justice delayed is justice denied? The plaintiff, Barrack O. Ngar was run over by a Sikh known as Palsingh Bhanji in Nairobi, way back in the beginning of 1992. He suffered multiple fractures of the right shoulder, fractures of both legs, serious injuries of the head, neck, chest wall and the lower back which compromised his sexual functions. Right now, Mr. Ngar is bedridden and cannot afford medical treatment. Can the Attorney-General order the case to be heard immediately so that this man can get some funds with which he can go to the hospital for treatment? Why has Mr. Bhanji not been apprehended for almost killing this poor man who was only 34 years that time, and who was run over by Mr. Bhanji, who is a rich man?

An hon. Member: He is an Indian!

Mr. Wako: Mr. Speaker, Sir, the Attorney-General has no powers to order in civil matters for a case to be heard. It is up to the advocate concerned who can make it an exceptional case, and file an appropriate application in court for the case to be heard as a matter of urgency.

Secondly, I do appreciate the feeling of the plaintiff who was seriously injured. But also, I have many other plaintiffs who are even more seriously injured and who filed their cases earlier. That is why it is very difficulty to single out any one of them for better treatment in courts.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, is the Attorney-General aware when most of these Asians run down people with their cars, they tend to bribe their way out until the case is delayed, so that nothing is done about the case at all? We have a lot of examples if you could like us to give you.

Mr. Wako: Mr. Speaker, Sir, I am not aware of that. What I am aware of is that civil cases do take a long time to be heard, maybe because of the number of judges that we have. We do not have enough judges to

deal with the pending cases expeditiously.

Mr. Speaker: Let us now go to Questions by Private Notice. Question No. 1 will be deferred.

QUESTIONS BY PRIVATE NOTICE

EMPLOYMENT OF CHIEF NANGARE

(Mr. Muite) to ask the Minister of State, Office of the President:-

(a) Could the Minister tell the House why a Mr. Katwai ole Nangare, who is a police suspect in the murder of the late Mr. Parkara ole Morunya (who was killed on 21st January, 1995, (Narok Police Case File No. 781/28/95), was employed as a Chief for Oletukat Location before investigations are completed?

(b) Can the Minister undertake to revoke Mr. Nangare's appointment until he is cleared of the linkage to the murder of the late Mr. Morunya?

(c) Why have the suspects of the late ole Morunya's murder, namely Katwai ole Nangare and Leipa ole Kedoki, not been arrested and charged in accordance with the Law?

(Question deferred)

POWER FAILURE IN MUKURWEINI

Mr. Mutahi: Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) What has been causing the daily power failure in Mukurweini Constituency?

(b) Is the Minister aware that due to this power failure, coffee factories have not been operating and a lot of coffee, which is currently in season, has gone into waste?

(c) Could the Minister, as a matter of urgency, rectify the situation in order to save the coffee farmers from the enormous loss being incurred as a result of this coffee waste?

The Minister for Energy (Mr. Mbela): Mr. Speaker, Sir, I beg to reply.

(a) Power failures in Mukurweini have been caused by planned load savings due to generation short-falls during the system peak load periods of between 6.30 p.m. and 8.30 p.m. There are therefore, over 20 hours each day, when power is adequately available. This is occasioned by unplanned load shadings occasioned by third parties, unfavourable water conditions and accidental faults.

(b) I am not aware.

(c) The Government is taking all the necessary measures to bring back all the generating plants into operation. This is an exercise expected to be completed by the end of December, 1995.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. There is a big fight of words going on. Could you order them to lower their tones so that we can hear?

An hon. Member: On a point of order---

Mr. Speaker: Yes. I will not expect any fight, including from the hon. Member rising on a point of order. Proceed, Mr. Mbela!

(Laughter)

The KPLC is also undertaking bush clearing along the main lines, in order to minimise accidental faults.

Coffee factories could also re-arrange their operations by programming to utilise power during the off-peak period, outside 6.30 p.m. and 8.30 p.m.

Mr. Mutahi: Mr. Speaker, Sir, this is a matter of national importance. It is not only in Mukurweini---

Mr. Speaker: Order! Order! Order! We cannot follow the proceedings any more. Can we now come back to order! I am afraid I have no power to dictate where hon. Members should sit.

Proceed!

Mr. Mutahi: Mr. Speaker, Sir, this is a very important Question, and the Minister should take it as a matter of national importance. We are expecting to pick about 15 million kilos of coffee this year. The average cost per kilo of coffee is about Kshs30. Because of the delay in buying coffee due to failure of electricity, our coffee is being graded as number three which costs about Kshs10. So, if you multiply 15 million kilos by Kshs30, you will get about Kshs450 million.

Mr. Speaker: Will you now put your question?

Mr. Mutahi: Yes. Mr. Speaker, Sir, due to the failure of electricity, we are going to lose about

Kshs300 million. What action is the hon. Minister going to take urgently, and I propose to have---

Mr. Speaker: Order! Will you stop proposing and ask the Question?

Mr. Mutahi: Mr. Speaker, Sir, could the Minister consider having the electricity failure anytime during the day, and not in the evenings when coffee is being processed?

Mr. Mbela: Mr. Speaker, Sir, as a coffee farmer, I know it is possible to start processing coffee earlier than 6.30 p.m., if the farmers can be guided to deliver their crop a bit earlier. But at the same time, I think this is a question which the hon. Member can go and programme with the local office of KPLC in Nyeri. Having said that, I would like to assure him that I am just as concerned as he is, about the power failures. As a result, I have instructed KPLC to go into the question having some standby plants, because maintenance is there to stay with us, and every time the equipment is being maintained, it cannot generate power.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that the constant power failure is due to maintenance, when it is just a routine activity?

Mr. Speaker: That is a point of argument! **Prof. Mzee:** Mr. Speaker, Sir, this question of power rationing is a national issue. What is happening at the present time is that the power cuts come at a wrong time, for example, domestic users need power between 7.30 p.m. and 9.30 p.m., and that is the time when power is cut off. Also, business people require power in the morning and that is the time power also is cut.

Mr. Speaker, Sir, in the past, KPLC used to give notice that at a certain time, there will be no power. These days, they do not bother to do this. Can the Minister instruct KPLC to continue giving advance notices if the power cuts are going to take place, and desist from rationing power at the time when the domestic consumers need it most, until 10.00 p.m.?

Mr. Mbela: Mr. Speaker, Sir, the KPLC cannot give what it does not have. At present, there are three power plants which are off generating in Gitaru, Kipevu and one turbine in Turkwel. Until the end of December when we expect to have them brought back into service, we do not expect to be able to honour what the hon. Member is asking for.

Mr. Mathenge: Thank you Mr. Speaker, Sir. In view of the fact that power failures have become daily occurrences, affecting people who operate hatcheries, factories, refrigerators and deep freezers in butcheries and many others, would the Minister consider paying compensation arising from the losses caused by power failures? Or ensure that these power failures are brought to the very minimum?

Mr. Mbela: Mr. Speaker, Sir, what the hon. Member is asking for is not covered by the contract of supply of power between the consumer and the KPLC.

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

Mr. Speaker: Next Question! Order, Mr. Mutahi!

PROPERTIES PURCHASE BY NSSF

Mr. Orengo: Mr. Speaker, Sir, I beg to ask the Minister for Labour and Manpower Development the following Question by Private Notice:-

(a) Is the Minister aware that the National Social Security Fund (NSSF) is presently struggling to pay Kshs975,750,000 to Messrs Nokin Investments Limited, in respect of the purchase of properties within Nairobi, despite liquidity problems, and if so, is he satisfied that in this particular purchase the NSSF is not being defrauded?

(b) What action is the Minister taking to ensure that the NSSF is not involved in speculative and unwarranted property deals?

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

(a) All NSSF's investments in land or any other sector are usually properly sanctioned by the board of directors. There are no liquidity problems being experienced by NSSF and its investments are matched with the available financial resources at all times.

(b) As I have mentioned above, NSSF's investments are properly sanctioned hence the issue of the involvement in speculative property deals does not arise.

Mr. Orengo: Mr. Speaker, Sir, from the schedule of the properties which were bought for nearly Kshs16 billion, which I have, their little pieces of land, some of them less than .001 of an hectare, and if you add up the total acreage of the land which was sold for nearly Kshs1 billion, these pieces of land were not worth Kshs100 million. Can the Minister deny or confirm that there is a cartel of individuals who are using the NSSF as a slash-fund? They have already collected nearly Kshs18 billion in preparation of the next general election? They are people within the Government and with Government sympathy who are collecting money from NSSF in preparation for the next general elections. **Mr. Masinde:** Mr. Speaker, Sir, I am not even sure that the people who sold land to the NSSF are politicians at all. Referring to this particular issue, the acreage involved is 225 hectares and that is not a small piece of land.

An hon. Member: Where is it?

Mr. Masinde: Mr. Speaker, Sir, it is in Embakasi area. A number of hon. Members of this House have always urged the NSSF to look for land where we can put up low cost houses. We have taken up this land in response to the very same ideas that have been expressed here. The intention is to put up low cost housing units for wananchi.

Mr. Maore: Mr. Speaker, Sir, just to pursue the major parts of the supplementary question, to clear any doubt whatsoever, can the Minister name the directors of Nokin Investments to ensure that they are not politicians who are collecting money for the next general election?

Mr. Masinde: Whether the former owners of the land were politicians or not, I do not know. But even if they were politicians, when the directors were negotiating with the people to buy land from---

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

Mr. Speaker: What is your point of order?

Mr. Maore: Mr. Speaker, Sir, my question was very simple and clear. Who are the directors of Nokin Investments? He is answering a different question and he can ask it if he wants!

Mr. Speaker: First of all, that question is inadmissible; you can walk to the Registrar of Companies' office and find out.

Mr. Anyona: In 1993, the Public Investments Committee made a full inventory of all the land and plots owned by NSSF; and all had been paid for at that time and they were instructed by the Committee and subsequently by the House not to acquire any new plots until they had developed the ones which they said they had no particular use of at that particular moment. Is the Minister now telling this House that in spite of all these, NSSF has gone on to acquire more plots and land which they do not require and if so, for what purpose in defiance of the resolutions and report of this House?

Mr. Masinde: Mr. Speaker, Sir, this House gave authority to the Board of Trustees to look after the NSSF's affairs. Therefore, anybody who rises up and says, as the hon. Member has just said, that they were instructed not to---

Mr. Speaker: Order! There is a point of order.

Mr. Ndicho: The House has been treated to two different versions of the story. The hon. Anyona said that this House and the Public Investments Committee gave instructions and it is in record that NSSF should not acquire any more plots or land. The Minister says: "This House gave authority to NSSF to acquire those plots and land."

Are we not being treated to some kind of amphitheatre? Can we be guided from the Chair?

Mr. Speaker: Well, I do not see any theatre!

Mr. Masinde: The hon. Member wanted some information from the Chair. The naked truth is that this House, under the NSSF Act, gave the authority to the Board to do what they are doing and unless they withdraw or amend the Act, I think whatever they are doing is fairly in order.

Mr. Orengo: First, on the question of liquidity, I have documentary evidence which shows that the NSSF is suffering from liquidity problems. They were not able to pay this Kshs1 billion. They wrote to the vendors saying that they were suffering from liquidity problems and that they could only pay when the liquidity problem is resolved. If the Minister is talking to us in this House in good faith, can he explain why the file in regard to Nokin Investments cannot be found at the office of the Registrar-General and why the documents that I hold show very clearly that there are important political players like, Sam Nyamweya, who are involved in the sale of properties at exorbitant prices in preparation of the next general elections?

Mr. Masinde: Mr. Speaker, Sir, I cannot explain why the file is missing from the Attorney-General's office. I am not even aware and besides, I do not control the Attorney-General's office, I only look after the Ministry of Labour.

Mr. Speaker: Next Order!

PROCEDURAL MOTION

REDUCTION OF BILL'S PUBLICATION PERIOD

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, this House orders the publication period of the Exchange Control (Repeal) Bill be reduced from 14 to 2 days.

Mr. Speaker, in this Procedural Motion, I would like to draw the attention of this House, that it is only yesterday, in a Substantive Motion, the House authorised the publication of this particular Bill and for it to be introduced in Parliament. So, in this Procedural Motion, approval is being sought from the House, to reduce the

publication period from 14 to two days. The main reason here is the fact that, normally a Bill is given 14 days to mature and the rationale behind it is to enable the hon. Members to go through the Bill so that they are in a much better position to debate it and deliberate when it comes here. I do not need to remind the hon. Members that this Bill is exactly the same in substance, the Bill that came here to Parliament and was exhaustively debated, and was only rejected at the Third Reading.

Mr. Speaker, Sir, therefore, save for the number, the Bill is precisely what has already been discussed in this House, and Members are aware of it. And, therefore, the need for the Bill to be allowed to mature for 14 days, is unnecessary. But, I think I am sure, given the spirit demonstrated by the hon. Members yesterday in that Motion, which sought the permission of this Bill to reproduce it, I hope that the hon. Members will see it fit that they also get the permission to allow the Bill's publication period to be reduced so that we can go perhaps tomorrow into the discussion of this Bill at the Second Reading.

Mr. Speaker, I beg to move this Procedural Motion.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Speaker, Sir, for this opportunity. I rise to second this Procedural Motion that, this House does indeed authorise the maturity of the Exchange Control (Repeal) Bill be reduced from the customary 14 days, to two days, primarily for the reasons that, the Vice-President and the Leader of Government business has given.

Mr. Speaker, I can only emphasise the fact that, the Bill itself remains practically the same and besides, the most important aspect here, is the speed with which we would like the repeal of this Bill to go through this House. I can only echo the fact that, this House is supreme in all matters relating to the passing of Motions as well as Bills, and we, as a Government, have the duty to seek for the authority of this House, in all these aspects in moving this Motion and in moving the Bill.

Mr. Speaker, the Bill in question was exhaustively debated. Indeed, we spent days debating that Bill here, and the spirit as it was at that time, was indeed that, we were all in favour of it. But, now that yesterday we did approve that the Bill be re-introduced, it is the Government's intention to go with all haste and speed to ensure that what we authorised yesterday, is indeed deliberated on as first as possible. And for this reason, we are seeking the reduction in the publication period of this Bill from 14 days to two days.

Mr. Speaker, this is indeed permissible under our Standing Orders and in this respect, Standing Order No. 98, comes into play here and with these remarks, I beg to second.

(Question proposed)

Mr. Nthenge: Mr. Speaker, Sir, I rise to support this move, because, whether we like it or not, we have the responsibility of the nation. It is our duty to make sure things are running smoothly for the country. Everybody in this country who follows what is going on, is sure that what we were trying to do was a very good thing, but somehow, things did not run well. Now, naturally, when people make a little mistake, either a little bit of [Mr. Nthenge]

showdown, such things do occur and wise men do exactly what I am asking the House to do now and, that is, to accept to address the Bill. Things had been done, and let us reduce its maturity for technical purposes. We are saying we are reducing, but, in fact, the original idea has not changed, it is the same Bill.

So, Mr. Speaker, Sir, it is reasonable, because, whether we like it or not, we are going to December which is normally a recess period. Now, if we go to December, and went to recess when this matter is pending, we are not doing our nation its worth. We are not being fair. So, to be fair to the nation, let us shorten these 14 days which is allowed, because, the wisdom of the people who made Standing Orders, took this into consideration that such things can occur and people are in a hurry for this reason or the other. Like I have said before, we had a bit of showdown and in the showdown, we also became mature again and changed our minds, now we are working together. And, for that reason, I am begging the House to agree we reduce from 14 days to two days, and then we will be able then, before the recess to discuss the Bill and finalise it. Because, if we leave it undone, it means next year, and who knows? Maybe very late next year. Therefore, those who will be hurt are those people who have given us the honour of leading them, and proper leadership is when you consider those you are leading more than yourself. That is why I beg this House now to consider those who would suffer and say, let them not suffer for our sake. Let us maybe swallow our pride and after swallowing our pride, we let the nation run smoothly.

With these remarks, Mr. Speaker, I beg to support.

Mr. Anyona: Mr. Speaker, Sir, much as I agree with the sentiments expressed by the Leader of Government Business, the Assistant Minister for Finance, and also by the hon. Nthenge, I still think that this House has the duty of complying with its own rules.

Mr. Speaker, Sir, I still think that there is a procedural problem affecting this Bill and I shall be coming back to it. But, before I do that, I would like to say that I support this Bill as a matter of necessity to liberalise the Exchange Control regime in the general process of the liberalisation of the national economy. I support that fully

and, I have done so from the very beginning.

Mr. Speaker, Sir, I do disagree, most seriously, with some of our hon. Members, particularly on the Opposition side who in the last debate supported the Bill in the Second Reading, then in the Committee Stage, they voted against it. There is a very serious question of procedure here, whether in fact a Committee of the House can go and reject a Bill, in the Committee Stage. Standing Order No. 114 talks about a Bill that has been rejected in the Second Reading---

Mr. Speaker: Mr. Anyona, I made a ruling yesterday. If you are unhappy with it, the only thing you can do is to bring a Motion here to rescind my ruling. You cannot revisit it. You will not be allowed to do this.

Mr. Anyona: Mr. Speaker, Sir, I am not challenging the ruling.

Mr. Speaker: You are!

Mr. Anyona: I am expressing my own---

Mr. Speaker: Order! Order! Whether you are expressing your sentiments it amounts directly to going back on a matter that the Chair ruled yesterday, irrespective of your sentiments. The ultimate authority in ruling as to whether or not a matter is correctly before this House, is the Chair, not you!

Mr. Anyona: Mr. Speaker, Sir, I thought that there was freedom in this House for hon. Members to express their own---

Mr. Speaker: Yes! Order! There is freedom, so long as you comply with the rules.

Mr. Anyona: I have complied, Mr. Speaker, Sir. I am not challenging your ruling. I am merely expressing an opinion that is different. That does not challenge your ruling, and I did say exactly that yesterday.

Mr. Speaker, Sir, what I am saying is this that the other Bill was defeated in the Committee Stage not in the Second or Third Reading and I am saying that those who voted against the Bill at that stage did not have the authority of the House because under Standing Order No. 104, the Committee is only empowered to amend not to reject.

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

Mr. Speaker: Yes, Mr. Shikuku!

Mr. Shikuku: I do not want to involve myself with my hon. friend, who is on the Floor of the House as far as the Standing Orders of this House are concerned.

(Loud consultation)

Mr. Speaker: Order! Can I please hear it?

Mr. Shikuku: In the Committee Stage, Mr. Speaker, Sir, the Chairman, proposes and puts the question and you are supposed to vote. How does he come to the conclusion that you cannot reject a Bill in the Committee Stage?

Mr. Speaker: Order! As I said, Mr. Anyona, you may have your feelings, but I have already ruled this but I may also say, you are absolutely wrong. When the House goes into Committee of the whole House, the Committee considers the Bill Clause by Clause and the Committee has powers to accept or to refuse any particular Clause. In fact the question is proposed and put at Committee level, "may Clause (1) or (2) or whatever be part of the Bill" and the Committee votes. If the vote is negative, it fails to be part of the Bill and the Committee of that particular occasion reported to the House its rejection of the operative Clause of that Bill and the House agreed with the Committee in its rejection. Therefore, the House itself rejected the Bill. But I may tell you one thing, Mr. Anyona, it does not help trying to outdo the Chair, because you will be out of order.

(Applause)

Mr. Anyona: Mr. Speaker, Sir, I thought that I was referring to a very specific Standing Order of the House and the little note in the margin says:-

Mr. Speaker: How relevant are you now to the Motion at hand?

Mr. Anyona: Mr. Speaker, Sir, it is the same Motion that was given authority to be re-introduced.

Mr. Speaker: The Motion before the House is under Standing Order No. 98, to shorten the publication period. You will be relevant to that Motion and relevant to that Motion alone.

An hon. Member: Only!

Mr. Anyona: Mr. Speaker, Sir, I was laying the foundation for precisely that point. I will now abandon that and go straight to that Motion.

Mr. Speaker, Sir, my contention is this, that the business that was exempted from the provisions of Standing Order No. 171 (1), which requires that such business shall be specified and it was so specified, it is not the same business before the House today because the business that was specified yesterday was the Exchange Control (Repeal) Bill 1995 (Bill No. 10 of 1995). If you look at the Order Paper today, we are talking about the

Exchange Control (Repeal) Bill 1995 (Bill No. 17 of 1995). If we follow the English language, which says, "you specify", then clearly the specification of the previous Bill that was given authority by this House yesterday to be re-introduced is not the same Bill that is now being proposed to be debated, whose publication period is supposed to be reduced from 14 to 2 days. The point here is this---

An hon. Member: Technicality!

Mr. Anyona: Of course, it is a technicality, and that is what the laws are all about. Mr. Speaker, Sir, what I am saying is that, I am not criticising what happened yesterday. I was trying to advise the Government to use the correct procedure, to publish the Bill first, give us the correct specifications and then come to the House. I saw the Vice-President before he moved the Motion, he overlooked, today he is in more trouble. My first contention is that this is a different business. This is not the business the House authorised yesterday because the specifications are different and if the House itself is serious---

Mr. Speaker: Order, Mr. Anyona! I am again forced to correct the wrong impressions you are giving.

Yesterday, the Motion was under Standing Order No. 171, to allow the Government to re-introduce Bill No. 10, which was rejected. When this House rejects a Bill, it is no longer a Bill. It ceases to be anything and it becomes a piece of paper. So, for all practical purposes, by 8th November, 1995, when this House rejected Bill No. 10 of 1995, it ceased to be a Bill, it became a piece of paper. Nevertheless, for the purposes of identifying what it is they wanted to bring under Standing Order Nos. 117 and No. 114, they had to refer to the citation of that Bill and when authority was given yesterday by this House that the Bill may be re-introduced, it was then re-published with the current serial Bill No. 17. You are arguing also in my view very wrongly that the Government should, first of all, have published the Bill before the authority of this House. If they did that, it would be illegal. It would offend Standing Order No.114, of our own House. So, can we now, please, Mr. Anyona, consider whether as a matter of fact, this House should reduce the publication period or not?

Mr. Anyona: Mr. Speaker, Sir, I think we are talking very strange jargon. When we say that the Bill is "dead" and it is nothing; it is a piece of paper and then we specify it as a business---

Mr. Speaker: Why are you taking your time really challenging all the rulings I make in this House?

Mr. Anyona: Thank you, Mr. Speaker, Sir. I have never challenged your ruling but I think I have the obligation and responsibility protecting what I believe to be the correct procedure of the House. Nevertheless,---

Mr. Speaker: Yes, indeed, you do, Mr. Anyona. It does not mean whatever you believe to be correct must be correct in your way.

Mr. Anyona: Mr. Speaker, Sir, I am not even saying that. I will be the last person to say that.

Let us come to this point: We have a Bill today before the House which is the Exchange Control (Repeal) Bill (Bill No.17 of 1995). Now, the Vice-President and Minister for Planning and National Development and the Leader of the Government Business has said that this Bill was given the exemption yesterday by the House and that is what the Chair is saying. In that case, I would like to point out to the House again that even now it is unprocedural. If you accept that position, then the matter would be unprocedural and please listen to me, Mr. Speaker, Sir. That if you exempted a business from provisions of Standing Order No.117 (1) of the Standing Orders with a Motion which was done yesterday; if you read Standing Order 117 (1) you will see the second proviso to that Standing Order. There are two provisos; the first proviso is that you may not bring another Motion exempting the business of the House from the Provisions of Standing Order 171 (1) in the same sitting except with the leave of the House. By saying that, I am not challenging the ruling of the Chair because that was not done. But, then there is a second proviso which says that having done so, you may not then again bring another Motion exempting the same business from the provisions of Standing Order 98 which is what we are talking about right now. I will read what that proviso says:-
"Provided further no such Motion shall be made to exempt any business from the provisions of Standing Order 98 which deals with publications."

If that is the case, and that is what is going on now, that we have brought another Motion asking that we exempt this Bill from the publication period 14 days to two days, then, I would say that this Procedural Motion failed in the said of this particular provision because to do so would be to breach the provisions and procedures and Standing Orders of the House.

Mr. Speaker: Order! Mr. Anyona, I do not know where you are reading. This Standing Order 171 talks about exemption of Standing Order from applying to a specified business. Now, the proviso refers to that Motion exempting the operations of a Standing Order, suspending of the Standing Order. So what the Standing Order refused is that Motion calling upon the House to suspend a standing order and in the same Motion, you ask also for the suspension of the Standing Order 98. You cannot do that on the same Motion but you can do in two different Motions. That is you move under Standing Order 171 get the permission to suspended the Standing Order and then if you read Standing Order 98 it is open-ended. Either it has to be 14 days or if the House so resolves to a lesser period as the House shall decide. It is this Motion that is asking the House under the Standing Order 98 to shorten the publication period. It is not seeking to waive the provisions of Standing Order 98, there

is no such leave being sought. So, can we please understand this?

Mr. Anyona: Mr. Speaker, Sir, I think you would have to guide the House here. I agree that the first Motion is to seek exemption which we got yesterday. Then, there is another Motion, under the first proviso which says that you may not--

Mr. Speaker: Now, Mr. Anyona, between you and me, who is going to be in charge of proceedings here because every time I make a ruling you still take it over? Who is in charge? Is it you or me?

Mr. Anyona: Mr. Speaker, Sir, I do not think that it is a matter that should be of personal argument between me and the Chair, I merely point out what the Standing Orders provide.

Mr. Speaker: Order! Order! Mr. Anyona, I think it is time that you took the rulings of the Chair, seriously. When I rule on an issue, it means that you leave it and proceed because we cannot be in charge both of us. It is either you are in charge or I am in charge; and, for the time being, I am in charge!

(Applause)

Mr. Anyona: Mr. Speaker, Sir, I am very happy being hon. Member for Kitutu-Masaba. I have no interest in being the Speaker this time around, maybe another time.

Mr. Speaker: Proceed then!

Mr. Anyona: Mr. Speaker, Sir, what I am talking about is that I think that over these issues, we have got our acts wrong. I have made my views clear and I would like to say, as I said at the beginning, that I am sympathetic and I support this Motion. As you know I am very strict on how we got about those procedures, I would like to point out here that I think it is a high time---

Mr. Speaker, Sir, I was here in 1974.

An hon. Member: Sorry!

Mr. Anyona: There is nothing to be sorry about and that is why we have a multipartism here today.

But the point is that it is the duty of the Leader of the Government Business not to ambush the House. It is the duty---

The Minister for Information and Broadcasting (Mr. Makau): On a point of order, Mr. Speaker, Sir. My point of order is that in view of the fact that we are not being treated to discussion of this Motion, would I be in order to move that the Mover be called upon to reply?

Mr. Speaker: Not yet. What I would advise the hon. Anyona since he is being irrelevant is that he is warned to be relevant now. If you are not relevant, you will be discontinued. Proceed!

Mr. Anyona: Mr. Speaker, Sir, I will not always be wrong. What I was appealing for is more useful than the hon. Minister for Information and Broadcasting who *korogas* everybody across the Floor. The Minister for Information and Broadcasting is supposed to be a diplomat and I am very glad that these days the Minister for Foreign Affairs and International Co-operation---

Mr. Speaker: How is that relevant to the Motion?

Mr. Anyona: What I was talking about, Mr. Speaker, Sir, is that I think for the harmony of this House, both sides of the House, it is very important that the Leader of the Government Business and Government should take the Opposition Members and everybody else into confidence. I feel the way we went about this thing has created a lot of confusion and some hon. Members voted against the Bill at on stage and voted for it later. In future, we would like to appeal that in a serious matter of this kind, we want to speak in one voice, we want our people to know that we take their interest at heart rather than come here and get involved in acrimony. But clearly, if there is a breach of our own procedure this is likely to happen.

With those few remarks, Mr. Speaker, Sir. I beg to support.

Mr. Shikuku: Bw. Spika, ukweli hudumu na ukweli ni Mungu. Ukweli ni kwamba Hoja hii inauliza Mswada uongezewe muda. Hii ni kwa sababu sheria inahitaji Mswada uchukue siku 14 kabla ya kujadiliwa ma waheshimiwa Wabunge, katika muda huo wa siku 14 huenda kuuliza maoni ya watu wao, ambao wanawakilisha kuhusiana na Hoja hiyo.

Hapo ningepinga ili ikae kwa muda wa siku 14. Lakini huu Mswada unaokuja si mwingine ila ni ule ule ambao ulitupiliwa mbali na Kamati ya Bunge hili. Kwa hiyo si mpya, lakini katika dharura wanasema "re-introduction" aina inarudishwa tena lakini mambo ni yale yale. Kwa hivyo, mambo yaliyofanyika hapa tunataka tuyasahihishe na Hoja kama hii ningeipinga lakini kwa sababu jana tuliambiwa tufanye kazi pamoja, tukakubali Hoja ile jana. Haiwezekani tuje leo tuipinga tena. Mimi nilikuwa nimesema wakati ule mhe. Juma Boi aliposimama hapa na kusema "Mover be called upon to respond," mchezo kama huo ndio unaoharibu kazi katika Bunge hili. Na nikasema ukifanya hivyo kesho, yaani leo, ninaweza kusimama nikapinga hiyo sheria ya siku 14 ili huu Mswada usisomwe mpaka siku 14 zimalizike. Ninahitaji tu mimi mwenyewe na mhe. mmoja na mambo yanakwisha. Lakini, kwa vile walioenyeshwa wanataka tufanye kazi pamoja, tunakubali muda wa kuchapishwa kwa Mswada huu upunguzwe kutoka siku 14 mpaka siku mbili. Kama Bw. Spika alivyotoa uamuzi

jana, kesho tutasema maneno yetu kuhusiana na Mswada huo, na ilikuwa sarakasi gani, na kwa nini Mswada huo ukakataliwa. Kesho ndio tutaonyeshana cha mtema kuni. Lakini leo tunawasamehe na tunatumaini ya kwamba huu si mwisho wa dunia. Kesho na kesho kutwa na siku zote tuwe tukifanya kazi pamoja; si kutumia wingi wetu kupinga ukweli. Wingi si hoja. Kwa kutumia wingi kupinga ukweli ni jambo baya na hatutakuwa na mwenendo mzuri baadaye tukiendelea hivyo. Kwa hivyo, mimi ninaunga mkono Hoja hii.

The Minister for Health (Mr. Angatia): Thank you, Mr. Speaker, Sir, for giving me chance that I also make a few comments on this Motion. The complaints that we have heard this afternoon have only been that we are not following the procedure and yet it is because we are following the procedure that this matter is before the House. So, it means Members do not have very much objection to this particular Motion and I will like to also give my support and say that we are following the procedure so strictly that this Motion has had to be brought before the House even though yesterday we did give approval that it comes as it has done. It is obvious that the whole House is agreed that we did make a mistake earlier on and it is obvious that the whole House seem to be agreed that we reduce this publication from 14 days to two days. Since all of us are agreeing, I just want to add my voice to the fact that it is because we are following the procedure and ---

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Despite what hon. Shikuku has said, is it in order for the Minister for Health to say that the decision we made before was wrong because that is what he is saying? Can this House err in its own decisions?

Mr. Speaker: Order! I said yesterday and I repeat again that the House has the right to pass or to refuse to pass any legislation and there is no error in passing and there is no error in refusing. I said this yesterday and I think all hon. Members must respect every ruling as I said.

The Assistant Minister for Commerce and Industry (Mr. Osogo): On a point of order, Mr. Speaker, Sir. While agreeing with the ruling of the Chair, would I be in order now to move that the Mover be called upon to reply?

*(Question, that the Mover be called upon to reply,
put and agreed to)*

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, just before I wind up my remarks, let me put on record that in trying to re-introduce this Motion, we have followed the laid-down procedures in the book of the Standing Orders. And that has been done in the full appreciation of the fact that this House is supreme. The decision which was taken to reject the Bill when this was done, was done by this House. It was legal and we respect it. And indeed you may very well recall when I had made a statement here which was then considered to be an affront to the Chair. I was very quick to withdraw and to apologise. I did so in honour and I want to inform this House that at any given time should my attention be drawn to the fact that I may have overstepped, in my full conscience, I will always apologise to the Chair because the Chair has got to be respected. This House has got to be respected. There is no one who is bigger than any person in this particular House.

Mr. Speaker, Sir, I beg to move the Motion.

(Question put and agreed to)

Mr. Shikuku: Did you hear that sound, Mr. Speaker, Sir?

Mr. Speaker: Did I hear what, Mr. Shikuku?

Mr. Shikuku: Did you hear that funny sound I heard?

Mr. Speaker: I did Mr. Shikuku, but it is not within our Standing Orders.

Mr. Shikuku: Was it from a human being?

(Laughter)

*(The Bill was read a Second Time and
committed to a Committee of
the whole House)*

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. When the Clerk read the Bill, I saw none of the Ministers standing up to say "tomorrow" or "today". Did you see anyone of them? They are just sitting there. Last time of course I was ruled out of order when I referred to them as "crocodiles lying on the sand". I never saw any.

Mr. Speaker: But Mr. Masinde did it.

Mr. Shikuku: He did not. He is supposed to stand up.

Mr. Speaker: Very well.

(Laughter)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE CO-OPERATIVE COLLEGE OF KENYA BILL

Clause 2

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, clause 2 be amended by inserting after the definition of "Principal" the following new definition

"Registrar" means the Registrar of the College appointed under section 10.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Clauses 3, 4, 5 and 6 agreed to)

Clause 7

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7(1) be amended by deleting paragraph (h) and inserting the following:-

(h) five other persons representing the co-operative movement nominated at a meeting of co-operative leaders of the Kenya National Federation of the Co-operatives.

(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 7 as amended agreed to)

Clause 8

The Assistant Minister for Co-operative Development (Mr. Titi): Before I move Clause 8, there is a correction. We do not have subclause (3), we have subclause (2). So, it should read:-

THAT, Clause 8(2) be amended by deleting in line one of paragraph (e) the words "with the approval of the Minister"

(Question of amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9(4) be amended by deleting the word "six" in line 1 and inserting "seven".

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

Clause 10

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 be amended as follows:-

(a) in subclause (2) by deleting in lines 2 and 3 the words "another Deputy Principal" and inserting "a registrar"

(b) in subclause (3) by deleting in line 1 words "and two Deputy Principals" and inserting "the Deputy Principal and the Registrar"

(c) in subclause (4) by deleting in line 1 the words "in-charge of academic affairs"

(Question of 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 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 be amended as follows:-

(a) in subclause (1) by deleting in lines 2 and 3 the words "in charge of the academic affairs,"

(b) in subclause (2) by deleting in lines 2 and 3 the word "Deputy Principal in-Charge of finance and administration" and inserting the word "the Registrar".

(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 12 as amended agreed to)

Clause 13

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13(1) be amended by deleting in line 3 the words "one of the Deputy Principals" and inserting "the Deputy Principal".

(Question of 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 13 as amended agreed to)

Clause 14

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 be amended as follows:-

(a) in subclause (1) (b) by deleting the words "two Deputy Principals, one of whom" and inserting "Deputy Principal who";

(b) by inserting after paragraph (b) the following new paragraph:-

"(c) the registrar"; and renumbering existing paragraphs (c), (d) and (e) as paragraphs (d), (e) and (f) respectively;

[The Assistant Minister for Co-operative Development]

(c) in subclause (2) by inserting in line 1 after the word "to" the words "design", develop and"

(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 14 as amended agreed to)

(Clauses 15, 16, 17, and 18 agreed to)

Clause 19

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 19(2) be amended by deleting in line 2 the word which was wrongly spelt, it is written "(Cororporations)" and inserting the word "(Corporations)"

(Question of amendment proposed)

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

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

(Clause 19 as amended agreed to)

(Clauses 20, 21, 22, 23 and 24 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Co-operative Development: (Mr. Titi): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of The Co-operative College of Kenya Bill and its approval thereof with amendments.

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]
REPORT AND THIRD READING

Mr. Ndotto: Mr Speaker Sir, I beg to report that the Committee of the whole House has considered The Co-operative College of Kenya Bill and approved the same with amendments.

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Speaker Sir, I beg to move that the House doth agree with the Committee in the said Report.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Co-operative Development: (Mr. Titi): Mr. Speaker, Sir, I beg to move that The Co-operative College of Kenya Bill be now read a Third Time.

The Assistant Minister for Local Government (Dr. Wameyo) seconded.

(Question proposed)

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

Second Reading

THE VALUE ADDED TAX (AMENDMENT) BILL

The Assistant Minister for Finance (Mr. Koech): Mr. Speaker, Sir, I beg to move that The Value Added Tax (Amendment) Bill be now read a Second Time.

At the time of the Budget, the Minister promised to table a technical Bill affecting the tariff classification before the end of the year. In order to regulate the whole trade by international organisations such as WTO and WCO, data has got to be collected. This data is useful to potential investors and other users such as Governments. To collect the data relating to the national trade, we have to rely on the harmonised commodity description and coding system. The VAT has to use the system in capturing import data. This is something very straightforward because this is just a technical classification in order to harmonise it with the world classifications so that it will make it easier for VATs data to be collected and also for the taxation on imports. It will be very easy.

Under section 22 of the Value Added Tax Act, goods are classified by reference to tariff number set on the First Schedule to the Custom and Excise Act Cap 472. The Custom and Excise Amendment Bill, 1995, which will become effective on 1st January 1996, will affect the various schedules which are being amended and the details of the amendment are shown in the schedules. Also, in line with the schedules which are being

amended under the VAT Act with amendments proposed under the first schedule to the Custom and Excise Act, I propose to amend the said schedule under the VAT Act Cap.476.

Mr. Speaker, Sir, the proposed amendment will not affect tax status of the goods specified under those schedules. Now, since the hon. Members have seen the schedules, this is something extremely straightforward.

I do not think it deserves quite a lot of discussions and with those few remarks, I beg to move.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Speaker, Sir, I stand to second this Bill on the Value Added Tax Act.

Mr. Speaker, this is an important amendment because it seeks to rationalise, harmonise and standardise the manner in which the classification of goods will be determined in order to be in line with the norms, codes and standards of the World Trade Organisation and those of World Customs Organisations. The codes and standards of international trade classification are important because they are used to create understanding between various countries dealing with various products and commodities being traded in the world over. It is therefore proper that Kenya should move along those lines so as create an enabling environment in dealing with partners in world trade.

Mr. Speaker, Sir, the world is becoming smaller in terms of international trade because each country is trying its best to have a share in international trade and earn more foreign exchange from the goods being traded internationally. It is in that way that our country would be able to attract more investments from international agencies and donors. It is also important that as we move into this era of political liberalisation, that we also increase our products going into international trade. We should expand our current commodity by venturing into newer areas, by developing new products and by introducing agricultural products so as also to increase our share in international trade and thus also increase the wealth of this nation. So far, we have done very well, particularly with agricultural commodities such as coffee, tea, horticulture, flowers, cotton *etcetera* being traded internationally.

Mr. Speaker, Sir, we know that because of ineffective management in some areas, we have lost some ground. We used to trade; we used even to have a share in European Common Market in trading with sugar, but at the moment, we do not export any sugar to these countries, not because we do not have land or we do not have farmers to produce or factories to process the same, but it is because of the inefficiency which has penetrated most of our industries, particularly parastatals. It is shameful that the share that we had in European Economic Community has gone to zero, whereas those of other countries, even smaller countries like Mauritius have maintained their link and they are able to produce and sell high quality products. It is also important that as we strive to sell more, we should also strive to increase quality of our products and maintain the same.

It would be in vain even when we make these changes to harmonise norms and regulations affecting the trade, if we are not able to sell meaningful commodities in these markets. Kenya would become a recipient of all commodities traded internationally and Kenya would become a recipient of even sub-standard quality products. All those involved in controlling, inspecting, manufacturing, *etcetera*, must strive to maintain appropriate, national and international standards if Kenya will be a factor not in international trade, but also in regional and sub-regional trades among these areas or the countries around.

Mr. Speaker, Sir, internationally, the opportunities are unlimited. However, we are limiting ourselves by not venturing into new areas and by not adapting appropriate technologies to produce those goods which will find market internationally. We can hardly mention the manufactured products going to international trade. Perhaps, the few products which go out are the handicrafts, wood carvings and a few others, being manufactured by our humble Kenyans. But when it comes to manufacturing certain products, we become un-competitive either due to low quality or high prices. One wonders why our products should be expensive internationally when the production costs and labour are lower. It means that because of inefficient management, and because of lack of strict adherence to processing requirements, we end up having goods which cannot compete and unless we compete we become meaningless when we want to calculate what percentage of international trade we have; it is very disgraceful. We should be able to attract both international companies and multinational corporations to come to this country and manufacture and we should be able to give them better opportunities for their investment.

It is good and proper that EPZs have been established in Kenya to do the same. These EPZs should not only be confined to Nairobi or Athi River, but expanded to other places like Kisumu, Eldoret and other centres where we have abundant labour, power, water and other facilities required for manufacturing.

Mr. Speaker, Sir, another important point

here is that, perhaps, to move into this class of newly-industrialised countries, we need to have a think tank or a policy-making institution to oversee and implement policies which will make us real competitors in international trade and which will make this country industrialised opposed to being basically an agricultural country. We need to have these bodies of experts, academicians, research scientists and business executives to prepare policies

that can launch this country into that club which is now dominating international trade where we have so many products from Far East and other places. We must also learn from these countries why they are succeeding. We should be grateful that most of the times our leaders travel to these countries to learn the techniques and procedures for their industrialisation. I am pleased to refer to a recent visit by His Excellency the President to Malaysia, Singapore and other places. Such visits are important, but we only hope that those experts who accompany the President will be able to come back to this country with certain new knowledge which would be put into action. It is not just enough to see what other people are doing if we cannot convert the same to the benefit of this country.

Mr. Speaker, Sir, in supporting this Bill, therefore, I am also calling upon the Kenya Bureau of Standards which is charged with the responsibility of drafting and implementing national standards to ensure that the standards which have been adapted in this country are applied in industry, trade and used to ensure that what comes in meets the needs of this country and also meets both national and international standards.

QUORUM

Mr. Sankori: On a point of order, Mr. Speaker, Sir, there is no quorum in the House.

The Speaker: Mr. Clerk, do we have a quorum? Well, you are right, Mr. Sankori. We have no quorum. Can you ring the Division Bell?

(The Division Bell was rung)

Mr. Speaker: Order, hon. Members! We have a quorum now. Proceed, Dr. Misoi.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Thank you, Mr. Speaker, Sir. I was speaking of maintenance of national and international standards. The reason for this is that it will enable this country to have its products recognised and accepted internationally. It will also enable us to accept products from foreign countries which meet both national and international standards. Kenya has adopted a number of international norms and standards. These are those of the International Standards Organisation, International Electro-Technical Commission in the field of electrical appliances, World Health Organisation in the field of pharmaceuticals and the Food and Agriculture Organisation in terms of food and food products.

(Mr. Speaker left the Chair)

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

Those standards and codes of practice are available and it is for us to adopt and apply them in the field of trade both locally and internationally. This will enable us to trade in products which are fit for their use. That means products of the right quality or which are not sub-standard. In the area of public health this means accepting products such as pharmaceuticals and other allied products which will be used in this country for the intended purpose. These are drugs and medicines which will be effective in treatment of the various ailments. Secondly, this will also remove the possibility of having drugs and medicines which are sub-standards or those which have expired. I am saying this because many a times, if we are not careful, we will be flooded with products which will damage not only the market in this country but also the public health of our people.

In this regard, those charged with this responsibility, whether they are industrialists or others, must maintain the industrial standards which are available in this country or those which will be adopted. The same thing applies to the controlling agents, namely institutions which inspect goods coming into the country. If it is in the area of health then the quality control units should be able to screen the products which come into the country. They should have quality control facilities. If they do not have these facilities they should be able to use other regional or international testing units in cases where certificates from other countries can be accepted on a bilateral basis. If those are not available there are other institutions like M/s Superintendent General Services (SGS) and other testing private companies which have been contracted by the Government to oversee, test and certify products coming into the country.

These institutions are there but everything depends on how Kenyans use them. It depends on how Kenyans use and apply the norms. It is very interesting that the other day I raised the issue of milk which had come into this country. This commodity should not have come here if the

institutions concerned had done their work. This is what everybody in Kenya expects to happen. We have the Kenya Bureau of Standards (KBS) and its staff have to do their job. If they do not have the facilities they should use private facilities which are available nationally. If the facilities are not available here let them use facilities which are available elsewhere in various countries. The same thing applies in the area of health. We would not wish to have medicines which have expired because at the end of the day the medicines will have lost their effectiveness and so will not do the work they are supposed to do.

Since we have the institutions, it is for us to ensure that those institutions work. We do not lack law institutions, facilities or officers. We have trained officers and they are everywhere. But why are things failing? Maybe the officers are not committed to their job; or maybe they have other interests or they have become very casual. If they have become very casual why have they? Who is failing? Is this Parliament failing them because we enact the laws? It may be that we are failing! I am not sure! But the point is that this country is endowed with riches, resources, facilities, manpower and a democratically elected Government. The issue is one: People have to be serious with the work they have been given to do. People should not mix their work with politics and politicise everything. Even professional associations and societies which should be functioning as independent reputable organisations end up becoming political agents of some kind. We have departments to do every job. That is why we create departments otherwise everybody would be dealing with everything all over the place! That would introduce inefficiency in our system.

So, Mr. Temporary Deputy Speaker, Sir, I am calling on each individual Kenya, whether in Government or in the private sector, to do what he is supposed to do. Our efforts added together will produce goods which we can sell internationally.

With those few remarks, I second this Bill.

(Question proposed)

Dr. Lwali-Oyondi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to say one or two words on this particular Bill. As it has been said it is a technical Bill. But Value Added Tax (VAT) affects everybody in Kenya. Here we are dealing with the question of standardising it so as to be in conformity with international nomenclature.

As for the effects of the VAT on our people, first I have personally realised that this tax is mostly paid by Africans but not by Asian traders, particularly on goods manufactured by Asians themselves. I walk into a factory to buy something and I am told that VAT is at the rate of 18 per cent or whatever rate it is.

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member not misleading this House by saying categorically that VAT in Kenya is only paid by Africans and not by Asians? Is this not a misleading and unwholesome statement? Much as it may be his opinion---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Apart from being misleading, it is also racist, and we are not encouraging any racial arguments here.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, I can substantiate that. Take, for example, wheelbarrows. When you buy a wheelbarrow from the factory and go to the supermarket, you will find that the supermarkets are selling the same item at more than 18 to 20 per cent below the price at which you bought it at the factory, inclusive of VAT. I know that traders can never lose. They always make profit. How is it that when we, wananchi, buy, for example, a wheelbarrow from a given manufacturer here in Nairobi, and you can testify to that, you will find that the price at the factory, inclusive of VAT, is less than the one charged at the supermarket. The Minister will have to explain that. The trick is very easy and he knows it.

The Assistant Minister for Finance (Mr. Keah): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to give the hon. Member on the Floor some information, if he welcomes it.

The Temporary Deputy Speaker (Mr. Wetangula): From his conduct, he has accepted it.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. In the Finance Bill that was passed this year, there was a clause which stated categorically that any sales that are votable are deemed to be votable whether one states so on the invoice or not. Therefore, the problem that he is alluding to may be more of a collection problem than non-payment. However, certainly, if anybody now gives you an invoice---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Keah, you are not giving any information. You are advancing your own argument. If you want to give information, then do so.

The Assistant Minister for Finance (Mr. Keah): The information is that; any invoice now is deemed to be votable under the laws passed by this House.

The Temporary Deputy Speaker (Mr. Wetangula): That is now information.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, I gave him a chance because, when we come to discuss about facts, facts can never be modified, whatever you might do. The practical thing is this: That for things like wheelbarrows, barbed wires and others, you will find that the factory price is far higher than the supermarket price. This can only be explained by one fact; that some people do not pay VAT. I am only giving the Minister this information because at the moment, supermarkets have taken over all the trade and they are giving out goods in astronomical quantities. Therefore, should he not check on how this VAT is being applied and, should he also not check on documents that go to these supermarkets, this country is in for very terrible losses, apart from the fact that the mwananchi, that is, the black man, is not going to get a share of the trade in this country. This is because he cannot compete with somebody who is trading or giving him a competition of 18 to 20 per cent. That is not acceptable and it is high time, we, the African men in the charge of the Government, protected our own people.

In connection with this, I would also like to point out that supermarkets should not be located in residential areas. They are depriving the mwananchi of his ability to trade. It is now over 30 years since Independence and, if we cannot control trade in the country even at this time, we are like stunted people. If you are 30 years old and you have not attained a height of five feet, you are likely to be counted among the dwarfs. We are going to be economic dwarfs, particularly, the black man who fought for Independence in order to gain equality with the others. We cannot keep on saying that this is racial and this is not racial because I know that, at the moment, nobody can go to India and put up a kiosk. You would be stoned to death, even if the Government allowed you. We remember, when some of the best Kenyan rally drivers went to India to compete, they were stoned. Although they were not injured, their cars were damaged. These people said; "you are coming to waste a lot of petrol here, enjoying yourselves while we are starving". Therefore, it is the duty of the Government to protect its nationals so that they get involved in national trade. Liberalisation has been taken to be a way of allowing people to do everything for themselves and nothing for their own people. Liberalisation should be such that our own people get liberalised and get into trade so that they can also earn something from the sweat of their own workers. The thing is that when people work in a town like this, they collect wages. These wages are a result of their own sweat. Now, it ought to come to the people around here but, instead, it is distributed to people other than the indigenous people of this country.

Now, manufacturing of goods needs electricity. Electricity is giving wananchi and manufacturers a lot of headaches. Take, for example, those who are manufacturing nylon threads in the textile industry. They boil up whatever they have and from there, they make threads. There is a time when electricity goes off and all their material gets damaged. This question of electricity should be looked into very seriously and not as casually as the Minister has been looking at it this afternoon. We know that our electricity consumption far much outstrips the generation of that electricity. We cannot manufacture or begin generating electricity suddenly. We have an alternative. The alternative is that we have very cheap electricity being sold at the same price as it was being sold in 1956. That is electricity from Uganda, being run by generators that can never be clogged with soil.

There is a natural filter which is Lake Victoria and it makes sure that the water that flows into the Owen Falls Dam is very clean and, therefore, the question of silting like it is in our dams here and other clogging of the turbines, cannot occur. Therefore, we have plenty of electricity. We can buy it at that cheap price and in that way compensate for whatever shortages we have. It is high time if we had the interest of this country and industries at heart and got electricity from Uganda at a very cheap price until that time when we shall be able to generate enough electricity for ourselves. We must be interdependent. Uganda is buying a lot of goods from our country and it is our biggest trader within East Africa, and probably in the whole world. What Ugandans buy from here is a lot. They also use our Port. So, we cannot be all that selfish and have the balance of trade always in our favour.

Mr. Temporary Deputy Speaker, Sir, I would pray that the Ministers concerned with the manufacturing industries in this country, in the interest of creating job opportunities in this country, and the interest of our students whose education is being interrupted all the time by electricity interruptions, do something about this. The other day we were in a boarding school in Embu conducting a Harambee when suddenly, the electricity went off. We were in a very embarrassing situation for quite a few minutes, probably about half an hour, before we got a few lamps and candles to light. The students had to go out. The girl students had to stay in the darkness out there yet it had rained. Imagine the amount of work these students have. They have no time to waste. At the moment, the studies of our students are very greatly affected by this electricity interruptions and, sooner or later, we are going to have very bad results. Therefore, I hope the Ministers concerned will immediately take steps to rectify this situation which is very serious.

We are talking about VAT and, at the moment, we have been invaded in Nakuru. There are people who have come there and I do not know from where. They have occupied just about all the hotel spaces in Nakuru Town. These people are armed with cheap radios and other electronic gadgets from the Middle and Far-East. They have been turning their hotels into little shops. I do not know how these radios are coming into the country but I understand that they are coming from Dubai and they travel on land through Somalia to this place. These people are known citizens. They are now trading. How they got trading licences, I do not know. Whether they pay VAT through these "*panya routes*" or not I have no idea but the fact is that these people are taking away jobs that should have been done by the wananchi here. We are already in very bad employment difficulties and it is high time that in our liberalization process, we did something. Liberalization does not mean that people come here from the neighbouring countries and sell *njugus*. Liberalization means that people can trade. They may bring the *njugus* or the radios to wananchi here but they must not come and do retail business here. So, this should be checked. These people have taken over every house and even the landlords in Nakuru are now beginning to think of raising their house-rents because these invaders can pay just any amount of money. They have the money anyway. Most of them have been looters in their own countries. So, I hope the Minister will come to our aid.

My last remarks, are about the occupation of all the trading spaces and empty spaces. These spaces are being grabbed by our wananchi or some well-to-do people and they are sold immediately to citizens or non-citizens of non-African origin so that in the long-run we shall have nothing else left. This is the most serious thing that I have heard. Three weeks ago people came at night and took measurements of the Menengai High School. I understand one of the administrator is behind this.

The Temporary Deputy Speaker (Mr. Wetangula): Dr. Lwali-Oyondi, that maybe a very good revelation of crime but what does that have to do with VAT?

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, it is has connection with VAT in that, I had talked before about people taking up all the trading spaces that were originally there for wananchi. These spaces have been sold out to non-wananchi in Nakuru. Just as a side remark, Menengai High School which is very important has also been invaded. People are taking measurements in order to make plots out of that ground and sell it---

The Temporary Deputy Speaker (Mr. Wetangula): Without paying VAT?

Dr. Lwali-Oyondi: They never pay VAT in their cases. These are some of the strange things that are happening and we are wondering whether the Government is there or dead. This is exactly what the Government is supposed to do. It is supposed to be looking into such cases and protecting wananchi but not only looking for VAT. They are supposed to be looking after the country as a whole because it is the Government which is in charge. It is in charge to protect wananchi and make sure that there is orderliness in whatever is being done but at the moment there is no orderliness.

With those few remarks, I beg to support.

Mr. Mulusya: Thank you, Mr. Temporary Deputy Speaker, Sir. This VAT is a form of taxation which is making the wananchi of this country feel a lot of pain. I say very painfully because every minute a Minister stands here to move a Bill, it means getting into the pockets of wananchi deeper and deeper. When you look at the items which are votable and the levels of that VAT, it is very sad. Talk of manufactured products, from the point of entry at Kilindini, Mombasa, you pay VAT and Customs Duty. That VAT and Custom Duty would definitely be passed over to the eventual consumer.

When it comes to the production at factory level, the industrialist, after he has produced those goods, there is 15 per cent VAT. This is over and above the importation cost, the VAT, we have paid at the point of entry into this country, and it is over and above the inputs the manufacturer had put in these products. That is the consumer has already paid VAT twice and that product has not reached him. Let that product leave the factory gate with VAT, it goes to the distributor, who also pays 15 per cent VAT as that product gets out of his warehouse and that is based on the total cost which is build up from the point of importation of raw materials all the way. When that product gets to the retailer, the customer, who is the ordinary mwananchi, who is the eventual consumer, he also pays VAT. How many times would Kenyans continue paying VAT? This is extreme over-taxation.

Mr. Temporary Deputy Speaker, Sir, when you get to the developed world, the limit is the manufacturer, who will build his cost, put the VAT which will be passed over to the eventual consumer. But when it is build over and over, a good example, is Kenya Breweries Limited (KBL) when they are importing their raw materials, they are paying VAT. If it is imported mould whether it is local, they are paying VAT at that point. When that beer has been produced by KBL, it pays VAT direct. That product has not even reached hon. Shariff Nassir because he is the eventual consumer. The distributor has to charge VAT to the bar owner, who is eventually going to sell that beer to the hon. Member. That beer by the time it reaches the consumer, it is so expensive

because there is exercise duty, custom duty, VAT all have built up and we ask ourselves, when will this Government be satisfied that they have taxed Kenyans enough? Why can't there be only one or two points of taxation, at most? We are not saying, do not tax Kenyans, but surely, do not overtax them. Some items have become extremely expensive, and the industrial sector is not growing fast enough because as they produce, the end product becomes too expensive for the intended consumer and, therefore, the issue of mass production and expanding the industries because of demand, is not there. Demand has been curtailed because of the eventual market price and this is something which this Government should be able to look into.

If our local products are such expensive, the effect is that now that we have liberalised the economy, we can import any competing products into this country. The end result is that we are going to be creating jobs for other countries because the taxation level there is low and we are only being charged VAT and customs at entry points, and at the level of distribution. That is, when it is getting to the consumer, which means that the local products, they are getting 15 per cent VAT twice, higher than what the imported product is getting. So, there is no way our local industries will be able to compete with the industries which are producing the equivalent and the same products because of this extra two levels of taxation and VAT.

Mr Temporary Deputy Speaker, Sir, it is the Kenyan, who is going to suffer. If our industries are not expanding, the level of unemployment continues to grow every day at the advantage of other developed countries reducing their levels of unemployment, while we continue to multiply the level of unemployment here. Why? This is something which can be curtailed, and it is something which with proper planning and management of the economy, and with the proper management of the taxes, VAT, we are collecting. This can be done, and all we need is forthright honest civil servants, forthright thinking leaders, Ministers, and we say whoever is misappropriating public funds should be punished and that money must be confiscated and returned to the Government kitty. Some of the things which are being done where you find even when we are talking about the selling of Government investments, we are not realising the maximum out of them and when we do not realise the maximum out of them, it means the Government and wananchi are not benefiting. Therefore, we passing this to somebody else and the tendency is that these industries which are being sold, are not going to the ordinary wananchi. They are being sold to people who have no interest in the future of the economy of this country, who will repatriate their profits immediately they make it. If there is no use keeping on taxing the ordinary Kenyan, the local person, who is already overburdened with tax.

Mr. Temporary Deputy Speaker, Sir, this is not what we should be doing. We should from morning to the time we go to sleep in our beds, be thinking in our dreams, how the local Kenyans should benefit. How are we going to reduce this burden of taxation on this person? How are we going to reduce those loopholes found in VAT system which do not exist anywhere else in the world? They only exist here in Kenya. It is very important that we should think about the ordinary Kenyan.

On the issue of the collection of VAT and all taxes, the Government has been very lax. But now that there is the Capital Revenue Authority, we want to adopt a more rigorous approach in the collection of these taxes. The question of evasion of taxes and especially VAT should be looked into. I do not know whether the Government is sleeping or is dosing or what it is doing. When you go to River Road you find that every item is a taxable item. You are supposed to pay VAT on a spoon, glass---

(Mr. Matiba and Mr. Saina shook hands)

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Matiba to wrestle hon. Saina, after only being here for one minute?

The Temporary Deputy Speaker (Mr. Wetangula): What did they do, Dr. Misoi?

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Temporary Deputy Speaker, Sir, it appeared hon. Matiba and hon. Saina were wrestling in the Chamber. I was alerting you to that fact, Mr. Temporary Deputy Speaker, Sir.

Mr. Gitau: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Dr. Misoi to impute improper motives on my Chairman, hon. Matiba?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! We have no chairmen in this House; we have only hon. Members.

Mr. Gitau: Mr. Temporary Deputy Speaker, Sir, but he is the Chairman.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Everybody comes to this House as a hon.

Member, and not in any other capacity.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. arap Saina): On a point of order, Mr. Temporary Deputy Speaker, Sir. There was no ill motive. I think hon. Matiba was just trying to exercise his arm. He stretched his hand to me and then I--- Anyway, I am not a doctor but I---

(Laughter)

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, hon. Saina! That is not a point of order. We all know that hon. Matiba does not sit in this House and so he probably has lost contact with the rules of the House. Carry on, Mr. Mulusya!

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I do not want to challenge your ruling, but he sits for only a few minutes.

I was saying that there is a system which has been defined by some Indians community traders in this country, to try and evade paying taxes. They are doing this because VAT has made the prices of these commodities very high. When you virtually visit every shop where the owner has not computerised the operations of the shop, and you find that he is not using a machine which can be able to calculate VAT, but he is doing it manually.

The tendency now is to collect money over the counter in form of cash and tell the customer if he or she wants a receipt, he should pay VAT, and if he does not want a receipt, he does not pay VAT. This country is losing a lot of money. It is the mistake of the Government because in developed countries before a tax is introduced, there must a good system of collecting that tax. This is because if you leave some loopholes somewhere, anybody anywhere in the world will take advantage of that and will either collect that tax and pocket the tax or because the consumer is unable at times to buy that product, he will use the non-collection method which means evasion, as a means of boasting his business and making his products cheaper, and therefore, selling more thereby taking advantage of the other competing traders. So, it is still the responsibility of the Government to know that if you introduce a tax at a time when the traders who are supposed to be the agents of the Government in collecting that tax, do not have enough facilities to collect that tax, it will be very difficult for the tax, even if it is collected, to end up at the right place.

If you go to the petrol stations where they sell oil and petrol you find that we are supposed to pay VAT. But anywhere you go now, you can buy petrol not necessarily from the petrol pumps. This is because the one which is coming from other sources, is not being taxed because it has been acquired in a queer manner, and therefore, it is cheaper. The owner of such petrol station will sell more as compared to his competitor who is selling through the pumps. Who benefits out of all this? The Government is not getting the revenue it is supposed to get.

If you visit other areas where VAT is charged,--

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mulusya, I am not saying that you are irrelevant, but you would really help the Government and the Ministry concerned if you addressed yourself to both Schedules One and Two of the Bill before the House which sets out the taxable items and the percentage of taxes being levied, or those that are not taxable, so that you can assist them to adjust upward or downward or to abolish through whichever manner you want them to do. Talking in general terms really does not help the Ministry much.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I do not want to challenge your---

The Temporary Deputy Speaker (Mr. Wetangula): Even if you wanted, you cannot. So, just comply with what I have said.

Mr. Mulusya: Yes. But, Mr. Temporary Deputy Speaker, Sir, I was coming eventually to that. You are only pushing me a little bit faster, and I have never known the Chair to be impatient.

I am saying that when taxes are being introduced, the country should be ready in terms of machinery to collect that tax.

The Temporary Deputy Speaker (Mr. Wetangula): You have said that over ten times.

Mr. Mulusya: This is because when you leave it to the traders themselves you should realise that they are not honest enough to be given such responsibility.

The eventual goal is to have enough resources getting into the Government kitty and the common mwananchi will benefit. When you talk about the edible oils, as shown in the First Schedule, page 1459, we have sunflower oil crude oil, but not chemically--

The Temporary Deputy Speaker (Mr. Wetangula): I am with you, page 1459.

Mr. Mulusya: I am not saying that the 60 per cent tax VAT asked for here is too high. The eventual VAT paid for the manufactured oil which has already been tinned as it gets out to the market is still 15 per cent. We would expect this to be reduced to something like 2 per cent or--

The Assistant Minister for Finance (Mr. Keah): On a point of information Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mulusya, do you want information from hon. Keah?

Mr. Mulusya: From the history of the information he has been giving, he takes the advantage to advance some arguments.

The Temporary Deputy Speaker (Mr. Wetangula): Okay, he has rejected your information.

Mr. Mulusya: No, if it is not a point of argument, he can give it.

The Temporary Deputy Speaker (Mr. Wetangula): Okay, he has changed his mind!

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, for the guidance of this House, I would like to provide the following information--

The Temporary Deputy Speaker (Mr. Wetangula): The information is not to the House generally but to hon. Mulusya.

The Assistant Minister for Finance (Mr. Keah): For the guidance of hon. Mulusya, and indeed for anybody else who might benefit from that information, these rates of VAT here are not new rates. Indeed, we have already approved these rates in the Finance Bill. What we are doing in this Bill is merely reclassifying the Schedules and the items to be consistent with the amendment we made yesterday under the Customs Act so that they be in resonance with World Trade Organisations Schedules and with the World Customs Organisation Schedules in order to facilitate international trade. We are not debating these rates. That is the information.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I was not debating the rates also. I said, the general public would have expected lower rates. There is no standard rate for VAT. In any case, there are countries who do not have VAT in their taxation system. If you go to Great Britain you will find that there is VAT and the same rate may be applicable. But 60 per cent as stated by the hon. Assistant Minister is still very high. If we are interested in the growth of our industry and in the Kenyan Citizen not to bear too much taxes, the 15 per cent tax could have been reduced by the same rate of 6 per cent so that the eventual VAT payable would something like 9, 10 or 11 per cent from the industry before it reaches the consumer because he has already paid 6 per cent and that is my argument. The 15 per cent will still be 15 per cent when calculated over and above this 6 per cent.

We have areas where the products on which VAT is being levied are simply luxurious. Those are the areas where nobody would have a complaint even if the rates were raised. But what we are saying is, there is still a lot of room for the Government to lower some of these rates. Where there is importation of machines which should be used for manufacturing, the rates should at least be zero-rated. That should not be rated at the present levels. What we have found out is that we are still also encouraging people to import meat and frogs. All of these items could be taxed at a higher rate so that people would not import them and those who eat frogs can rear frogs locally and in fact there are many frogs. It is only that they have never taken the initiative.

The Deputy Temporary Speaker (Mr. Wetangula): Where is that hon. Mulusya?

Mr. Mulusya: On page 1495, you get frogs. I find that much of the imported items have been standardized as much as the manufactured products here have been standardized. But there are some where rates, because the level at which we are able to create employment, there are some products which could have attracted far much lesser duty even if we were to maintain a VAT at 18 per cent. I find it very difficult, when you get into a shop and in that shop you buy a suit and you are supposed to pay 15 per cent VAT. More often than not, this item has been imported as a finished product. You have paid VAT at the point of entry and VAT at the Mhindi's shop.

Mr. Temporary Deputy Speaker, Sir, I think there should be some rationalization on which items should be taxed VAT and which should not be taxed VAT. The other issue is, you find much of agricultural products which are imported, we are not paying VAT. Like milk cream and not concentrated nor are containing added sugar. We are not paying any tax on that, no VAT, it is zero rated. Why should this be? One, we know when we allow these items to come, and we Kenyans are able to produce those items locally, we are simply destroying our agricultural sector. These are the items which should be attracting the 6 per cent VAT. So, some of the items we are seeing here, which are zero rated, should not be zero rated, they should be taxed VAT because, they are increasing a lot of competition in the local market. Because, when you go to KCC, when you are buying butter from there, there is VAT. But, when you are importing products like butter and the rest from Ukraine and

the rest which are nuclear contaminated, we are still paying VAT. This is not good and should not be the case. I do not know what the Minister is going to do because we expect, at least, these items to be attracting some duty, so that, they may act as a deterrence to the importers.

Mr. Temporary Deputy Speaker, since you are impatient to see me stop my contribution, I beg to support.

Thank you.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mulusya, you must withdraw that remark.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I withdraw that remark.

The Temporary Deputy Speaker (Mr. Wetangula): It does not help you or anybody or this House, for you to be insolent towards the Chair.

*(The Temporary Deputy Speaker
(Mr. Wetangula) left the Chair)*

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

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, katika mambo yote ambayo yanazungumzwa katika Bunge, kuhusu VAT na ushuru, ni muhimu sana kwa Wakenya wote. Katika kufanya amendment ya VAT na ushuru, ilikuwa ni Wizara kwanza ichungulie kwa nini watu wanaleta mali kutoka Ulaya, Uchina, na Japani ikipelekwa Dar-es-Salaam na halafu kutoka Dar-es-Salaam, yaja huku. Kwa nini watu hawanunui mali, moja kwa moja, kutoka huko inakotoka ikaja hapa? Ni kwa sababu, ya hii VAT na ushuru hailingani na ile ya Dar-es-Salaam. Labda Dar-es-Salaam na Uganda wanatoza chini, ndio mali ikaenda kule, halafu watu wetu wakaenda wakanunua na ikaja hapa. Amendment ya VAT na ushuru ni lazima ifanywe ili sisi tungamane katika biashara na mataifa ya Afrika mashariki. Sio majirani wetu kupata faida mara mbili kwetu, kwa sababu, pengine mali yetu ikija huwa na bei kubwa. Mambo haya yanatokea na yaja, na watu wetu ijapokuwa wanapata Shilingi mbili au tatu katika kufanya biashara, lakini kwetu wanunujaji wanapata taabu zaidi.

Bw. Naibu Spika wa Muda, hii amendment nataraji Wizara kwanza, itaangalia ni njia gani watasaidia mambo ya nguo za shule, mambo ya vitabu vya shule na mambo ya kalamu za shule, kwa sababu, taabu tuliyo nayo katika nchi ya Kenya, juu ya mambo ya shule, na watu wanvyopata taabu ni nyingi sana. Watu lazima watafute pesa, za kuanzia kusomesha watoto mpaka zile nguo wanazovaa na hata vitabu. Nafikiria kama ilikuwa haswa, hata kungekuwako na duty maalumu ya kutozwa binadamu wa Kenya ili elimu iwe bure. Kwa sababu, sasa tuna taabu sana. Na haswa watoto wa vyo vikiu na wengine wa shule za sekondari.

Bw. Naibu Spika wa Muda, juu ya habari ya VAT na ushuru, nilifikiria hata Mhe. mwenzangu, Waziri msaidizi mwenzangu kuwakumbuka wawuaji samaki kutowatoza pesa katika nyavu, katika ile ndoano au mishipi. Kwa sababu, hawa ni watu ambao wanapata taabu sana ili kuvua samaki ili wawalishe wenzao.

Bw. Naibu Spika wa Muda, wenzangu wamezungumza juu ya VAT sana, lakini haswa, inatokana na secta zetu katika Kenya. Hivi viwanda vyote vyote vinatengeneza ikiwa ni soda, nguo, shati, soksi na kadhalika, na wanatuuzia kama wenzangu walivyotaja, wauzaji bidhaa ndogo, ndogo, na kuukuu, kila mmoja anatia VAT. Kwa hivyo, mambo kama haya yanafaa kutazamwa sana na Wizara. Na kulikuwako na kanuni, kwamba, yule anayepeleka mtambo, mwenye mtambo wa nguo, hana ruhusa kuza nguo, ampe mtu mwingine ili naye apate kuishi. Lakini sasa, ni mtu mmoja tu ambaye ni manufacturer, distributor na wholesaler, hata akikupa VAT ile anayouza kutoka kiwanda kingine zote huwa zimelala. Kwa hivyo, kuna nia kubwa sana na ni kuonyesha ule utulivu tulionao katika Kenya, Kuyatazama mambo ambayo yatakuwa na faida ya watu wetu. Idadi ya watu wetu imekuwa kubwa, hata kama wasemaji wa siasa tuko wengi na ni hodari, lakini, taabu walionayo wale waliotupigia kura, ni kubwa sana. Ni lazima tukija hapa tutafute kitu cha kuweza kuwasaidia wale waliotupigia kura.

Katika mambo ya elimu, uvuvi na mengine mengi, ambayo yatarajiwa kutazamwa na haswa na sisi. Ikiwa ni upande wa Upinzani au wa Serikali, sote tunatunga sheria hapa. Sheria haitungwi na KANU pekee yake, inatungwa na Upinzani vile vile. Ni lazima tuyaangalie yale mambo ambayo yanawapa wananchi taabu. Na ikiwa taabu ya binadamu ni mambo ya ushuru, mambo ya VAT, tuketi tuyatazame zaidi, tuangalie tunaweza kuwafanyia nini ndugu zetu maskini waliotupigia kura. Habari ya Bandari huru ya Mombasa Rais Moi hakusema tu kwa sababu ya kusema. Kuna mambo mengi katika ulimwengu ambapo watu wanapata faida katika Bandari huru isiyo na ushuru. Ninadhani haya mambo ya ushuru wa VAT na mambo mengine mengi yangeweza kufaidika kama ule msemu na fikira ya Mtukufu Rais Moi ya Bandari huru isiyo na ushuru ungetekelezwa. Bandari huru ya ushuru ingekuwa ingesaidia sana haya mambo ya ushuru wa VAT unaowamaliza watu.

Bw. Naibu Spika wa Muda, Wabunge wezangu wote waliosimama kuzungumza wanapata taabu kuhusiana na ushuru wa VAT. Ushuru huu wa VAT hausaidii Serikali wala maskini lakini tajiri anafaidika mara

mbili. Kama mtu anaambiwa ya kwamba akinywa chupa moja ya pombe au soda halafu utozwe ushuru wa VAT, ile stakabathi ya kuonyesha ya kwamba umelipa ushuru wa VAT wewe hupati. Kama ungelipata lingekuwa ni jambo nzuri. Lakini tajiri anaandika katika kitabu chake lakini hakupatii risiti yako. Anajiandikia mwenyewe na kubakia na risiti hiyo. Hii Hoja ya kurekebisha ushuru wa VAT, inahitajika kutazamwa sana ili ilete faidi kwa mtu ambaye hana kazi. Iweze kusaidia mahatima na kadhalika.

Nimekuwa nikizungumza kwa miaka iliyopita juu ya habari kwamba katika Kenya kuwe na ushuru wa elimu. Hii ni kwa sababu kila mmoja wetu sisi Wabunge waheshimiwa hakuna anayeweza kusema anastarehe nyumbani kwake asubuhi bila kuona watu kumi au kumi na watano wakimletea, taabu za karo, kalamu na vitabu vya kusomesha watoto. Taabu yao kubwa ni kusomesha watoto bali si zile Harambee za shule. Kwa hivyo mambo yote tunayofanya, elimu imekuwa ni lazima kwetu. Sisi wenyewe tumewashuri watu wetu wapeleke watoto shuleni na tufanye kila kitu. Kwa hivyo mimi ninakubali marekebisho ya Mswada huu, na ushuru unaopatikana usaidie wale watu ambao hawajiwezi.

Ushuru wa VAT kutozwa magari, vinywanji na kadhalika, si mbaya. Lakini kama mwanzo wa muhula katika shule hasa mwezi ya Januari, wanafunzi wanaambiwa ya kwamba mavazi ya shule ni Kshs.200 lakini utaongeza ushuru wa VAT Kshs.30, haya ni mambo mengine. Kwa hivyo ninaiomba Serikali yetu ifikirie hali ya watu maskini hasa kwa mambo ya elimu.

Bw. Naibu Spika wa Muda, kwa hayo machache ninaunga mkono.

Mr. Mak'Onyango: Thank you, Mr. Temporary Deputy Speaker, for according me this opportunity to contribute to this Bill. First of all, I wish to make a general observation that taxation is the most important undertaking in what we call national life, because it affects everybody in this country. So, the level of it is important because it is going to determine what individuals and what companies and other organisation in the country are going to operate or how they are going to perform economically. It is important for one to acknowledge the fact that the present system of taxation, that is, the Value Added Tax (VAT) affects virtually everybody in the land and that is therefore, more the reason why we should be very very careful what we do about this particular type of taxation.

Mr. Temporary Deputy Speaker, Sir, we pay taxes in order to enable the Government undertake its responsibilities in terms of development. It becomes a very crucial factor that in going about this particular task of providing development, there is equity in terms of how the various resources are going to be distributed. I have in mind, industries. How industries are allocated or distributed throughout the country is going to affect how individuals in given areas are going to perform or how the general economy is going to affect certain areas. This is why I am saying that it is important that there is equity when it comes to this form of taxation. I will give an example of Nairobi and Mombasa. We have very many people from my parts of Kenya, especially from my Constituency, who work in these place because we do not have industries to keep them working in the rural areas. They are forced to travel distances to the towns to work there. Their earnings are therefore spent there. In the process, their places of origin are neglected. So, it becomes very important that since everybody is contributing towards the taxation in the country, it is important that the location of industries be equitable so that people do not have to travel to distant places and ignore their areas.

Mr. Temporary Deputy Speaker, Sir, the speed at which development is going to be uniform, is again going to be determined by how the industries are located. So, it is important that every area is considered. The more industries you site in different parts of the country, the more you are going to enable those areas to also come up economically. The more therefore, you are going to be able to generate taxation in those areas rather than having a situation whereby in some areas you are able to generate more taxes and therefore, be able to pull forward more forcefully, when other places are left lagging behind. So, it is on account of this that while contributing to this Bill, I do want to raise that particular point, that it is important that as every Kenyan contribute towards taxation of this country, let the Government also help every Kenyan to be able to facility development in an equitable manner.

Mr. Temporary Deputy Speaker, Sir, I also want to raise the question of taxation for certain items, notably second-hand clothes. According to the Bill here, I see that they have put down a taxation of at least 25 percent for second-hand clothes. Given the high cost of clothes in this country an ever-increasing number of people are forced to use second-hand clothes. I would like to suggest that the country would be better off, if the taxation on this was not made as high as it is right now. Of course, there is the argument that we have to discourage the importation of second-hand clothes. Well and good. If we were doing that and at the same time we were increasing the level of our own production of textile goods, one would understand. But we have a situation in this country in which we have totally neglected the textile industry to the extent that the industry is collapsing. So, our own level of production in this regard is gradually coming to a halt. It is a situation that needs proper scrutiny so that, if we are going to tax second-hand clothes as high as 25 percent, then this kind of

measure should be accompanied by some kind of determined efforts on the part of the Government to increase or improve on our own textile industry. As I have said, the situation right now leaves a great deal to be desired because the textile industries are at the verge of collapsing. This is because for one, cotton which is the best industry for that has been totally neglected.

Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to call on the Government to ensure that as many Kenyans as possible do contribute meaningfully towards taxation measures in this country. The Government must come up with measures to enable the common man in our country, either a cotton farmer, maize farmer or any other farmer, to benefit economically. They should be assisted to produce much more so that they can be able to participate in the economic life of this country more meaningfully.

Mr. Temporary Deputy Speaker, Sir, there is also the question of taxation with regard to fuels. It was not long ago, when the matter was raised here. This is the issue of 15 per cent VAT which is to be paid for the transportation of fuel. The Minister did argue, of course, that that particular 15 per cent VAT is going to be paid by the Oil Industry. But as it is the usual practice, what is going to happen is that the Oil Industry is going to pass this tax on to the consumers. Already the consumer is being taxed very heavily on fuel consumption because as is already indicated here, for every one thousand litres of fuel there is a tax of Kshs2,000. That is already very high so we are saying that we have a situation in which the consumer will have to pay double taxation because on one hand, there is levy on fuel and there is 15 per cent which is the transport element. Though this should be paid by the Oil Companies it is now going to be passed on to the consumers. So, let us not kill the goose that lays the golden eggs by over-taxing the Kenyan consumers. By so doing you are reducing the extent to which this very consumer is going to contribute to the economic life of this country. So, let the level of taxation be reasonable in order to enable him or her contribute more meaningfully to this important aspect of our national development.

I do concur with the number of hon. Members who have already mentioned the level of taxation on a number of items, especially those kind of machines will help the *Jua Kali* sector. If you look at this Bill, you will find that the good deal of machines that are used by the *Jua Kali* artisans are taxed a very high rate. In this country the *Jua Kali* sector holds the future of the economy of this country in terms of job creation. If it is going to do that then it has to be supported and the best way of supporting this sector is, of course, through taxation. So, the kind of taxation system we have in place must be reviewed for the benefit for the benefit of the *Jua Kali* sector in terms of production. But if the taxation is very high, you are going to kill this sector by moving them out of operation. That means undermining a very important aspect of our national life again which is job creation. So, everything must be done, through the formal taxation, to enhance our level of job creation. If you make taxation so high, then, of course, you are going to end up with a situation where employment for the ever increasing number of school leavers is going to be difficult. So, it is my submission that we have to take a critical look at the level of taxation when it comes to the area of job creation. There is also the question of who actually evades taxes. It is an obvious thing that the rich in this country who should indeed be contributing the bulk of our taxes do not pay as much as the really ought to do. They are among the best evaders of taxation. This comes about because a good number of these people are able to talk to some of the tax officials and in the process be able to evade taxation. This is very, very unfair to the common man who indeed ends up paying the bulk of taxes in this country because the common man has no way of getting over to the tax man to convince the tax man to spare him.

Now, you will end up with a situation where the common man ends up meeting the greater burden of taxation when the people who really enjoy, who really benefit from the economy end up escaping taxation. So, I do feel very, very strongly that in order for our taxation to achieve the desired goals, measures should be taken to minimize the number of people who evade taxation and this means that the Ministry has to come up with a monetary method to ensure that those who do qualify or indeed whose amount of taxation should be high by virtue of the extent which they benefit from the economy, do indeed pay what is due from them in terms of taxation. If this is done I do feel we will be able to achieve a great deal more in terms of what we can do through taxation.

Mr. Temporary Deputy Speaker, Sir, a look through the Bill again, one comes across items such as cameras. Cameras might sound luxury items in this country or to some people here. But I do not agree they are in anyway luxury items. So, things like cameras are very important tools of communication and the more we can at least have of these items the better it is going to be for this country. So, I think time has come for us to be able to look at some of these items more rationally and at least get to understand what contribution they make to the national wellbeing of this country. Items like cameras are often very, very important and one feels that the level of taxation on these items is very high. We may not be manufacturing them here but be that as it may, I think one should be concerned with what contribution these items have to the general life of this country. So, they are items of everyday use and the cheaper they can be, the better it is going to be for everybody. I do feel again that the high level of 25 per cent taxation on these items is, in my view, totally unjustified and we would be better off if the

level of taxation on them was lowered.

With these few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to contribute to

this debate on the Value Added Tax amendment Bill, and indeed, as I did not move this Bill, I take it that your comments are absolutely right, I am not moving closure nor am I even replying to Members comments. I am making my own contribution as a Member for Kaloleni, but at the same time, I will take the opportunity to make as I understand this Bill stands for, to make a few points as I see them.

Mr. Temporary Deputy Speaker, if we look at the Memorandum of Objects and Reasons for this Bill, it is quite clear here, that we are not indeed coming up with any new tax rates on the VAT. My understanding of this Bill is that we are, as Memorandum of Objects is saying, trying to harmonise our VAT tariffs to be in line, particularly, with the customs tariffs so that they can be in harmony with those tariffs of world trade organisation and indeed the World Customs Organisation so that these tariffs can facilitate international trade.

A glance at this Bill says, we are changing certain things like we are repealing part two of the First Schedule, and all we are really doing, all these rates were already approved and passed by this House during the debate on the Finance Bill and taxation measures which were earlier approved by this House. This Bill, therefore, merely puts Kenya in line with our world trading partners. And in this respect, I do, of course, support the Bill because all it does is to try and regroup our tariffs and indeed our tariffs structure, regroup them in line with those of our international trading partners, that is indeed with the members of the world trading organisation and other members of the world customs organisation. This information will indeed facilitate and enhance the capturing of very vital data which our businessmen can use. If you look at the Schedule like the First schedule, where the rates of tax are given, these rates of tax like six per cent, 25 per cent, and so on as has been given in this First Schedule, is merely or has merely been taken from the Finance Act which is now law, reproduced here and re-arranged so that any businessman wanting to import for argument sake, anything you can name it or olive oil, and he quotes in his importation orders etc, this tariff code here, the supplier in China, the supplier in Japan, the supplier in Germany, the supplier the world over will automatically understand what that is. Indeed, this will facilitate the comparison of the world prices of these commodities by the usage of these tariffs that we have reproduced or we have brought into these.

Mr. Temporary Deputy Speaker, Sir, these are the tariff numbers, the ITC numbers as they are normally referred to in normal business nomenclature. The First Schedule, therefore, which relates to votable goods at the various rates quite clearly shows those commodities or goods at those various rates and I can only draw the attention of our businessmen to these rates when they do international trade. I do realise that a lot of people have spoken for or some of my colleagues have spoken for and against VAT but indeed one observation is that this is not perhaps the place for us to argue for and against because this is already law; this is already law.

When we come to the second schedule "Exempt goods" relate to those goods, for example, that are exempted from VAT and when they are exempted from VAT, other services relating to these goods cannot, for example, qualify for claim in the input tax. That is all that there is; that is the inference in so far as the tariff numbers here are concerned and people might ask "Where are the Third and Fourth schedules?" From the Second schedule, we are going straight to the Fifth Schedule. Well my understanding of this Bill is that Schedule 3 which in fact relates to taxable services such as accounting, professional fees do not really fall within the classification of the world trade organisation because professional services are not trades; they are not considered as trading items. Schedule 4 is not here because it relates to various rates and it is normally called the "the list of designated goods" but all those can be seen within these chapters on tariffs because those vary from zero to 6 per cent to 15 per cent, to 25 per cent.

Then we have the Fifth Schedule the zero-rated of goods. Zero-rated goods are goods that do have a VAT of zero and the inference here is that people can in fact claim the VAT on the services relating to this and the VAT being zero means that it is really a help because the duty or the VAT rate being zero means that those goods are relatively cheaper ---

The Temporary Deputy Speaker (Mr. Ndotto): It is difficult to make up my mind whether you are contributing as the Member for Kaloleni or the Assistant Minister for Finance. I think you are more contributing as an Assistant Minister than a Member of Parliament. Continue.

The Assistant Minister for Finance (Mr. Keah): Thank you Mr. Temporary Deputy Speaker. It so happens that I also being a Member of Kaloleni, I happen to know a little bit more here and I was merely giving my views on what my understanding of this Bill is all about. I have no notes here and I was merely looking at this Bill the way I understand it but I take your point.

Let me now talk without even the book. I will talk about the Bill as it, indeed, facilitates these tariffs. The

adoption of these tariffs, their adoption on the first of January 1996, will indeed facilitate international trade. Perhaps I should talk about international trade at this point in time.

With those few remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker: (Mr. Ndotto): Hon. Members, it is now time for the interruption of business. The House is, therefore,

adjourned until tomorrow, Thursday, 30th November, 1995, at 2.30 p.m.

The House rose at 6.30 p.m.