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PARLIAMENTARY DEBATES

OFFICIAL REPORT

TUESDAY, 2ND JULY, 2013

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THE
PARLIAMENT OF THE REPUBLIC
OF GHANA

SECOND MEETING, 2013

Tuesday, 2nd July, 2013

The House met at 11.45 a.m.

[MR SPEAKER IN THE CHAIR]

PRAYERS

**Votes and Proceedings and the
Official Report.**

[No correction was made to the Votes and Proceedings of Friday, 28th June, 2013]

Mr Speaker: Hon Members, there is no *Official Report* today for correction. So, we move on to the Commencement of Public Business.

Dr Benjamin B Kunbuor: Mr Speaker, I would like us to take item 4(i) to (iv).

Mr Speaker: Very well. The following Papers to be presented by the Chairman of the Finance Committee — Item 4(i).

PAPERS

Mr Gabriel K. Essilfie (*on behalf of the Chairman of the Committee*) —

Report of the Finance Committee on the Communications Service Tax (Amendment) Bill, 2013.

Dr Anthony A. Osei: Mr Speaker, the Chairman of the Finance Committee is not here so if the Vice Chairman wanted to lay it, it was all right but he had to crave the indulgence of the Speaker. I thought he was Hon James K Avedzi.

Dr Kunbuor: Mr Speaker, he is a Member of the House and I believe that being an experienced Member, he would have sought Mr Speaker's indulgence *[Interruption]*— It is not all the time that the Leader should be the one to seek permission. If he were not a Member of the House, then that could have been done on his behalf. He has the permission.

Mr Osei Kyei-Mensah-Bonsu: Mr Speaker, the Hon Majority Leader is right. In the absence of the Chairman of the Committee, any Member could lay the document on behalf of the Committee; except in this case, the Speaker specifically mentioned the title "Chairman of the Committee". Then from nowhere, my good Friend rose up and bowed.

Mr Speaker, that amounts to serious impersonation — *[Laughter]* — and that is the serious leg of the matter. He should announce himself properly and then do the proper thing.

Mr Speaker: Hon Member for Shama, are you the Chairman of the Committee?

Mr Essilfie: Mr Speaker, my Chairman has travelled. I am the Vice Chairman and I am standing in for my Chairman.

Mr Speaker: So, you are laying the Paper in your capacity as the Vice Chairman of the Committee?

Mr Essilfie: Yes, on behalf of the Committee as the Vice Chairman.

Mr Speaker: Hon Dr Akoto Osei, is he the Vice Chairman?

Dr A. A. Osei: Yes, Mr Speaker. He is the Vice Chairman and a member of the Committee. So, I have no difficulty with him laying the Paper on behalf of the Committee.

Vice Chairman of the Committee (Mr Gabriel Essilfie) (*on behalf of the Chairman of the Committee*) —

Report of the Finance Committee on the Value Added Tax (Amendment) Bill 2013.

Report of the Finance Committee on the Special Import Levy Bill, 2013.

Report of the Finance Committee on the National Fiscal Stabilisation Levy Bill, 2013.

Mr Speaker: Hon Majority Leader, do we move on to item 5? Is the Attorney-General and Minister for Justice here?

Dr Kunbuor: Mr Speaker, I would want us to stand down item 5.

Mr Speaker: Very well; So, which item are we taking?

Dr Kunbuor: Mr Speaker, I guess we can proceed with Motion 6.

Mr Speaker: Very well. Have they distributed the Report?

Dr Kunbuor: That is so, Mr Speaker.

Mr Speaker: Very well.

Dr A. A. Osei: Mr Speaker, there is no Motion 6 on my Order Paper. There is item number 6.

Dr Kunbuor: Mr Speaker, Motion on item number 6.

Mr Speaker, I would like to crave your indulgence to allow the Hon Deputy Minister for Finance to move the Motion on behalf of the Hon Minister who is out of the jurisdiction.

11.55 a.m.

Mr Speaker: Hon Minority Leader — *[Pause]* — There is an application for the Hon Deputy Minister to move the Motion on behalf of the Minister for Finance, who we are told, is out of the jurisdiction.

Mr Kyei-Mensah-Bonsu: Mr Speaker, that is in respect of item number 6 on the Order Paper.

Well, Mr Speaker, sometimes the Hon Deputy Ministers come and when they are pushed to the wall, they begin to look over their shoulders and say that: "Well, the Hon Minister is not available, when he comes, I will consult him". If the Hon Deputy Minister can speak to the issues, very well, we will not have anything against it. I would want to believe that they would demonstrate sufficient competence in this.

Mr Speaker: Hon Deputy Minister, Hon Ato-Forson —

Mr Kyei-Mensah-Bonsu: Mr Speaker, but I know that — I see the Hon Minister for Foreign Affairs and Regional Integration here. The Hon Minister for Finance is a Cabinet Minister and I know in his absence, a substantive Minister would be asked to hold the fort and hold that portfolio until the return of the Hon Minister. I would want to know who is holding the fort and —

Mr Speaker: I have not received any official communication on that.

Mr Kyei-Mensah-Bonsu: Mr Speaker, this is a serious Cabinet discussion that has affected us and produced these Bills before Parliament. So, the Hon Minister —

Mr Speaker: Hon Minority Leader, are you taking objection to the fact that the Hon Deputy Minister for Finance cannot move the Motion?

Mr Kyei-Mensah-Bonsu: Mr Speaker, I have not said what you are saying. I have not said so.

Mr Speaker: And I have called him to move the Motion.

Mr Kyei-Mensah-Bonsu: Yes. Because it is a matter of profound importance to Government, Mr Speaker, I thought the scheduled Minister who would hold the portfolio of the Minister, in the absence of the substantive Minister, should be capacitated to shepherd the Bill in Parliament.

Mr Speaker: Hon Member, since you are not raising an objection, I think I would call on the Hon Deputy Minister who is supposed to assist his Minister to move the Motion.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with deference to the Chair, we know Hon Deputy Ministers do assist their Ministers. If an Hon Minister is out of the jurisdiction — if an Hon Minister is not in office, there will not be anybody to assist. It is not for nothing that if the President travels outside, the Vice President is authorised under the Constitution to hold the fort.

In this case, it is not. It is the Minister so designated and these are critical matters —

Mr Speaker: Hon Minority Leader, which part of the Constitution are you quoting? As for the Vice President's, I know the provision of the Constitution but for the Hon Minister, which portion of the Constitution are you quoting?

Mr Kyei-Mensah-Bonsu: Mr Speaker, what are you asking me to do? Which part of the Constitution —

Mr Speaker: Where, when the Hon Minister is not there, another Minister should be designated to act in his absence?

Mr Kyei-Mensah-Bonsu: Mr Speaker, if you listened to me, I said as far as the President was concerned, there were clear provisions —

Mr Speaker: Yes. And the rest of them, there is no clear provision —

Mr Kyei-Mensah-Bonsu: Yes, that is what I have said. But the Hon Minister who takes the affairs of the Cabinet Minister who is not in the jurisdiction, which I think —

Mr Speaker: Hon Minority Leader, you know, I will call the Hon Deputy Minister for Finance to move the Motion.

Hon Deputy Minister, move the Motion.

Dr Kunbuor: I think we need to correct this impasse once and for all.

I would like to draw Mr Speakers' attention to article 297 (i), and with Mr Speaker's permission, on implied powers of article 297 (i) —

Mr Speaker, the article reads:

“words directing or empowering a Minister of State to do an act or a thing, or otherwise applying to him by the designation of his office, include a person acting for him, or if the office is vacant, a person designated to act in that office by or under the authority of an Act of Parliament and also his successors in office and all his deputies or other assistants.”

This is the constitutional basis on which the Hon Deputy Minister can move the Motion.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the Hon Majority Leader has made the situation worse by what he has quoted. Mr Speaker, we are dealing with the status of a Minister as differentiated from the position of a Deputy Minister.

Mr Speaker, it is clear— and when you talk about Cabinet Ministers, they take the Cabinet Oath. A Deputy Minister has not taken a Cabinet Oath. The two are not the same and they cannot be the same. They cannot under any circumstances be the same in spite of what he has read. Mr Speaker, he makes his case worse.

But Mr Speaker, I brought this matter up for serious consideration by this House. I mean, I know we have been indulging Hon Deputy Ministers doing this. I just wanted us to think through whether indeed, what we have been doing is right. But as to this justification, spirited justification by the Majority Leader, I totally disagree with it.

Mr Speaker, I thank you.

Dr Kunbuor: Mr Speaker, that is indeed, the case. When you are dealing with a technical matter like this, you do not just read exactly what (i) is — Look at the side notes; it tells you that these are implied powers under the Constitution.

“Implied powers” is a whole category of constitutional structuring. So, I am indicating to you that, what article 297(i) says, is the constitutional basis for a Deputy Minister. If you have a Ministry in which the Hon Minister is a Cabinet Minister, he performs Cabinet functions as well. Are you saying by these implied powers the deputy cannot assist him in the performance of those Cabinet powers? *[Interruption]* Wait! Excuse me.

Why we are saying that is, as long as a Minister has constitutional functions and statutory functions to perform, he can be assisted by his deputy or deputies

to perform them. This is what the “implied powers” here is saying unless you have a different understanding of “implied powers”. And I guess the lawyers here should assist the Hon Minority Leader to understand, particularly the former Attorney-General that “implied powers” is a legal constitutional category.

12.05 p.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect to the Hon Majority Leader, I do not need the assistance of senior lawyers here at all. Mr Speaker, the words are clear and they should be clear to the Hon Majority Leader. By necessary implication of what he is saying, the President, in the absence of a Cabinet Minister, should invite the Deputy Minister to fill in. The President does not do that and that should suggest to him strongly that he is wrong in this way that he is going. He is totally wrong. I disagree with him.

Dr Kunbuor: Mr Speaker, fortunately, the Speaker who is occupying the Chair is a trained lawyer. I would leave this matter for the Speaker to rule.

Mr Speaker: Hon Members, I have over indulged the two Leaders. I asked a very simple question, whether the Hon Minority Leader is taking objection to the Deputy Minister moving the Motion. The answer was emphatic “No.” To that extent, I would call on the Hon Deputy Minister to move the Motion.

MOTIONS

Suspension of Standing Order 80(1)

Deputy Minister for Finance (Mr Cassiel A. B. Forson) *(on behalf of the Minister for Finance):* Mr Speaker, I beg to move, that notwithstanding the provisions of Standing Order 80(1) which

[MR FORSON]

require that no Motion shall be debated until at least forty-eight hours have elapsed between the date on which notice of the Motion is giving and the date on which the Motion is moved, the Motion for the Second Reading of the Communications Service Tax (Amendment) Bill, 2013 may be moved today.

Mr Gabriel K. Essilfie: Mr Speaker, I beg to second the Motion.

Question put and Motion agreed to.

Resolved accordingly.

BILLS—SECOND READING

Communications Service Tax (Amendment) Bill, 2013

Deputy Minister for Finance (Mr Cassiel A. B. Forson) (*on behalf of the Minister for Finance*): Mr Speaker, I beg to move, that the Communication Service Tax (Amendment) Bill, 2013 be now read a Second time.

Mr Speaker, the object of the Bill is to clarify the scope and the coverage of the tax and to explicitly include inter-connection services within the tax base.

Mr Speaker, I beg to move.

Question proposed.

Vice Chairman of the Committee on Finance (Mr Gabriel K. Essilfie) (*on behalf of the Minister for Finance*): Mr Speaker, I rise to support the Motion. And in doing so, I would like to present your Committee's Report—*[Interruption.]*

Some Hon Members — *rose* —

Mr Speaker: Hon Members, I have said time and again that at Second Reading of a Bill, you need not second.

No, you raised the issue whether he should second or support. So, he was right.

Dr A. A. Osei: Mr Speaker, I did not raise the issue. I got up.

Mr Speaker: He was right.

Mr Essilfie: Mr Speaker, in doing so, I would like to present your Committee's Report.

Introduction

The Communications Service Tax (Amendment) Bill was presented to Parliament and read the First time by the Hon Minister for Finance on Friday, 28th June, 2013 and referred to the Finance Committee for consideration and report in accordance with article 174(1) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Rt Hon Speaker further directed the Committee to determine whether the Bill was of urgent nature to be taken through all the three stages of passage in a day in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Pursuant to the referral, the Committee met with the Hon Minister for Finance, Mr Seth E. Terkpeh, Deputy Ministers for Finance, Mr George Kweku Ricketts-Hagan and Mr Cassiel Ato Baah Forson and officials from the Ministry of Finance, Ghana Revenue Authority and Attorney-General's Department and deliberated on the referral.

The Committee is grateful to the Hon Minister, Deputy Ministers and officials from the Ministry of Finance, Ghana Revenue Authority and Attorney-General's Department for attending upon it.

[MRESSILFIE]

Reference

The Committee referred to the following additional documents during its deliberations:

The 1992 Constitution of Ghana.

The Standing Orders of the Parliament of Ghana.

Communications Service Tax Act, 2008 (Act 754).

Background

Parliament in 2008 passed the Communications Service Tax Act, 2008 (Act 754) to impose a six per cent (6%) charge on communications service usage. The tax was an excise tax intended to raise additional revenue from communication services, provided by mobile operators to their customers. The rate of 6 per cent was arrived at in order to remove the surging nature of the tax with regard to interconnection services.

Some provisions in the Act however, create compliance challenges in the telecommunications companies in respect of the application of the tax to interconnection services. The proposed amendment therefore seeks to bring clarity to the various provisions to improve the administration of the tax.

Purpose of the Bill

The Bill seeks to amend some provisions in the Communications Service Tax Act, 2008 (Act 754) to clarify the scope and coverage of the tax and to include interconnection services within the tax base.

Provisions of the Bill

The Bill is divided into eight clauses.

Clause 1 amends section 1 of the Communications Service Act, 2008 (Act 754) to impose a tax to be known as communications service tax. The tax is to be levied on electronic communications service providers.

Clause 2 amends section 2 of Act 754 to provide for the tax to be paid together with the electronic communication service charge payable to the service provider by the user of the service. Where the service is received from a source outside Ghana the tax is to be paid by the user who received the service. The section also clarifies the period within which the tax becomes due.

“Communications service provider” in section 2 is substituted for “service provider” in clause 3.

Clause 4 amends section 8 of Act 754 to provide for the recovery as a tax from a person who issues a bill or invoice of amount shown as a tax.

Clause 5 amends section 11 of the same Act 754 to provide for the application of some provision of the Value Added Tax Act, 1998 (Act 546) with the necessary modifications to the management of the tax.

Clause 6 amends section 12 of Act 754 by restricting the provision to sections 54 and 55 of the Value Added Tax, 1998 (Act 546).

Clause 7 amends section 14 by substitution for “communication service provider” of “service provider”.

Clause 8 amends section 16, the interpretation section of the Act to provide for new definitions.

[MR ESSILFIE]

Observations**Urgency of the Bill**

The Committee in its deliberations considered the Bill to be of an urgent nature and must be taken through all the stages in one day in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Reason/justification for the amendments

The Committee was informed that provisions in the Communications Service Tax Act, 2008 (Act 754) was not specific on the point at which the tax should be collected. This situation, the Committee learnt, posed many implementation challenges to the Ghana Revenue Authority and the communications service providers. The proposed amendments therefore, seek to bring clarity to aid smooth implementation.

The Committee advises the Ministry of Finance and the GRA to strengthen their monitoring activities to ensure that the revenue realised is fully accounted for and paid to the State.

Amendments

The Committee, after its deliberations, proposed the following amendments to the Bill:

- i. Clause 1 — Amendment proposed — subclause (1), line 2, *delete* “Communication” and *insert* “Communications” and line 4, *delete* “communication” and *insert* “communications” and wherever it appears in the Bill, *delete* and *substitute* same.

- ii. Clause 2 — Amendment proposed — subclause (3), line 6, *substitute* “Regulations” with “Regulation”.

Conclusion

The Committee, having carefully examined the Bill, recommends to the House to adopt its Report and take the Communications Service Tax (Amendment) Bill through all the stages in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Respectfully submitted.

Ranking Member of the Committee (Dr Anthony A. Osei): Mr Speaker, I would want it on record that I was not at the Committee’s meeting, but I still want to contribute.

Mr Speaker, I recall in 2008, when we were introducing the Communications Service Tax, a certain Hon Member of Parliament, whose name I would not mention — *[Interruption]* — was occupying this seat — *[Points to the Minority Leader’s chair]* — and he gave it the name “Talk Tax.” Several years later, others are seeing the wisdom, not only bringing it back, but extending the scope of it.

Mr Speaker, it is important when we are bringing additional taxes to the people of Ghana, to first ask ourselves: “What have we done with the taxes that we have collected?” “This is because the people will demand those answers. The first question that we need to ask is, are these additional taxes following the budget we passed or are these going to fill some gaps in what we have already approved? It is not in the Committee’s Report. It should be there.

This is because if these are additional taxes beyond what we approved, then they need to come back with a supplementary budget for us to approve. It does not say so here. I am confused. If there are tax

[DRA. A. OSEI]

shortfalls, we should know that this is why they are bringing additional taxes. It does not say so in the Report. So, I am wondering what the Committee is doing?

Mr Speaker, I would tell you why it is not there. Mr Speaker, on Thursday, this issue was not advertised. My Leadership knew I had a death in my family. But before I left, this was not advertised. I am told others knew about it. I did not. When I was in Kumasi, I was called that: “Oh, by the way, they have brought some Bills.” That is not how we do business here.

Other people knew on Thursday but as an Hon Ranking Member, I was not informed. That is why, physically, I was not there. I was called on Friday at 10.00 a.m. when I was mourning my brother, that “Oh, by the way, you are not there but we are going to do it.” I said: “Fine”. So, that is why I was not there. Nevertheless, I am going to contribute.

Mr Speaker, the Committee needs to tell us — it is very important — because as I said, if this is additional to the budget, then certainly, this is not the time to bring it. It cannot be urgent because they need to come with a supplementary budget to seek permission from Parliament to spend. It does not say so here. So, I am wondering — now, I am confused.

Is the Committee saying that because there will be revenue shortfalls in the first quarter, there is the need to fill the gap? If that is so, it should be made clear, so that we do not think about the need for a supplementary budget.

The second point is that, this tax is expected to yield a certain amount. We do not know how much it is going to bring. It is not stated in here. **[An Hon Member:** It

is in the budget.] It is not in the budget, please. Mr Speaker, this tax we are amending, will yield a particular figure. Is it GH¢10 million, GH¢12 million or GH¢13 million? We do not know. We should know.

If we go out and we are told that there are new taxes, we have to be able to tell our people that it will bring Government “X” amount. This is because, Mr Speaker, if the gap is GH¢ 8 million and one tells me that this is going to bring GH¢5 million, then I would say: “Do not impose it on the people because it is nothing”. So, they have to tell us how much it is going to bring, otherwise, this Paper is incomplete.

Mr Speaker, they talk about “urgency of the Bill”. With your permission, I beg to quote:

“The Committee, in its deliberations, considered the Bill to be of an urgent nature. . .”

What is the urgency in here?

What type of urgency drove it? It should be stated because if it is what I was told, then it cannot be urgent. I was told that it is because the Hon Minister is travelling. That cannot be the urgency. *[Interruption.]* I was told.

12.15 p.m.

Mr Forson — *rose* —

Mr Speaker: Hon Deputy Minister, I thought you would listen to him and do a winding up. But if you want to, we would make sure you —

Mr Forson: Mr Speaker, I come on a point of order.

The Hon Ranking Member was not at the Committee. Indeed, we did provide the details of the taxes, the future generations to the Committee. So, I would suggest that he sits with his Hon Members and crosscheck as and when we did that. That is not correct, and it cannot be the right amount.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the information that the Hon Ranking Member is seeking, is relevant to this House, not only to the Committee. If he leaves it at the level of the Committee, then he might as well tell us that the Committee should grant him safe passage and then he would not even need to come to Parliament. It is relevant to this House; so, we need to know.

He might have provided it. If he had provided it, where is it so that we would inform ourselves? This is because ultimately, it is for the plenary and not the Committee to grant him that smooth passage.

Mr Speaker, that is all that I am looking for.

Dr Kunbuor: Mr Speaker, if I understand where we stand now, it is that, a Motion has been moved before the House and it is for its consideration.

The Hon Ranking Member for the Committee is making his contribution as I understand, except I understand him to be raising a preliminary objection in relation to the substantive Motion. But if he is actually —

Mr Speaker: Hon Member, I think that is his contribution.

Dr Kunbuor: That is so, Mr Speaker. So, if that is his contribution —

Mr Speaker: That is why I thought that, let us listen to him and at the end of the day, Hon Members would respond. So, let us listen to him.

Dr Kunbuor: Mr Speaker, that is the context in which — When the point of order —

Mr Speaker: That is his contribution.

Dr Kunbuor: Yes, Mr Speaker. When the point of order was raised, it was a legitimate procedure and then Mr Speaker would rule on it and he continues with his contribution. We were getting a bit sidetracked on this matter.

Mr Speaker: The point is that the Hon Deputy Minister is saying that he provided the information to the Committee. At the time we put the Question, we would find out whether the information has been provided or not. So, do not be worried. Let us continue.

Hon Ranking Member.

Dr A. A. Osei: Mr Speaker, I am glad you ruled that way. I thought the Hon Deputy Minister was going to say: “This is the number.” I am talking about a committee’s report, not what he gave them. So, I thought he would help the House by saying: “The number is 20.”

The point I am making is that, if you have an GH¢8 billion gap, as he says they do, and this is going to yield GH¢5 million, then why are we imposing such a burden on the people of Ghana? This is because GH¢5 million out of GH¢8 billion is nothing. So, the people of Ghana need to know how much this would bring, so that when we go out and we are asked, we can tell them. That is what he needs to be listening to, so that he can contribute.

But Mr Speaker, going back to my issue of urgency. It would help this House if we are told what the urgency is about —

Mr Speaker: Hon Member, this is a Committee’s Report. Whether it is urgent or not, it is for the Committee to tell the House. This is an unanimous Report coming from the Committee, that they think it is an urgent Bill. The Committee, as a committee, said that it is urgent.

Dr A. A. Osei: Mr Speaker, I am not disagreeing with the statement here. What I am suggesting is that it will serve the House better if they went further and said it is urgent because of A, B, C, D. That is more compelling. I am not saying — They have a right to decide that but if — And the reason is that, I was told that it is because the Hon Minister has travelled. That cannot be urgent.

Mr Speaker, if there has been revenue shortfalls as has been indicated by the Bank of Ghana and the Ministry and a certain Hon Deputy Minister on television, then that is the reason he should give, that there has been revenue shortfalls of ‘X’ amount, so, we need resources to fill the gap. That would compel us to support the Motion. But if it is that the Hon Minister has travelled, that is why you have an Hon Deputy assisting the Hon Minister in this regard.

So, I think that if they want us to support the Motion, they should be giving us more information. *[Interruption.]* That is the question I asked.

I hope that at some point in time, somebody would indicate to us how much is going to be raised from this particular—

Mr Speaker, there are several other issues that I wanted to raise but at this point, I would let my Hon Colleagues assist in that regard. There are some issues that are technical and are in the area of communication and my Colleague, Hon Frederick Opere-Ansah may be called to raise those issues.

I thank you, Mr Speaker.

Mr Frederick Opere-Ansah (NPP — Suhum): Mr Speaker, this Bill seeks to introduce a very dangerous situation.

Mr Speaker, if you read the Committee’s Report in paragraph 3.0, and in addition to that, the Memorandum to the Bill, they seek to indicate that the rate of six per cent which was arrived at was in respect of inter-connect charges. That is not so at all and our records in this House would show that the reason we used this rate was for the fact that, the providers were providing services which were not structured in a way that you could have the kind of flat rate that we sought to introduce at the time.

You would once a while hear promotions of, if you sent a certain number to a code, you are able to make calls for say, 24 hours and they charge you a percentage. If we had stayed with that flat rate, it was going to be very difficult for the tax authorities to determine what taxes to charge for which services. That is why we arrived at the percentages instead of the flat rate. So, that assertion, is not right at all.

Mr Speaker, I have seen the justification that is being provided for this amendment and also being used to support the urgency of the Bill. We are told in section 6.0 under “Observations”, that the Committee was informed that provisions in the Communications Service Tax Act, 2008 (Act 754) was not specific on the point at which the tax should be collected.

Mr Speaker, the aforementioned Act was very explicit as to the nature of the tax. Indeed, that is what motivated the then Hon Minority Leader to call it the “Talk Tax”, because he was clear that it was a user tax. And the communications companies had no problem at all levying those taxes on the users and paying same to Government.

It was the confusion by the tax authorities in trying to tax the inter-connect charges which a court of this land found to be inconsistent with the law. This

[MR OPARE-ANSAH]

House was clear in its mind, that we were imposing a tax on the users and not the service providers. So, nobody should try to confuse this House now, that we made a law which is difficult to implement because there is some confusion. There was no confusion at all.

Mr Speaker, why I said this is dangerous is that, that single revenue strip, when you make a call from one network ‘A’ to network ‘B’ and you are charged, say, GH¢0.08 pesewas for one minute, it is the same amount of money that the tax authority, by this Act, charges the six per cent on, and a portion of the money is then paid by network ‘A’ to network ‘B’ for terminating the call on that other network.

So, if they now want to go into that inter-connect and tax it again, then indeed, it is double taxation because there is no other revenue that has been generated along the path of that call.

Mr Speaker, the next issue I have with this Bill, is to be found in clause 1 (b) where the Bill seeks to impose a tax on the reception of international calls.

Mr Speaker, let me read what that clause says. “Clause 1 (2) (b) — charges payable on electronic communications service received by users from sources outside this country.”

The tax shall be levied on charges payable on electronic communication services received by users from sources outside this country.

Mr Speaker, in this country, in the telecommunications industry, no user is charged any fee for receiving any calls. So, why are we labouring to levy a charge on Ghanaians when they receive international calls? What sin did they commit?

Mr Speaker, not only that. If you go down to clause 2 (2), in addition to levying these unusers of these telecommunication services in Ghana, we are not even asking them to pay the money to their service providers. We are asking them to go and pay the money to the Commissioner-General.

So, if I live in Obuortumpan in Suhum and I receive a call from my uncle in New York, then at the end of the tax period, I am supposed to look for the Commissioner-General’s Office and go and pay money to them. *[Interruption.]* That is the law you have brought to the Chamber of Parliament for us to approve. Let me read it to you.

In the case of electronic communications service received from a source —

12.25 p.m.

Mr Speaker: Which clause are you reading? Which page are you reading from?

Mr Opore-Ansah: Mr Speaker, clause 2 (2) on page 3.

Mr Speaker: Very well.

Mr Opore-Ansah: Mr Speaker, it is under the heading: “Persons liable to pay the tax.” And the subclause (2) says:

“In the case of electronic communications service received from a source outside this country, the tax shall be paid to the Commissioner General by the user who received the service.”

Mr Speaker: Hon Member, have you looked at the definition of “user” in the Bill, so that you take it on board in your submission?

12.35 p.m.

Mr Opore-Ansah: Mr Speaker, on page 7, (vii);

“User” means a customer or a subscriber of electronic communications network or service or broadcasting service . . .”

Mr Speaker: Have you read all?

Mr Opore-Ansah: Mr Speaker:

“ . . . And includes a customer that is operator or provider of electronic communications networks or service.”

So, Mr Speaker, that subscriber who uses a mobile phone in Obuortumpan in the Suhum Constituency is a user per this Act and the definition here. Unfortunately, we do not have that representative in Obuortumpan, so, he has to now, after receiving an international call, which is not by any fault of his, it could even be a wrong number but at the end of the month, by receiving a wrong number call, he has to leave Obuortumpan, travel to Suhum and trek on the Nsawam road, which takes me some hours to trek on these days —

Mr Speaker, it is a non-starter because clearly, the industry does not levy charges on users who receive calls. So, it is totally wrong to start with.

Mr Speaker, if we go through this, even receiving emails and other things, we may now begin to possibly look at text messages and all those things. We will receive them from outside the country.

Mr Speaker, it is my view that this Bill as currently structured, is not something this House should pass and I would urge the House to reconsider the decision we are about to take in respect of this Bill.

Papa Owusu-Ankomah (NPP — Sekondi): Thank you, Mr Speaker, for giving me the opportunity to contribute to this debate.

Mr Speaker, the imposition of tax by our Constitution is reserved for the Executive arm of the State and it is for good reason. This is because it is the Executive arm that expends the resources. That is why the proposal comes from the Executive to Parliament. Parliament itself does not make the proposal and that is as it should be.

However, Parliament as a representative of the people, is given the opportunity to examine the tax, its effect on the people and whether or not even in arriving at a decision in respect of the Executive’s proposal, there is the need to get views from a cross section of the population. However, where a Bill is of an urgent nature, Parliament does not have that opportunity because the Constitution requires that everything should be done in one day. So, urgent Bills are exceptional in nature and must be resorted to sparingly.

Unfortunately, Mr Speaker, in this case, it seems, in my view, that this particular Bill should not have been introduced as an urgent Bill and the Committee has not helped this House by not indicating why it is of an urgent nature. I am saying that even the content of the Report itself means that the Bill is not of an urgent nature.

Mr Speaker, I would refer the House to the “Background”. It says:

“Parliament in 2008 passed the Communications Service Tax Act to impose a six per cent (6%) charge . . .”

Then the last three lines, of that bullet point —

“The proposed amendment therefore seeks to bring clarity to the various provisions so as to improve the administration of the tax.”

If it is to bring clarity, what is the urgency? It is because this Act has been in existence since 2008.

[PAPA OWUSU-ANKOMAH]

How many years ago? We are talking about five good years. Mr Speaker, issues have been raised by the Hon Member for Suhum, and that is the more reason this Bill ought not to have been recommended to this House as a Bill of an urgent nature. Why is it of an urgent nature? Nothing is stated. I am submitting, Mr Speaker, that we should take our time and go through this Bill because the Report from the Committee does not help the House to arrive at such a decision.

Mr Speaker, contrary to the purpose as stated in the Memorandum, the amendment is introducing a new tax; so, the Memorandum is misleading this House. Mr Speaker, if you look at the Report, “Provisions of the Bill” — With your permission, I beg to quote from page 2, the third paragraph of the Report:

“Clause 2 amends section 2 of Act 754 to provide for the tax to be paid together with the electronic communication service charge payable to the service provider by the user of the service. Where the service is received from a source outside Ghana, the tax is to be paid by the user who received the service. The section also clarifies the period within which the tax becomes due.”

And if you go to page 3 of the Report — “Observations”, “Reason/justification for the amendments”, it states:

“The Committee was informed that provisions in the Communications Service Tax Act, 2008 (Act 775) was not specific on the point at which the tax should be collected. This situation, the Committee learnt, posed many implementation challenges to the Ghana Revenue

Authority and the communications service provider. The proposed amendments therefore, seek to bring clarity to aid smooth implementation.”

The Committee goes further to say:

“The Committee advises the Ministry of Finance and the GRA to strengthen their monitoring activities to ensure that the revenue realised is fully accounted for and paid to the State.”

Mr Speaker, if it is for clarity, why should we be talking about monitoring activities to ensure that the revenue realised from the imposition of this tax — Mr Speaker, I believe that in this case, the House should not accept the Report of the Committee, but rather reject it and allow this Bill to go through the normal processes, so that if there are any amendments, if there are any considerations, the House can consider them carefully.

It is not enough for this House just to approve the Bill. We must be able to defend it to the people of this country.

Mr Speaker, when you look at the Interpretation, it is true that the interpretation of “user” says:

“A customer includes a customer that is an operator.”

Probably, if we want it to be paid by the operator or provider of electronic communications network or service, we should state it, but that would also be inconsistent with the principal enactment. This is because it is not paid by operators; it is paid by the users, hence this rather disingenuous interpretation being proffered in the interpretation section.

[PAPA OWUSU-ANKOMAH]

Mr Speaker, I may not have any objection principally to the imposition of taxes, but where Parliament has been given the right by the Constitution to impose taxes, we should make sure that in doing that, we do it diligently. Not many of us have seen the Bill — *[Interruption.]* Not many of us have seen the Bill until this morning. Not many of us even at the Committee, were able to attend because it was a Friday. I would encourage — *[Interruption.]*

Mr David T. Assumeng: *On a point of order.*

Mr Speaker, I would want to find out whether this Report is a one-sided one or it was a Report from both sides of the House? Is it a one-sided Report? Mr Speaker, I am saying so —

Mr Speaker: Hon Member for Shai/Osudoku, we are at the Second Reading of a Bill and we are debating the principles of it. You may not object to it but you can raise issues with one or two clauses and I think that is what they are doing. They said they were not objecting to the Bill in principle but there are some clauses that they are raising issues with. That is my understanding so far of the debate on the floor of the House.

Mr Assumeng: Thank you, Mr Speaker, for the education. However, I would wish to urge that we should not play to the gallery as far as the decision is concerned.

Mr Speaker: Hon Member, you are out of order.

Papa Owusu-Ankomah: Mr Speaker, I have a very thick skin but I am sure that most of the Hon Members of this House will agree with me, that I am one of the last persons who would attempt to play to the gallery when it comes to debate on the floor of the House. I hope the Hon Member —

Mr Speaker: Hon Member, I have ruled him out. So, please, proceed and make your contribution.

Papa Owusu-Ankomah: Mr Speaker, I would attempt to answer the Hon Member, however, I am disabled. This is because if you look at the *Votes and Proceedings* of Friday, you do not see that the Finance Committee met. But I am sure that at that meeting, majority of the members were not present, even though there could have been a quorum — *[Interruption.]*

Mr Gabriel K. Essilfie: *On a point of order.* Mr Speaker, my Hon Member for Sekondi is misleading the House.

Mr Speaker, he was not there, but he cannot say majority of the members were not there because we formed a quorum. Indeed, we formed a quorum. When he said majority of the members were not there, the only people who were conspicuously absent were the Hon Ranking Member and he himself.

But the Hon Deputy Ranking Member and all the other members of the Committee on their side were at the meeting.

Dr A. A. Osei: Mr Speaker, I think the Hon Vice Chairman is misleading this House. Mr Speaker, in my earlier statement — *[Interruption]* — The Chairman of the Committee knew the day before that we were going to meet. I was not informed.

When you have a death in your family, and you do not tell me, do you expect me to be there? So, the Hon Member should be careful. I am saying that even our normal processes were not obeyed. It is a serious thing that we are doing here.

Mr Speaker: Hon Member for Old Tafo, the point is that you were not present and you declared it yourself at the time that you were making your

[MR SPEAKER]

contribution, which shows a lot of honesty on your part. But that does not prevent you from raising issues with the Bill at the Second Reading.

Now, the Hon Member is only repeating the point that you were not there and he only added the Hon Member for Sekondi. That is all that he sought to do.

Dr A. A. Osei: Mr Speaker, I am suggesting that I was not there because I was kept out deliberately. That is my point. Mr Speaker, on Thursday, my Chairman knew there was — *[Interruption]* — So, I am raising another point.

Papa Owusu-Ankomah: Mr Speaker, during these debates, when some of these issues are raised, we should not take them personal. Mr Speaker, I was just making the point; I have stated that even from the Report itself, there does not seem to be any justification for this Bill being considered an urgent Bill. That is the point I am making.

Mr Speaker, we all know that Friday we Sit, but generally, Friday is a travelling day for Hon Members of Parliament. So, if a Bill is presented as urgent and it is to be determined on a Friday — *[Interruption.]*

12.45 p.m.

Mr Mutala M. Ibrahim: On a point of order. Mr Speaker, the Hon Member is misleading the House.

The Hon Member said that he was deliberately excluded from that meeting, which is not true. As a matter of fact, all the Hon Members of the Committee from the Minority side were present except he and the Hon Member who spoke. They were the only people who were not there and on that basis — *[Interruptions]* — You do not make a conclusive statement that you were then — *[Interruptions]* — He was there.

Mr Speaker: Hon Deputy Minister, take your seat.

Hon Deputy Minister, are you a member of the Committee?

Mr M. M. Ibrahim: Mr Speaker, I am a member of the Committee.

Mr Speaker: Did you attend the Committee meetings?

Mr M. M. Ibrahim: Mr Speaker, I attended — *[Interruptions]*.

Papa Owusu-Ankomah: Mr Speaker, I believe that when it comes to matters of this nature, it affects this House and how the House does its business. The urgency of a Bill is of a major constitutional import and unless, Mr Speaker, during the course of the debate, the urgency of this Bill can be demonstrated, I will find it extremely difficult to support this Report even though I am a member of the Finance Committee.

I would urge this House, through the Leadership, to find a way of letting the Committee work further on this Bill. And Mr Speaker, I do not even think it is too late to ask the Communications Committee to join the Finance Committee to consider this matter. It is a matter that affects the communications industry and it raises major policy matters relating to the communications industry, so that in our effort to generate more revenue, we try and get the industry along with us because they have participated.

I thank you Mr Speaker.

Mr Joseph Y. Chireh (NDC — Wa West): Mr Speaker, I am very happy that you have allowed me to make a contribution.

I support the Motion to adopt the Report and the reason is that and indeed, also the request for us to take it through the — *[Interruptions]* — the request by the Committee to take the whole Bill through all the stages today. The reason is simple. One of them — *[Interruption.]*

Dr Matthew O. Prempeh — *rose* —

Mr Speaker: Hon Member for Manhyia South —

Dr Prempeh: Mr Speaker, the Hon Member for Wa West rose to say he supports the Motion to adopt a report; there is no such thing as adopting a report.

Mr Speaker: He said he supports the Second Reading —

Dr Prempeh: No! Mr Speaker, he never said so — *[Laughter.]*

Mr Chireh: Mr Speaker, he says there is no report — *[Interruptions.]*

Some Hon Members: He says there is no Motion.

Mr Chireh: There is no Motion, but what are we debating? Why are you referring to the Report and I am making a specific statement, I am not talking about a report which is hanging. There is a report by the Committee, which considered this and that is the Report I am referring to and I am still debating the Second Reading?

In any case, my point is that, as you would notice, this Bill, normally, in the past, would have come together with the Budget Statement and we would have sat here in the night to pass it, so that we can generate revenue upfront for the support of the Budget. You would also notice that when the Minister for Finance was here to present the Budget Statement, he indicated clearly that these Bills were to be introduced, so that we generate the necessary resources to support the Budget.

It has come a few weeks too late but that is why as conscientious Members of Parliament, who want to raise revenue to support a Budget that has a funding gap, we should support it. Now, I also have to

say that during the discussions, there is the issue of a court case which was introduced by the “Telecos” — in case some people do not know what “Telecos” — *[Interruptions]* — Oh, why? I have decided it is “Telecos” — *[Laughter]* . It is “Telecos” — Sit down! They sent the Government or the GRA to court and as a result of this, they need to clarify this whole tax arrangement and the unfortunate thing is the fact that this has not been mentioned even in the Memorandum of the Bill.

It should have mentioned the fact that there was some misconception by the misinterpretation of the application of this Act and that is — *[Interruption.]*

Dr Prempeh: Mr Speaker, I thought we were at a specific point where the urgency of the Bill — our actions should be informed by how urgent this Bill is.

Mr Speaker, when the Hon Member for Wa West said that part of the reason this Bill is coming is because of a court case by “Telecos”. It is wrong because no where in this Bill did the Minister for Finance say it is because of a court by “Telecos”. No, “Telco” — *[Laughter]* — that this Bill has been brought.

Obviously, Mr Speaker, the Hon Member for Wa West is allowed to contribute but he should make — because of the urgency of this Bill, he should make specific reference to the Bill or to the Report and not to impugn that the Ministry of Finance is trying — because they lost a court case, they are bringing a Bill to tax Ghanaians six per cent for Internet usage. No! That is not the purpose of the Bill.

The purpose of the Bill is to clarify issues, not “Telecos”, sorry, “Telecos.”

Thank you Mr Speaker.

12.55 p.m.

Mr Chireh: Mr Speaker, my point still is that; I know and one of my Colleagues opposite mentioned it in his contribution that when GRA was trying to apply the tax, there was a misunderstanding and he thought there was no need. If there was no need, a court should not have sat and ruled on it. And all I said was that, it is unfortunate this was not even mentioned in the Memorandum to the Bill and the reasons for curing the deficits that we found in the previous law. I am still arguing that, the Bill is one of the smallest.

We can just sit here and consider all the concerns that have been raised and I believe that in the winding up of the Minister, he would re-assure everybody that the stakeholders were duly consulted and they agreed; there were issues that were raised before them—So, it is for us as a House to support this Second Reading of the Bill and adopt the Report with all the suggestions.

I believe that we can even further resolve this problem when we come to the Consideration Stage.

Mr Speaker, I thank you for the opportunity.

Dr Kunbuor: Mr Speaker, I was signalling the Hon Minority Leader to see whether he would want to make a contribution before and the indication is that he would want to. So, I would yield to him to make his contributions, then I can—

Mr Speaker: Hon Minority Leader, do you want to make a contribution on the Bill? I want to have an idea, so that I will know what to do.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I may speak for a brief period but I noticed that the Bill has generated considerable excitement; all to further enrich what is

before us. So, Mr Speaker, if you do not mind, I would plead that you allow maybe, a few more other voices to be heard before I come and the Majority Leader also winds up. The issues that are already coming up are germane to what is before us.

Mr Speaker: I just would want to know whether you want to make a contribution, so that I will know how to manage the time of the debate.

Mr Kyei-Mensah-Bonsu: I definitely will.

Mr Kwaku A. Kwarteng (NPP — Obuasi West): Mr Speaker, I am a member of the Finance Committee and I was at last Friday's meeting. This House is being invited to pass these amendments. I think the critical thing we would want to consider is the impact of the amendment. By impact, we are looking at how much revenue or even estimates of revenue we hope to get if we pass these amendments.

Mr Speaker, this question was put at the Committee meeting, and the assurance given was that, it would be prepared by the technical people and made available to the Committee. That has not happened. And this morning, if it was contained in this Report, at least, the House could have considered it but it is not here. I find it surprising the Hon Deputy Minister for Finance said that information was provided for at the Committee meeting; it was not; that was incorrect.

Mr Speaker, the second point I would want to make is in reference to the Report, page (2), under background and it says:

“The proposed amendment therefore seeks to bring clarity to the various provisions so as to improve the administration of the tax.”

[MR KWARTENG]

Mr Speaker, traditionally, we have known that the Communications Service Tax is a consumption tax. That is to say, it is the end users who pay. The service providers, in this sense, are tax collectors; they collect the taxes from consumers and they pass them on to the Government. What these amendments, especially the Report is introducing, is in clarity and I say that on the same page 2, item (5) — “Provisions of the Bill”, it says:

“Clause 1 amends section 1 of the Communications Service Tax Act 2008 (Act 754) to impose a tax to be known as Communications Service Tax. The tax is to be levied on electronic communications service providers.”

Mr Speaker, this has even statutory implications because some of the providers by law are exempt from paying tax within the early stages of their operations. So, it is the amendments that are introducing these in clarity and confirm the points earlier Hon Members made on the floor of the House, that the Committee must be given the opportunity to look at these contradictions coming out of the amendments and to propose to this House a better way forward.

Thank you, Mr Speaker. [*Hear! Hear!*]

Deputy Minister for Justice and Attorney-General (Dr Dominic A. Ayine)(MP): Mr Speaker, I have been following the debate with keen interest and it appears, in my view, that this House might be acting unconstitutionally— [*Eiiiiiiii!*] Yes. And I have the reason I am saying that. The reason is simply because Mr Speaker, if you refer to article 106 (13) of the Constitution, it says:

“Where it is determined by a committee of Parliament appointed for the purpose that a particular bill is of an urgent nature, the provisions of the preceding clauses of this article, other than clause (1) and paragraph (a) of clause (2) shall not apply, and accordingly, the President shall give his assent to the bill on its presentation for assent.”

Mr Speaker, I refer again to clause (6) of the same article which says:

“The report of the committee, together with the explanatory memorandum to the bill, shall form the basis for a full debate on the bill for its passage, with or without amendments, or its rejection, by Parliament.”

Now, what we are doing here is opening this urgent Bill which has been presented by the Committee to a full debate. Meanwhile, article 106, clause — [*Interruption*] No! I am not confused at all. Listen to me— [*Interruptions.*] Mr Speaker, this is a Bill that has been presented by the Committee as an urgent Bill — by reason only of its presentation and its acceptance as an urgent Bill, it is the mandate of the Committee by the Constitution, to present it as an urgent Bill.

So, the Committee has presented a Bill to this House that says that this is an urgent Bill, we cannot debate it — [*Interruptions.*] You cannot — Mr Speaker, by reason of the fact that clause (6) is one of the exceptions under clause 13; we cannot open this Bill to a full debate by reason of the fact that clause (6) is one of the exceptions under clause 13. If the conventions of Parliament have been such that these types of Bills have been debated, Parliament has been acting wrongfully and contrary to the Constitution and cannot do it now.

1.05 p.m.

Mr Speaker: Hon Members, I am not clothed with jurisdiction to interpret the Constitution of the Republic of Ghana. The relevant Standing Orders, as far as the issue of urgency of a Bill is concerned, is Standing Order 119, which says,

“Where it is determined and certified by the appropriate Committee of the House appointed in that behalf that a particular Bill is of an urgent nature, that Bill may be introduced without publication. Copies of the Bill shall be distributed to Members and may be taken through all its stages in one day.”

So, in my view, as the Speaker of this House, that is what I am called upon to interpret. Even though I must say that it derives its source from article 106 (13), which you have drawn the House’s attention to, I interpret the Standing Orders but not the Constitution.

Hon Members, I have been listening carefully to the issues raised by Members from both sides of the House and I do not intend to come in now. At the appropriate stage, if I have to give any direction, I will do so. But as has been suggested, let me take one or few comments from the floor, then if there is any direction, I will give.

Hon Member from Manhyia South and after that Member for Nadowli-Kaleo.

Dr Matthew O. Prempeh (NPP — Manhyia South): Thank you, Mr Speaker.

Mr Speaker, I rise to support the debate on this Report — the debate on the Report on the basis that, it is not for no reason that the *Hansard* is published verbatim for Hon Members to reflect. And I would like, Mr Speaker, to quote extensively from the *Hansard* of 12th March, 2008, Fourth Series, Volume 58, No. 29. From columns 1594 to — [*Interruption*]

Mr Gabriel K. Essilfie — *rose* —

Mr Speaker: Hon Vice Chairman, do you have a point of order?

Mr Essilfie: Yes, Mr Speaker.

Mr Speaker: What is your point of order? Is it against him quoting?

Mr Essilfie: No! It is not against him but he made a statement that in supporting the debate. You do not support debate on the floor of this House and I would want him to correct himself. [*Hear! Hear!*]

Dr Prempeh: Mr Speaker, in contributing to the debate and supporting the debate. Mr Speaker, column 1594 and I beg to read:

“I would start from where my Hon Friend left off. Hon Opere-Hammond (Member for Adenta) says that the tax is justified because the communications sector is making super profits. That has never been a basis for taxation.”

Mr Speaker, the Hon Member who was speaking was called Mr J. D. Mahama, NDC Member of Parliament for Bole-Bamboi. And he said:

“That never has been a basis for taxation. You cannot say that the financial sector is making super-profits and so you introduce a tax on loans and savings.”

Mr Speaker, we should note:

“If the people, due to competition and increasing efficiency, are making profits, why not? They have invested and so it should not form the basis for saying that once a particular sector is making good

[DRPREMPEH]

profit, then the Government must step in and tax them”.

Mr Speaker, the Hon Member goes on to say:

“Mr Speaker, what the Government continues to do day in, day out is to take the easy way out; that is, just continue to slap indirect taxes on the people . . .”

That is the Hon Member for Bole-Bamboi at that time.

The real challenge in raising revenue for this country is spreading the tax net, such that everybody pays a little tax on his income. That is, it would be truly a sustainable base for revenue mobilisation in this country. If you put 40 per cent tax on petrol, then you say that communication is doing well and so, let us slap a one pesewa on every minute of airtime — that sector is one of the most overtaxed sectors.

The Hon Member for Bole-Bamboi, in his exposition, said the Communications Service Tax or the communication sector was the most over-taxed sector in the country at that time — [*Interruptions*] — The relevance, I will get there, Hon Minister for Roads and Highways.

Mr Speaker, between 2008 and 2013 as we speak, the VAT rate has not gone down. The National Health Insurance Scheme rate he quoted has not gone down; the Communications Service Tax has not gone up. He is rather seeking to even deepen the taxation and at that time, he was the

Hon Member for Bole-Bamboi, now, he is the President of the Republic. He who said that the communication sector was over-taxed, is seeking by this Bill to even tax the communication sector that is taxed even more. Mr Speaker, I will go on further —

Mr Speaker: Hon Member, you are allowed to quote and make the necessary inferences but you should not — my attitude on this Chair is that where people are not there to defend themselves, there should be a limit at which we can go at those people.

Hon Member, continue.

Dr Prempeh: Mr Speaker, thank you for your wise words, your pearls of wisdom.

When the Communications Service Tax was introduced and it was being debated, the President of the Republic was not here. The President of the Republic, His Excellency John Agyekum Kufuor was not in the Chamber. It did not stop the Member for Bole-Bamboi at that time from making comments. It did not actually prevent the —

Mr Speaker: The *Hansard* that you are quoting, did they mention President Kufuor?

Dr Prempeh: Yes.

Mr Speaker: Which column?

Dr Prempeh: Mr Speaker, should I quote?

Mr Speaker: Which column?

Dr Prempeh: Mr Speaker, column 1594 and I am quoting.

[DRPREMPEH]

“Mr Speaker, what the Government continues to do..”.

Till this day — the Executive Presidency is vested in the — *[Interruptions.]*

Mr Speaker: Hon Member, there in lies the difference; that one refers to government, the other refers to an individual? So, you proceed.

Dr Prempeh: Thank you, Mr Speaker.

Mr Speaker, the Hon Haruna Iddrisu, the immediate past Minister for Communications and the current Minister for Trade and Industry, in quoting column 1573, Mr Speaker, this is what he said:

“The Minority Members on this Committee actively participated in the consideration of the Bill. They however, expressed their opposition in principle to the imposition of communications service tax because of its impact on teledensity and mobile penetration.”

If anything at all, history tells us that it has rather increased teledensity and mobile penetration.

Mr Speaker, I move further to quote what the former Member for Bole-Bamboi continued to say. Mr Speaker, he said:

“As a consumer of airtime taxes, I would like the worst case scenario. It says up to 8 per cent. I do not believe in the generosity —

And this is what he said:

He does not believe in the generosity of Government that it will put 8 per cent in the Bill and collect 2 per cent. Mr Speaker, I expect that they will collect the 8 per cent. I was talking about the National Youth Employment Programme (NYEP).

We have the Ghana Education Trust Fund (GETFund); the GETFund is collected by the VAT Service. It collects the moneys and it lodges the moneys into what we call the GETFund and that money is used specifically for educational financing. We have the National Health Insurance levy.

Mr Speaker, so, the point I was making is that, for these specific taxes, they are collected by the VAT Service. What we are saying is, if you say that the money is meant for National Youth Employment Programme (NYEP), in order to avoid the hazard that revenues like these continue to suffer in the Consolidated Fund, why do you not bring a Bill that sets up a Fund for the National Youth Employment Programme, so that we know these moneys are collected and are going to be lodged into the NYEP Fund?

Mr Speaker, the essence of this extensive quote was that, not too long ago, Communications Service Tax under the 2008 Manifesto of the NDC, repeated in the 2012 Manifesto, it was said it would be dedicated to the National Youth Employment Programme.

When the Hon Member for Bole/Bamboi was talking extensively, his point, including the Hon Haruna Iddrisu, was that the Government should dedicate the Communications Service Tax into a — National Youth Employment Fund. What has happened? This is the point we are talking about.

It is not just collecting the tax and chopping, it is collecting the Fund and using it for the purpose for which you so desire — *[Interruption]* — The person who proposed the National Youth Employment —

1.15 p.m.

Mr Speaker: Hon Member, conclude. Hon Member, conclude.

Dr Prempeh: In conclusion, Mr Speaker, the Hon Fuseini who proposed the National Youth Employment Fund at that time, happens to be the Hon Member for Tamale Central and he is around; we can see him, so that this amount of money — *[Interruption]* — He is a Cabinet Minister now; all right — *[Interruption.]*

Alhaji Inusah A. B. Fuseini: Mr Speaker, I thank you very much.

The Hon Member has invited me to put him straight. I did suggest that. But you see, Mr Speaker, what he is presently doing, is seriously misleading the House and the Ghanaian public.

Mr Speaker, the intendment of this Bill is not to further levy tax or increase the tax component — *[Interruption]* — Mr Speaker, what the Bill is seeking to do, is to bring within the ambit of the Service Tax, areas that were previously excluded and provide more clarity to the imposition of the tax.

Mr Speaker, His Excellency John Dramani Mahama is not seeking to increase the Communications Service Tax. He is not seeking to do that. He is just seeking to bring clarity — *[Interruption]*

Mr Speaker: Very well. You have made your point.

Your last sentence?

Dr Prempeh: Mr Speaker, my last sentence, I am opposing the Communications Service Tax (Amendment) Bill, in answering him and concluding. The Object of the Bill is to clarify the scope and coverage of the tax — *[Interruptions.]*

Mr Speaker, the object of the Bill is to clarify the scope, one, and two, coverage of the tax; and three, to explicitly include inter-connections service within the tax issue — *[Interruption.]*

Mr Alban S. K. Bagbin (NDC — Nadowli/Kaleo): Mr Speaker, I stand to contribute to the debate on the policies and principles of the Communications Service Tax (Amendment) Bill, which is now before the House.

Mr Speaker, the Constitution, clearly, as my Colleague Hon Papa Owusu-Ankomah stated, gave the authority to the Executive to initiate the proposals for legislation in the imposition of tax and to present that to Parliament for consideration and passage or rejection.

Mr Speaker, in doing so, the Constitution also empowers the Executive to give an indication whether they want that Bill to be handled by Parliament through the normal process of parliamentary practice or to rather give some urgency in the handling of the Bill. By so doing, they talk about the Committee of the House looking at those issues and then informing the House whether we should handle that Bill as an Urgent Bill.

And that is why in clause 106(13) refers to the exceptions in clause 106(2)(a) and (b). That is the basis.

So that when the Bill is of urgent nature, the gazette notification is not as demanded by the Constitution; that is at least, 14 days before the date of its introduction in Parliament. So, that indication is given by the Constitution and when the Executive is making the proposal, you can see that from the Bill. So, unless the Committee comes with very good reasons, this is what we are expected to follow.

[MR BAGBIN]

Mr Speaker, when you see the Bill before us, the gazette notification was on the 26th of June, 2013, which is an indication from the Executive that they want this to be handled through a certificate of urgency. But Mr Speaker, the Executive is to tell our Committee and for our Committee to convince us that this Bill actually is of urgent nature. The challenge we have here is that, it is not so stated in the Report and there is no indication in the Bill apart from the gazette notification that it is of urgent nature.

We also know that the nature of the Bill before us is a financial Bill and therefore, usually, the issue of raising revenue for government activities, which all inure to the benefit of the people, is worthy of our consideration. And I believe that is where this House would have to lean backwards to accept that we should consider the Bill through the due processes of urgency.

But that is with the indulgence of the House. If the House is to stretch itself full force, they would say that we need to be convinced that this Bill is of urgent nature and so, that is why I believe my Colleagues are raising the issue.

The second issue is that, even though the Bill says that it is being brought to clarify the scope and coverage of the tax, what we have in the Report is not clear as to that clarification and that is why there is a problem. When we read the Memorandum and then we read the Report of the Bill, we are left in a quandary. It is not clear; that is true; it is not very clear.

So, I, as the former Minority Leader, mentioned the issue of it being a talk tax because it was a tax on the consumer and that is why we said it was a talk tax. As I talk, they tax me and I pay.

Now, in the implementation of the talk tax, they came across some challenges because of inter-connectivity and so, now, government, through a policy, is bringing a Bill for us to look at that because in that one, the services that are rendered are the services rendered by the operators. So, if the intention of the Bill is to tax the operators for the services they render, then it should state so. But now, this Bill is talking about the talk tax for we the consumers; so, that is where we need clarification.

But Mr Speaker, I have always been clear in my mind. The Bill before us is a draft law. The authority to pass laws, definitely, is enshrined in this House and so, from the first word to the last word, we are empowered to change them. Now, we are clear in our minds what we should do. Unless the Government disagrees with us on purposes of policy, which the Minister of State should state on this floor, I believe that this Bill is worthy of our consideration.

But we would need to do a lot of amendments to streamline it. The memorandum of a Bill is not part of the Bill. You know you cannot use it; it can only guide you but it is not a law? So, I would want the Committee to lead us to really make copious amendments to some provisions that are proposed in the Bill.

I have taken my time to go through it and I see the conflicts and I see the lack of clarification and so, we need to do that.

With these, Mr Speaker, I would like to urge Hon Members to let us sit through it and do a good job.

Thank you very much, Mr Speaker.

1.25 p.m.

Minority Leader (Mr Osei Kyei-Mensah-Bonsu): Mr Speaker, I think in principle and ordinarily, one may not have anything against this admission of “My country is broke Bill”.

[MR KYEI-MENSAH-BONSU]

Mr Speaker, clearly, this is an admission that there are funding gaps, there is nowhere to go and this is the area to go. This is an admission of “My country is broke Bill.” But Mr Speaker, I think the issue raised by the Hon Deputy Attorney-General and Deputy Minister for Justice, unfortunately, I think he is not here or he is here present — Mr Speaker, he drew attention to the Constitution, article 106(13) and seemed to suggest to this House that the House cannot debate.

Mr Speaker, he is talking on the phone — the Hon Deputy Attorney-General and Deputy Minister for Justice and I guess he did not even hear what I said.

Mr Speaker, I think it is a very dangerous proposition from the Hon Deputy Attorney-General and Deputy Minister for Justice to this House. This is because he says to us that there is only an exception to clause 1 and paragraph (a) of clause 2. So, we should not debate.

Mr Speaker, it would then mean, necessarily, by his argument, that we can close our eyes if an urgent Bill should come in respect of clause 106(3). Clause 106(3) tells us —

“A Bill affecting the institution of chieftaincy shall not be introduced in Parliament without prior reference to the National House of Chiefs.”

Now, he is saying that we should close our eyes on all the preceding clauses; that is what he said. So, if it comes as an urgent Bill, then we should not be bound by (5). He is totally wrong. I disagree with his interpretation of what he has told this House.

Mr Speaker, but let me go on because I think it is a very dangerous proposition to this House. Fortunately — *[Interruption]* — Mr Speaker, but

fortunately, he is an Hon Member of this House, he is a new Member of this House. I believe, together with us, I mean all of us, are still on the learning curve, so, we would all be learning; but it is a dangerous proposition from him.

Mr Speaker, but to go on, many issues have been raised and it is important that the former Hon Minority Leader has drawn attention to his own contribution when he emphasised that what Bill was before us at the time was in respect of “Talk Tax”. It was a user tax.

I think the Government is going on this same path and that is why I am saying that in principle, I cannot call myself against this. There are some details that we may have to address our minds to and if there are reasons to amend, we have to go on that path.

But having said that Mr Speaker, the distinction between what the then Hon Minority Leader said and what our current President said, clearly, is crystal clear. What it means is that, what the then Hon Member for Bole/Bamboi said was a complete confusion of the issue before us.

Mr Speaker, he told us: “We are taking 25 per cent”, and I am referring to column 1595 of the 12th March, 2008 *Official Report*. I am quoting paragraph (2) —

“We are taking 25 per cent corporate income tax from them.”

And today, we are still taking 25 per cent corporate income tax —

“They are paying an additional 15 per cent for VAT and NHIS.”

Today, we are still paying.

[MR KYEI-MENSAH-BONSU]

“Now we are going to add one pesewa per minute which translates to about 8 per cent of the cost of airtime uses. That is abnormal taxation.”

That was the then Hon Member for Bole-Bamboi. He completely misunderstood the issues before us. He thought it was an additional burden on corporate bodies. I am happy the then Hon Minority Leader drew attention that we are talking about user tax, consumer tax, talk tax as he referred to it then.

The unfortunate thing is that he did not succeed in bringing his, then Hon Member of Parliament to order, that he was confusing the issues. Mr Speaker, that was most unfortunate. *[Interruption.]* And he says to us that —

“To make injury worse, instead of that revenue being ploughed back into the sector, Government is going to hold it and use it as it deems fit.”

Mr Speaker, now, the man who uttered these words is the President, the head of Government. I would want to believe that he now understands the issues better than he did at the time.

Mr Speaker, the then Hon Member for Lawra/Nandom — *[Laughter]* — The then Hon Member for Lawra/Nandom said that this matter about talk tax was not even necessary because it was an easy way of raising tax. We should look at other means to raise tax. Mr Speaker, but today, he finds himself in another world.

Today, he is the Leader of Government Business — *[Interruption]* — Mr Speaker, I would want to listen to what he would say. Mr Speaker, when we contribute in this House, we should take what tomorrow may hold for us.

The Hon “Assimeng” was talking about people playing to the gallery. I do not know whether he would describe these assertions at the time by very senior Hon Members of the House at that time; and it was an election year. I do not want to believe — Is he waking up from his *[Laughter.]* Mr Speaker, do I yield for him or do I continue? This is because he is making a spirited intrusion into my presentation, Mr Speaker —

Mr Speaker: Hon Member for Shai/Osudoku —

Mr David T. Assumeng: Mr Speaker, just to correct my name. My name is “Assum ng”, it is not “Assimeng”. *[Interruption.]*

1.35 p.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, so we should be consistent. But as I said, I think, yes, where we are, we know we need to rake inasmuch as possible to propel our national development. And to that extent, I think that beyond looking at the Bill, in a very scrutinuous and amending the relevant portions — Mr Speaker, I would think that we would welcome this in principle.

But the matter before us does not necessarily have to be finished within one day. Our Standing Orders are very clear on that. It only suggests that we may transact and conclude business on it in one day. Not necessarily push ourselves to do it and do a shoddy job out of this. As we have been told, there are revenue shortfalls; how much we are not even too sure of. How much is intended to be raked in by this proposal, this House has not been informed. Mr Speaker, we need to do this.

Mr Speaker, the other matters relating to the definition of user and so on, I think we should be very clear on this. I notice that the Committee is proffering only two

[MR KYEI-MENSAH-BONSU]

amendments and those amendments, in my view, relate to typographical errors; very inconsequential. The substance of the matter before us, they have not touched. So, I would think that much as in principle, I would not have anything against it. Let us be a bit slow on this, then we look at the areas that we need to streamline; if we can conclude it by tomorrow, it should be alright and then we move on.

But I think we need to meet to take our foot off the accelerator for a while and have a second look at it and then we can continue tomorrow and possibly conclude tomorrow. This is because Mr Speaker, between today and tomorrow or perhaps, even between today and Friday, I do not know how much as a nation, we would lose.

I would think and I would suggest strongly that let us step it down without concluding, and we can still continue with the debate. But after the event, we can then sit down as we usually do, listen to the Minister and officials and experts in this area, some of who are with us here in Parliament, and then move on and do what is expected of us. But let us assure ourselves that we have done what is right.

Dr Benjamin B. Kunbuor: Mr Speaker, let me crave your indulgence before I make one or two remarks, that it is patently obvious in paragraph 5.0 of the Committee’s Report that there is a typographical error and I would want the Committee Chairman to clarify that particular issue for us. This is because when, read together with the memorandum, you would see clearly that that second paragraph, the last sentence, is certainly an error. And I would want that clarified before I proceed with my contribution.

Mr Gabriel Essilfie: Mr Speaker, the last paragraph of clause (1) in the Report, page (2) should read:

“The tax seeks to be levied on users of electronic communications service other than private electronic communications services.”

Mr Speaker: Hon Member, what amendment are you seeking to effect? On users of electronic communications service providers other than what?

Mr Essilfie: Providers other than private electronic communication services, which is exactly in line with what the Bill has.

Mr Speaker: Hon Vice Chairman, if you think that that sentence as it stands now is incorrect, just delete it. It does not add or take away anything if you just delete it.

Mr Kyei-Mensah-Bonsu: Mr Speaker, they are two things. The Hon Member is further expending that one. He says the tax is to be levied on electronic communications service providers; and he continues, other than — Mr Speaker, if you listen to him and the direction that you are giving to him, the expanded version does not cure the issue that you are raising. So, let him come clear on that. What does he mean?

Mr Speaker: Hon Vice Chairman, why do you not just delete that sentence? Consideration Stage can cure whatever you want to do, at the end of the day what goes into the Bill, the final product?

Mr Essilfie: Mr Speaker, I wanted to change that because the way it stands, there was misleading. But I have taken a cue from your advice; it is deleted.

Mr Speaker: The Majority Leader raised the issue, listening to the debate on the floor, I realise also that there was a problem there. In fact, if he had not raised the issue, I was going to draw your attention to it to clarify that. Now, you want to expand it in a way that I do not understand. That is my confusion.

So, for the avoidance of doubt, just delete it; when we reach the Consideration Stage, whatever amendment that you would effect, that would be what goes into the final Bill and then you can do that at that stage.

Mr Kyei-Mensah-Bonsu: Mr Speaker, if the amendment the Vice Chairman is now proffering is reflective of the business that was transacted at the level of the Committee, Mr Speaker, how can we then say that he should rise up and amend it to suit some purposes? Let us hear from him; what went on before —

Mr Speaker: Clearly, Hon Minority Leader, if there is a mistake, we all make mistakes. So, there is nothing wrong if there is an error on the face of the record. I do not see why — [*Interruption.*] Hon Members, I am not talking about pink sheets. [*Uproar!*]

Mr Essilfie: Mr Speaker, I have taken your advice; we would *delete* the second paragraph — [*Interruption.*]

Mr Speaker: No! That sentence. There is a problem with that sentence.

Mr Essilfie: We will delete that last sentence.

Mr Speaker: Absolutely.

Mr Essilfie: “The tax is to be levied on electronic communications service providers” should be *deleted*.

Dr Kunbuor: Mr Speaker, I needed that clarification from the Chairman of the Committee to enable me see my way clear on the rich debate that has taken place.

Mr Opare-Ansah — *rose* —

Mr Speaker: Hon Member for Suhum, what is your point of order?

Mr Opare-Ansah: Mr Speaker, the Bill is claiming to bring clarity and the confusion that seems to exist is whether the tax is to be levied on service providers inter-connect charges or on users. Now, you could see an attempt by the Committee in trying to capture that clarity by saying that the tax is to be levied on electronics communication —

Mr Speaker: Hon Member, he has deleted it.

Mr Opare-Ansah: Mr Speaker, but its place, he has now left us in doubt as to who the tax is to be levied on.

Mr Speaker: Hon Member, we would get there; do not worry. Hon Majority Leader, you have the floor. I think we should not spend much time on this issue.

Dr Kunbuor: Mr Speaker, I have had the opportunity to listen to the debate on this matter and I understand that we are actually at the Second Reading Stage of this Bill. And it is important that as a House of Parliament, fundamentals and principles are respected. Under Order 127, the most essential things at this stage in relation to a Bill at the Second Reading, is to do two things.

One, to look at the principles of the Bill together with the Report of the Committee.

We have listened to a number of engagements —

1.45 p.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, having made this fundamental statement, which I agree with, because it means that we should be talking about the principles. Mr Speaker, is he saying to this House that he disagrees with the position taken by the Hon Attorney-General and Minister for Justice, that we should not even open it to debate? Is he saying he disagrees with him because that is very important to this House?

Mr Speaker: Hon Member, I have given a direction with regard to the provision of the Constitution, that the Deputy Attorney-General and Deputy Minister for Justice has drawn our attention to. And I referred to Standing Order 119 and at the appropriate time, I would give directives on that matter.

Dr Kunbuor: Mr Speaker, I seek basically to make my modest contribution to this debate and I certainly will resist the temptation to be asked to run a commentary on what would have been said by an Hon Member. But Mr Speaker, in proceeding on the principles and the Committee’s Report —

Mr Speaker: Sorry. Before you continue, I want to find out from Leadership whether they have made arrangements for an extended Sitting? That will guide the Chair to know — Have you made provision for an external Sitting? — [**An Hon Member:** No.] — Very well.

Dr Kunbuor: And I intend that; it is important for purposes of the record, Mr Speaker, that we address those preliminary matters just for the sake of the record in the future.

Mr Speaker, the first issue that came up had to do with whether this Bill, at all, is urgent. And Hon Papa Owusu-Ankomah, together with other people, have drawn and introduced very, very interest-ing dimensions for assessing whether the Bill of this nature is urgent or not. Mr Speaker, whether a matter is

urgent or not, is highly subjective. It just depends on where one is standing and that will indicate to you whether it is urgent or not. So, I agree entirely with those who are raising arguments that the matter might not be urgent. But I intend to indicate why I think this matter is urgent.

Mr Speaker, you would realise that this Bill has come together with other Bills and the essence of all these Bills put together, is simply an implementation of an economic policy framework in the budget that was approved by this House. And by this House approving that economic framework, which included the Communications Service Tax, one must bring the consequential legislation to actually implement it. That has always been the processes in this House.

The budget cycle is half way down the year and I think, if for no other reason at all, that for almost all managers of an economy, would know that the matter has become urgent. And that in my view, is the first consideration why I think this matter should be looked at.

The second issue, Mr Speaker, on article 106 (13), which has actually been reproduced in the Standing Orders, is to get the clear legal matter of the urgency or otherwise.

It is not a substantive matter; it is a procedural matter. And the procedure is quite clear in the constitutional provision that it says, once the Committee has determined that this matter is urgent, and the Committee’s Report is adopted, the essentials that go into determining whether it is urgent or not, have not been provided for in that particular Report, for in that particular article in the Standing Orders.

[DR KUNBUOR]

That is why I said it is very much subjective and it is fluid and it has to be taken in a particular context. There can be no objectivity to an understanding of what is urgent and what is not urgent. For Government, that has the onerous task of running a government, providing social services — *[Interruption]*

Papa Owusu-Ankomah: *On a point of order!*

Mr Speaker, the Hon Majority Leader is misleading the House.

Mr Speaker, he cannot say that as regard what is urgent, it is subjective. We have criteria. One may defer in terms of opinion but to stand on the floor of this House and tell this House and the people of this country, that as to what is urgent, is subjective, that cannot be correct.

Mr Speaker, the dictionary says “urgent” is what is immediate; what requires immediate action. It does not mean that there is no objectivity. We may differ in terms of opinion. But to say that what is urgent is subjective, is totally incorrect.

Mr Bagbin: Mr Speaker, just for purposes of clarification. In fact, Order 119 gives an indication as to what is urgent. And in my submission, I referred generally to those provisions. I did not specifically mention them because Order 119 says that:

“Where it is determined and certified by the appropriate Committee of the House appointed in that behalf that a particular Bill is of an urgent nature, that Bill may be introduced without publication.”

That is why I said “may”:

“Copies of the Bill shall be distributed to Members and may be taken through all its stages in one day.”

That is procedure. And I stated that if one goes through the Constitution, article 106 — And if one goes to article 108, one would see how normal Bills are treated. There must be — Gazette notification of not less than 14 days. So, when the Executive brings a Bill without that provision, it means they are expecting them to be treated urgently. That was my submission.

When one looks at this Bill, it was gazetted on 25th June, 2013. So, it is not 14 days yet, which means, it is an indication. So, either we publish it — This is because the word used is “may”. So, if it is not published, then clearly, it is urgent. But when it is given a publication, but without the 14 days’ notification, it also gives an indication that they want it to be treated urgently.

But some of these reasons have to be stated. And that is the only thing lacking.

Dr Kunbuor: Mr Speaker, the distinction between being subjective and objective is not intended to mislead anybody in this country. When I say a matter is subjective, it simple means that from where I stand, see it as urgent. And from where another person stands, one sees it as not urgent.

As the former Hon Majority Leader has indicated —

Mr Speaker: Hon Members, having regard to the state of Business in the House, I direct that Sitting be held outside the prescribed period to enable us determine this matter.

Dr Kunbuor: Mr Speaker, so, I am indicating that if the essential ingredients of when a matter is urgent has been provided and those procedural requirements are satisfied, that is when we would then proceed to where we are in adopting this Report. And after we have adopted it, the consequences will flow from there.

But I just wanted this thing clarified that the issue in article 106 — *[Interruption]*

1.55 p.m.

Mr William O. Boafo: *On a point of order.*

Mr Speaker, the Hon Majority Leader is trying to draw a distinction between subjectivity and objectivity. I do not know the criteria. But we all know that in our parlance, if one does that in terms of “subjectivity” one excludes review. And it is dangerous for us to adopt subjective attitude. That will mean exclusion of parliamentary review of a report of a Committee of this Parliament. Mr Speaker, we all know—

Mr Speaker: Exclusion of?

Mr Boafo: Exclusion of parliamentary review of a report of a committee of this Parliament. That is very dangerous for us.

Mr Speaker, we all know the history of how judicial review came about. It was this subjectivity which brought about the judicial review. And we want to insist that no matter the situation, as for parliamentary review, it must not be excluded. So, this question of subjectivity should not come in at all.

Dr Kunbuor: Mr Speaker. I did not know that I was opening a minefield. Perhaps, I should have indicated the context in which I am using the term. I definitely know there are legal criteria for subjectivity and objectivity. In fact, I even know there are philosophical categories of what is objective and what is subjective. *[Laughter.]*

But I am simply using “subjective” here in the ordinary plain language as an Hon Member of Parliament. If that is creating some distortions in our own processes of looking at this, I would apologise for that. But I am using the term “subjective” here in its ordinary understanding; nothing very, very complicated in that regard.

But having resolved —

Mr Kyei-Mensah-Bonsu — *rose* —

Dr Kunbuor: Hon Kyei-Mensah-Bonsu should let this thing proceed.

Mr Speaker: Let us listen to the Hon Majority Leader.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect, we would want to listen to him. But we all know that if we grant entry to the Hon Majority Leader into his unlimited status, this House would not adjourn.

Mr Speaker, so, I am asking that you guide the transaction of Business in this House.

Dr Kunbuor: Well, Mr Speaker, normally, I would take a cue from Mr Speaker. But since the matter is being routed through you, Mr Speaker, I can tell the Hon Minority Leader that I will be very, very brief on this one. This is because there is going to be enough time to address the substance of this Bill and all I am interested in is engaging the principles, but also clearing some debris of procedure that were introduced in relation to this procedure.

Mr Speaker, the only reason I am making this contribution is that, I have seen a lack of distinction in the debate so far about telecommunication regulation and taxation. There is something about telecommunication regulation and taxation that if you conflict the two, you are going to get into the type of difficulty that we have. I am saying this in relation to the principles.

This legislation in all essence is a tax legislation and not one regulating telecommunications. One of the essential principles, again, Mr Speaker, that we have been confusing are three essential tax legal categories. People are not making the distinction between the clauses that impose a tax, the clauses that charge a tax

[DR KUNBUOR]

and the clauses that define the tax base and that explains why when you are looking at how a tax is imposed, and confusing it with the section, they call the charging section of a tax and then linking that with a tax base, you are bound to run into this difficulty that we have ran into. And I would want to draw our attention to this.

Mr Speaker, just take clause one. All that clause one of this Bill is doing, is to impose a tax and not to charge a tax. And the imposition of the tax is clarified here as one that is to deal with communication service other than private electronic communications services. This is actually the remit of where you want to impose the tax.

When you come to clause 2 (1), that is what is known in tax law as the charging section and it is the one that charges the tax and the charge on the tax is in relation to users of service — *[Interruption.]*

Papa Owusu-Ankomah: *On a point of order.*

Mr Speaker, the Hon Majority Leader, I know, is a tax expert. He has lectured in tax at the Ghana School of Law. However, he has been talking about us dealing with the principles, and now he is going clause by clause, and I know that he is also a member of the Finance Committee. I thought he would educate us at the Committee level, so that charging, imposition and base, would reflect in the Report. *[Up roar.]* He did not do it; it is not reflected in the Report.

But really, this is not the time for him to educate us on these matters.

Mr Speaker: Hon Member for Sekondi, you and I were not there. *[Laughter.]*

Dr Kunbuor: In fact, Mr Speaker, that is precisely what I am doing and these are the principles. The principles here in clause 1, are on imposition; I did not

introduce it. It is in the Bill and that is a principle. You go to clause 2, it is dealing with liability to tax, which is the charge; I did not introduce it. You go to the subsequent one and it is because if you do not make this distinction, you are unlikely to see exactly what you want to charge and what you want to impose the tax on, then the base of that tax.

So, when Hon Members were making the contribution, that it is supposed to expand and bring clarity, that is addressing the tax base. Then when you come to deal with the user of the service, that is the one that deals with the charge. And on what activity are you imposing the tax? That is the one in clause 1 that deals with electronic communications service other than private electronic services.

Once these categories are clear in our minds, then we know how we are proceeding in terms of a tax legislation of this nature.

Mr Speaker —

Dr A. A. Osei — *rose* —

An Hon Member: Hon Member for Old Tafo, sit down.

Dr Kunbuor: Well, Mr Speaker, as Leader, once he has risen, I have to resume my seat. I will conclude very soon. But —

Mr Speaker: Hon Member for Old Tafo.

Dr A. A. Osei: Mr Speaker, I am not sure where the Hon Majority Leader is leading us to.

The parent Act dealt with users. This is dealing with users and providers. It is a major change. Those are the principles we were arguing about, not what he is talking about. That is the point we are

[DRA. A. OSEI]

making. They are making a major change. So, if he is talking about the principles, it is not clear here. That is the point we are making. So, this — That is the issue.

Dr Kunbuor: Mr Speaker, precisely. That is why I am saying that when you are dealing with a technical area — In fact, that he is seeing as the expansion in the increase in newness, is simply an enlargement of the tax base. That is what it means, it is not that you are charging a different type of tax. *[Interruption.]* They should listen to me.

I sometimes — *[Interruption.]* Excuse me. They should let me conclude and we can take up this matter.

In fact, I have also even come across a policy statement in which people are talking — *[Interruption.]*

Mr Opare-Ansah — *rose* —

Mr Speaker: Hon Member, let him conclude, please.

Dr Kunbuor: Mr Speaker, I am saying that if this Bill is really understood in its proper context, and the Bill is not confused with telecommunications regulations and inter-connectivity, we would have a very clear focals on the nature of this Bill, and that it is a pure fiscal Bill that is supposed to be implementing a budget that has been approved by this House. And we are saying that, better late than never.

I can concede the fact that, it is a consequential legislation to the budget that has delayed in coming. But that does not mean one cannot bring that legislation to implement it. That is why I am saying, as a matter of importance, urgency. The essentials that are required; the Memorandum

has set everything out clearly in terms of the direction of policy, the content of the legislation and its legal finesse.

I know all these things had been adequately addressed and we would want that when we get into a subsequent stage of this Bill, we would engage the clauses and begin to deal with these specific issues that I have mentioned.

2.05 p.m.

Mr Speaker: Hon Members, that brings us to the end of the debate on the Motion.

I believe that the determination of the urgency of a Bill by our Standing Orders has been vested in the Committee handling the Bill. If you look at our Standing Orders that I referred to, which the Hon Member for Nadowli/Kaleo also did refer to, it says: “Where it is determined and certified by the appropriate Committee of the House . . .” So that determination is vested in the Committee handling the Bill.

What the House can do, is when they believe that it is not an urgent Bill, is to exercise their power to say that the Bill should not be taken through all the stages and they can do that by saying that it should not pass through the Second Consideration Stage. That one is reserved for the House.

Hon Members, what I intend doing, listening carefully to all of you, is to pose the Question. Yet if you look at the Standing Order, it did not say that we should take it through all the stages the same day. So, we will not take it through all the stages today. But I will put the Question on the current Motion before us. I think that it is in the interest of this House to look at some of the issues raised.

[MR SPEAKER]

If you look at clause 2 of the Bill and you look at the definition of “user” we need to clarify that position. It is in the collective interest of this House for us to do so. Therefore, I will put the Question and then we will move to the Consideration Stage of the Bill tomorrow.

Question put and Motion agreed to.

The Communications Service Tax (Amendment) Bill was accordingly read a Second time.

Mr Speaker: Hon Majority Leader —

Dr Kunbuor: Mr Speaker, we did stand down item number 5 on the Order Paper.

Mr Speaker: Hon Members, this is just a presentation of the first Reading of the Bill.

Dr Kunbuor: And I would want Mr Speaker’s, indulgence to allow the Hon Deputy Attorney-General and Deputy Minister for Justice to lay it on behalf of the Hon Attorney-General and Minister for Justice, hoping that my counterpart, the Hon Minority Leader would allow us to proceed because we have beaten that path before.

Mr Speaker: Very well.

Hon Minority Leader, this is just the laying of the Bill, so, we can have it and have the House adjourned.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think, ordinarily, I should not be obstructing this Business especially since our Hon Colleague is a Member of the House.

My little worry is that, the Hon Deputy Attorney-General and Deputy Minister for Justice, on his feet in the House, some propositions that are coming up —

Mr Speaker: Hon Member, we have finished with the Second Reading of the Bill.

Mr Kyei-Mensah-Bonsu: Mr Speaker, may I also say that I have observed that the Hon Attorney-General and Minister for Justice has not found herself in this House before ever since she was confirmed as the Attorney-General. I have not seen her. So, just to let her know that we want to see her and listen to her. Per chance, she may hold contrary views to her Deputy in many, many regards. *[Laughter.]*

Mr Speaker, I have no objection.

Mr Speaker: Hon Deputy Minister, item number 5.

BILLS — FIRST READING

Anti-Terrorism (Amendment) Bill, 2013

An Act to amend the Anti-Terrorism Act, 2008, (Act 762), to clarify the power of the High Court to order the funds and other aspect of terrorists, financiers of terrorism or a terrorist organisation to be frozen and to provide for related matters.

Presented by the Deputy Attorney-General and Deputy Minister for Justice (Mr Dominic A. Ayine) (on behalf of the Attorney-General and Minister for Justice). Read the First time; referred to the Committee on Constitutional, Legal and Parliamentary Affairs.

Mr Kyei-Mensah-Bonsu: Mr Speaker, would you not think that it may be relevant to add the Committee on Defence and Interior in this matter? I am not too sure; I am just asking for your direction.

Dr Kunbuor: Mr Speaker, this is a treaty item and even Foreign Affairs would be relevant in this matter. But I have no serious objection to a joint-committee.

Mr Speaker: Hon Members, I have been advised that the main Bill that came to this House was handled by the Constitutional, Legal and Parliamentary Affairs Committee and on that basis, I want them to handle the amendment too.

Hon Members, on that note, the House is adjourned till tomorrow at 10.00 o’clock in the forenoon.

Hon Members, thank you very much.

ADJOURNMENT

The House was adjourned at 2.12 p.m. till Wednesday, 3rd July, 2013 at 10.00 a.m.

923 *GoG/International Capital*

26 June, 2013

Market Sovereign Bond 924

925 *GoG/International Capital*

26 June, 2013

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[MRESSILFIE]

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WEDNESDAY
3RD JULY, 2013

PARLIAMENTARY DEBATES

OFFICIAL REPORT

WEDNESDAY, 3RD JULY, 2013

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THE
PARLIAMENT OF THE REPUBLIC
OF GHANA

SECOND MEETING, 2013

Wednesday, 3rd July, 2013

The House met at 10.30 a.m.

[MR SPEAKER IN THE CHAIR]

PRAYERS

Dr Anthony A. Osei: Mr Speaker, I am wondering what is going on. I come under Standing Order 48.

It is strange that we do not even have one-third of Members of Parliament for us to start business. I wonder if we are properly constituted as a House. I can count on both sides less than 30, for a House of 275.

I do not know what is happening. We need to deal with it.

Mr Speaker: I have taken note of what you said. I will not respond now.

Dr A. A. Osei: I am formally coming under Order 49.

Mr Speaker: Hon Member, you do the counting. I will verify from the Table Office.

**Votes and Proceedings and the
Official Report**

[No correction was made to the Votes and Proceedings of Tuesday, 2nd July, 2013.]

[No correction was made to the Official Report of Wednesday, 26th June, 2013]

Mr Speaker: At the Commencement of Public Business, presentation of Papers.

Hon Majority Leader?

Dr Benjamin B. Kunbuor: Mr Speaker, if we could take item 4.

Mr Gabriel K. Essilfie: Mr Speaker, I would like to crave your indulgence to ask permission as the Vice Chairman of the Finance Committee, to represent my Chairman who is out of the country, to present this Report.

Mr Speaker: All right.

PAPERS

By the Vice Chairman of the Committee (Mr Gabriel K. Essilfie) (on behalf of the Chairman) —

Report of the Finance Committee on the Customs and Excise (Duties and Other Taxes) (Amendment) Bill, 2013

Dr Kunbuor: Mr Speaker, if we could take item 5.

Mr Speaker: I am wondering whether item 5 is necessary, in view of the fact that this is an urgent Bill. Whether we still need to suspend the Standing Orders.

Dr Kunbuor: That is so, Mr Speaker. So, Mr Speaker, we can proceed to item 6.

Mr Speaker: Very well.

Hon Members, item 6 — Communications Service Tax (Amendment) Bill, 2013 at the Consideration Stage. *[Pause.]*

Mr Essilfie: Mr Speaker, I rise to propose an amendment —

10.40 a.m.

Mr Speaker: Hon Member, take your time, please. I will call the clause and you will move your amendment. I have not called any clause *[Pause.]*

Hon Minority Leader, do we need to suspend the Standing Orders— item 5? I want to take your view and that of the Hon Majority Leader and one or two Hon Members, on this matter. But let me take your view.

Mr Osei Kyei-Mensah-Bonsu: Mr Speaker, we started this Consideration Stage yesterday. If we are continuing, certainly, we do not have to go there. So, item 5, really, in my view, is redundant.

Dr Kunbuor: Mr Speaker, this is in light of your ruling yesterday in relation to a Bill of an urgent nature. So, I guess that item 5 would be superfluous.

We know, the Mace, by the time we adjourned, had not been tilted. So, we had to rely on your ruling on this matter and that shows that it is a continuation.

Mr Frederick Opare-Ansah: Mr Speaker, I agree that we do not have to have that procedural Motion because it is implied in the Order that gives the urgency to the Bill. If we are going to take the Bill through its motions in a day, then it implies that those orders do not apply.

Mr Speaker: Very well. No! We did not start yesterday — *[Pause.]*

Mr Alban S. K. Bagbin: Mr Speaker, I was getting a brief from my Chief Whip —

Mr Speaker: I would want your opinion.

When a Bill is determined to be of an urgent nature, do you need to suspend the Standing Orders to dispense with notice?

Mr Bagbin: Mr Speaker, there is no need for notice. That Order will not apply in a situation when you have to take it through either a certificate of urgency or it is an urgent Bill. You do not need to give notice and therefore, the provisions, in my humble view, will not apply.

Mr Speaker: Very well.

Hon Members, thank you very much. So, Communication Service Tax (Amendment) Bill, 2013 at the Consideration Stage.

BILLS — CONSIDERATION STAGE

**Communications Service Tax
(Amendment) Bill, 2013**

Clause 1 — Section 1 of Act 754 amended.

Vice Chairman of the Committee (Mr Gabriel Kodwo Essilfie): Mr Speaker, I beg to move, clause 1, subclause (1), lines 1 and 2, *delete* “Communication” and *insert* “Communications” and in line 4, *delete* “communication” and *insert* “communications” and do same wherever “communication” appears in the Bill.

Also, the same clause 1 —

Mr Speaker: Hon Vice Chairman, one at a time. If you had wanted all the amendments to be taken at ago, you could have filed them as one amendment. So, we have to put the Question on each one.

Hon Members, this first amendment is really a drafting issue but I will put the Question.

Question put and amendment agreed to.

Mr Speaker: Yes, the next one.

Mr Essilfie: Mr Speaker, I beg to move, clause 1, subclause (2), paragraph (b), line 2, *delete* “users” and *insert* “service providers”.

Mr Joseph Y. Chireh: Mr Speaker, he has not given any reason for the amendment.

Mr Speaker: Yes, Vice Chairman, they would want to know the reason behind your amendment.

Mr Essilfie: Mr Speaker, that particular clause is to bring in some revenue from the providers of the service. When you use “users”, then in effect, you are looking at the end user who is the customer and I do not think that is what it was intended to be. That is why we are changing the “users” and bringing in the “service providers”.

Mr Opare-Ansah: Mr Speaker, this amendment materially changes the principles which we debated yesterday. Mr Speaker would recollect that we had an occasion to advise the Vice Chairman who is acting as Chairman to even *delete* a certain sentence from the Committee’s Report. If you read the memorandum, it is clear that the Government intended to charge users and not service providers.

Mr Speaker, the second point is that, Ghana is a signatory to an ITU regulation, the Melbourne Convention, which frowns upon the levying of taxes on communications that do not originate in the country of the administration, that is, to try to charge taxes on communication originating from outside the jurisdiction. In effect, you are trying to tax people making calls from outside this country. Mr Speaker, these are my concerns regarding this amendment.

Dr Kunbuor: Mr Speaker, the concerns raised by the Hon Member were considered but what we did go in, specifically, was to find out whether the policy objective was indeed, to tax the provider. Why the amendment became necessary is that, if you go to the interpretation column, originally, “user”

was used there because it also included provider in the definition. But we thought that we needed to clarify it by bringing it back to replace the user, so that it gives us the clarity, which is the object of the Bill to address this particular issue. Definitely, fiscal legislation is also one of the issues that international law does not impact or influence substantially.

So, we might have some international commitments in terms of telecommunications but when it comes to taxing, it is a purely sovereign activity and it is only the sovereign arrangements of a country that can decide whether they want to tax or they do not want to tax; that is a generally accepted principle.

So, when you are receiving any revenue that you do not want to tax as a sovereign right, you do that by a double taxation agreement within a bilateral or multilateral context. Yet once we have had the import of the policy as seeking to tax the provider, it does not go into the root of the legal substance of the Bill.

But the concern that the Hon Member has raised, is a policy concern and I guess that the Government might have to grapple with that arrangement.

Mr Speaker: Let me go back to the Hon Member for Suhum who raised the point. He made the point that we are a signatory to a certain international convention. Do you have the convention here to guide us?

Mr Opare-Ansah: Mr Speaker, I have it in electronic form on my telephone.

Mr Speaker: I would want you to read the relevant portion for us to hear.

Mr Opare-Ansah: Mr Speaker, if you could give me a few minutes, I will load it and read it to you.

10.50 a.m.

Mr Speaker: Very well.

Mr Dominic A. B. Nitiwul: Mr Speaker, a senior Member of our side raised an issue about standing Order 48. Just as we all wish to work and work very carefully, once somebody has raised an issue, it needs to be addressed.

Order 109 is also very clear on us putting Questions on issues and I thought that this issue would be addressed after the 10 minutes had elapsed before we could make progress on anything.

Mr Speaker, thank you.

Alhaji Mohammed-Mubarak Muntaka: Mr Speaker, I believe my Hon Colleague, on the other side, the Deputy Minority Leader, knows very well that we have a convention in this House. When we are at the Consideration Stage, usually, we do not lay much emphasis. But he can see that an effort has been made to get Hon Members in and I can say that, Mr Speaker, if you check the number now, you will see that it has truly appreciated far better than when the issue was raised.

I will indulge him and my Hon Colleagues who have this concern, if we could allow work to progress while we try to get our Colleagues who are in committee meetings to come in.

Thank you, Mr Speaker.

Dr A. A. Osei: Mr Speaker, as much as we want work to continue, normally, that convention holds when we are deep into the Consideration Stage. This is the starting of it. Some of us had to leave home very early to come here. These are some very serious matters we are looking at and if the Government’s side is not able to demonstrate to us that this is serious,

why should we take that position? If we had gone into about two or three hours of discussion and Members dwindled, I can accept that. But at the beginning— So, these are very serious and weighty matters that we are discussing and we should not think that a few of us can decide that. I take that very serious. I would want it to continue but I think that our rules should be observed.

It is not the convention two o’clock — yes, people will go but 10.50 a.m. and we do not even have a quorum? Already, we are running into issues about international conventions. It does not help for only a few of us to be looking at these matters and I think that the Majority Chief Whip should not find an excuse.

I have raised Order 48 — the rules are clear; after 10 minutes, some decisions — we can suspend while he looks on the down load, so that you get your act together. Suspend and bring the people but I am insisting on the Standing Orders.

Mr Bagbin: Mr Speaker, Order 48 that my very good Friend, the Member of Parliament (MP) for Old Tafo raised, was in general terms drawing our attention to lack of quorum. But no number was mentioned. In spite of that, Mr Speaker, you took action and I heard the ringing of the bell, which allows for 10 minutes.

Mr Speaker, the second Member who got up did not tell you that 10 minutes had passed. [*Laughter.*] He did not also tell you what number we have on the floor now to show that it does not constitute a quorum. And so, we should do things well.

If you are insisting, when you are moving the Motion, move and state the number — and Mr Speaker clearly told you that he will rely on the Clerks- at-the-Table and that is exactly what we are doing.

Mr Speaker, as of now, I can see a considerable number of Members on the floor [*Interruptions.*]

[MR BAGBIN]

Mr Speaker, my statement is that, I can see a considerable number of Members on the floor of the House. So, Mr Speaker, before we go to the decision, we would have to count now to see the number on the floor of the House. It is incorrect for my Hon Colleague to say that we are not taking business serious because you can see the numbers on our side of the House and as of now, they are just 1, 2, 3, 4 and 5 — *[Interruptions.]*

Mr Speaker, as of now, there are committees sitting and so, we would just ask the Whips to bring the Members in for us to continue. But I do not think it is advisable for us now to talk of adjourning the House because of lack of quorum. It has not been established that there is lack of quorum on the floor of the House.

Thank you Mr Speaker.

Mr Speaker: Hon Members, I would want to ask both sides of the House whether they want to press this point because I have been around for some time and I know what we do here. We should be very careful not to set precedent that will come to haunt us in the future. So, I would want to find out from the Leaders whether they want to press on these points.

Mr Kyei-Mensah-Bonsu: Mr Speaker, you are putting me in a very awkward position —

Mr Speaker: This is because you have conducted yourself so well— *[Laughter]*— as far as this matter is concerned.

Mr Kyei-Mensah-Bonsu: Mr Speaker, you know my own attitude when we come to Consideration Stage and I am happy you are saying that you have been around for a very long time.

Mr Speaker, I know if we have to rake the past, we would know the conduct of an Hon Member of the House called Hon Doe Adjaho, when it comes to matters relating to quorum. A former Member of Parliament now at another level, Mr Speaker, I do not want to go there at all.

As for the position being adopted now by a former Minority Leader, former Majority Leader, when he rose up, he also did not mention any numbers; he said we have a very considerable number of people here. And when he said that his side is represented in good numbers, he said the other side were just 1, 2, 3, 4, 5 —

Mr Speaker, I do not want to say that my brother and friend suffers from optical illusion, otherwise, this number is an illusion. Mr Speaker, these numbers that he sees on our side, the side that I represent — 1, 2, 3 — Charity should begin at home.

Mr Speaker, my own position is that, we should be liberal when it comes to Consideration Stage; I still hold that position and I would plead with Hon Colleagues not to press this issue because if we do, clearly, the position being taken by some people would be — Mr Speaker I do not want to continue but I would plead with my Hon Colleagues, that they should drop their gauntlets and plough their swords into their sheaths and we can move on. I would plead with them.

Dr A. A. Osei: Mr Speaker, in view of the pleadings by my Leader, I think that the point has been made and I am sure that the Minority Leader —

Mr Speaker: Hon Members, thank you very much.

We have the numbers to transact business and take decisions. So, Hon Members, let us proceed.

Yes, Hon Minister for Foreign Affairs and Regional Integration, I thought I saw you on your feet— Still on clause 1, the second amendment.

11.00 a.m.

Ms Hannah Tetteh: Mr Speaker, I was going to give some information but on second thought and after some review, I have withdrawn my position.

So, thank you for the opportunity.

Dr Mathew O. Prempeh: Mr Speaker, it is sometimes disheartening when the Minister for Communications is not here, especially as regards some technical issues.

Mr Speaker, the service operators have what we call termination charges among themselves all over the world and for that, AT&T in the United States (US) might have a termination charge with say, MTN in Ghana. Mr Speaker, what this clause is seeking to do, is to charge AT&T but in the era of simbox fraud that the Hon Minister says, maybe, even some local companies are involved, I do not know how —

Mr Speaker, somebody should explain to me when you receive international calls these days and the number becomes a local number on your phones, how the Government is even going to realise the revenue from this.

Mr Speaker, it is going to turn out to be another charge on local service providers. If the call is from outside, certainly, the service provider bringing the call inside Ghana is an international service provider. How are you going to collect your service charge or communication service tax from such an operator?

Mr Speaker, we need more answers than it is forthcoming from the financial experts, the financial engineers. I know the Ministry of Finance is piloting this Bill. But the technical issues involved in this Bill, we either need support from the

National Communications Authority or for that matter, the Ministry of Communications.

Mr Speaker, it is not just easy that somebody calls you — now, even some networks are international, like Vodafone. The termination charges among Vodafone networks in different countries are different. Say, if you are using 02 from the United Kingdom (UK) terminating a call in Ghana — These questions need to be answered and answered to the people's representatives. It is not easy charging service providers for such a thing.

Thank you, Mr Speaker.

Mr Bagbin: Mr Speaker, I believe that this is a matter of policy and we need to check from the proposers of the Bill, what the policy is. Is it the policy that Government wants to charge users of foreign calls? This is because that is what it states here or the proposed amendment to charge providers of the service. It is a matter of policy. So, let us get clarification from the Government.

If we cannot immediately do it here because the Minister is not around, then we can flag it, crosscheck and later pass. I believe that in many countries, they charge users for this service provided. Our worry here is the level of our income because any poor farmer can receive a call from somebody outside this country and that is a foreign call and then he would be asked to pay for the receipt of the call. That was our worry. But now, it is being shifted to the provider and that might not be the policy of Government.

In many American countries, I know the users are those who pay and not the provider. It is the user — *[Interruptions]* I did not say Untied States of America, I said American countries. *[Interruptions.]* By viture of my years in this House, I have

[MR BAGBIN]

toured many of those States and countries. *[Hear! Hear!]*

Mr Speaker, I would want clarification on this issue because really, charging the providers will raise some technical issues.

11.10 a.m.

Papa Owusu-Ankomah: Mr Speaker, I believe that Government is placed in a quandary, hence the problem we are facing presently.

Mr Speaker, the parent Act which we seek to amend provides in section 1, imposition. Section 1, subsection (1) says and with your permission, I beg to quote:

“There is imposed by this Act a tax to be known as the communications service tax to be levied on charges payable by consumers for the use of communication service.”

So, the Communications Service Tax is a consumer tax to be levied on charges payable by consumers for the use of communication service.

Now, we come to the amendment Bill; it talks about electronic communication services other than private electronic communication service and in the interpretation, we have —

“user” means “a customer or a subscriber of electronic communications network or service or broadcasting service and includes a customer that is an operator or provider”.

That is the problem This is because if really the purpose of this amendment is to rope in providers in addition to users, then it is inconsistent with the original Act. This is because the communications service tax is supposed to be a service tax to be levied on charges payable by consumers for the use of communication service. And then, I now come to the amendment, because the amendment itself,

I believe, is clarifying Government’s position, which Government sought to avoid.

So, this tax is not a service tax, it is an operators’ tax, including outside operators and that is a major policy shift which Government should have satisfied itself that it is in conformity with international conventions. So, this is not merely, as I see it, a financial matter. It is a communication policy matter and they should not even have come by way of an amendment but must have come by way of a substantive Act. No! We do not cut corners.

Mr Speaker, I have no problem with Government imposing a tax, in principle. In principle, I do not have any objection where Government seeks to impose a tax but Government must be clear in its mind. It should not be wishy-washy as we are saying in this case. It should not be clandestine as we are seeing in this case. It is clandestine insofar as it seeks. This is my opinion and that is why we are in Parliament. Yes, I am passing a comment on how I see this. This is because if you want to charge an operators’ tax, say so. That is my point.

This is what we want Government to say because if it is a user tax, then it is most difficult for a user to be paying any tax on this. I do not see how they are going to collect the tax in practical terms.

So, Mr Speaker, I support the view. If this is what Government wants to do, one, it should satisfy us that it is in conformity with international convention. I do not have any problem because when the time comes, it would be said that the Parliament of Ghana, as usual, contrary to international convention, has enacted a law which seeks to impose tax on service providers outside this country. I would not be privy to that unless it is not in violation of any international convention.

Dr Kunbuor: Mr Speaker, there is a technical issue involved here and that is what we need to clarify.

The first thing is that the Act that we are seeking to amend is actually a Communications Service Tax Act. After that Act was passed, there was a general broader Act that was passed to convert communications service into an electronic communications service; and there is a difference in the definition between communications service and the electronic communications service.

The second Act was passed after the first Act and because this is a drafting issue, you would see that the amendments are now beginning to adopt the latter regulation and L.I. — *[Interruption]* — The second one is Act 775, it is Electronic Communications Service Act, which is different from the Communications Service Tax Act. They are completely different — *[Interruption]* — Wait! I am coming.

We are talking of electronic communications and I am saying that there is a communication service and there is an electronic communications service. So, we are now converting — we are no more using communications services but electronic communications service, which is the broader ITA categorisation now in the new Electronic Communications Act, which came after this one.

So, what we are saying is that, all we are doing in this amendment is to get our communications service, which was the subject of the earlier tax, now amplified and put under the new category of electronic communications — *[Interruption]* — That is what I am saying — *[Interruption]* — Excuse me; do not let us confuse ourselves — *[Uproar]* — Excuse me; one is actually an Act.

The Acts that we are talking about and which are the subject here, are completely different numbers and if we get the

Committee’s Report — *[Interruption]* — Yes, one is 754 and the other is 775; and if we look at that Act, you would see that, that Act has, by implication, changed “Communications Services Act” into an “Electronic Communications Act” — *[Interruption]* — Yes, with the regulations. We can crosscheck it — *[Interruption]* — Just keep quiet for me to finish.

I am saying that there is a parent Act with regulations to the Act and it is the parent Act that converts Communications Services in Act 754 to Electronic Communications. The word “electronic” was not initially —

Mr Speaker: Hon Members, if you look at persons liable to pay the tax under clause 2(3) of the Bill, they did make reference to the Electronic Communications Act, Act 775 and Electronic Communications Regulation 2011, L.I. 1991.

Hon Members, the issues you are raising are very grave and very important. I have listened carefully to the Hon Member for Sekondi (Papa Owusu-Ankomah); I have listened also to the Hon Majority Leader. In order to effectively preside over the Consideration Stage of this matter, I need to have all these Bills and the Regulations with me, so that I can follow the arguments that are being made by the Majority Leader to see the effect of the latter legislation, that is, the Act 775 on the Communications Service Tax, so that we can really appreciate the point that is being made.

But let me hear from the Hon Minority Leader and one other person from the Majority side and then we would know what to do.

Mr Kyei-Mensah-Bonsu: Mr Speaker, it was just a small matter that I wanted to draw the attention of the Majority Leader to.

Mr Speaker, it is not about definitions; it is about the category of people who should be paying the tax. That is what is involved; it is not about definitions at all. And he was waxing on definitions; it is not what is needed here now. It is the category of people —

Mr Speaker: Hon Minority Leader, that is precisely the point that I am making. If you look at clause 2 of the Bill — “persons liable to pay the tax...” And then they mentioned those legislations that he was referring to in subclause (3).

Mr Kyei-Mensah-Bonsu: Mr Speaker, I know, but the Hon Member for Nadowli-Kaleo (Mr Bagbin) expressed some confusion about the policy. I think the policy really is captured in the memorandum and the memorandum provides in clause 1, the third paragraph of the first page, and Mr Speaker, I beg to quote the second sentence:

“The tax is to be levied on electronic communications service supplied by service providers and charges payable on electronic communications service received by users from sources outside this country”

Now, if we come to where it is intended to be amended, that clause 1(2)(b), they have used the same language there — “users from sources outside this country.” That reflects the policy as captured in the memorandum. Now, they are saying that they want to change it and that is where the problem is.

Mr Speaker: That is the point the Hon Member for Nadowli-Kaleo said, that it is one of policy issue. But you see, the Hon Majority Leader is also making a valid

point and you are also making a valid point. We need to reconcile — In fact, if they had not introduced those legislations under persons liable to pay the tax, we would have said that those legislations that he was referring to are not relevant. They are relevant to the extent that the persons liable to pay the tax — I would want somebody to refer to the relevant provisions of that law and let us see its impact and its effect on the Bill.

Hon Members, I am suggesting that let us suspend briefly, let us look at the relevant legislations, let us look at the conventions that our attention has been drawn to. We are making laws; we should not make a law only at the end of the day, to embarrass ourselves as a House.

Of course, we are also looking at — our attention has been drawn to the memorandum to the Bill and at the end of the day, what is the policy? What do we want to do, so that we are clear in our minds exactly what we are doing? We can defer this while we move to other matters.

Hon Members, do not forget that we devoted the whole of yesterday to this Bill.

11.20 a.m.

Dr Kunbuor: Mr Speaker, when we met yesterday, after the House adjourned, we did invite the policy people to ask them to tell us exactly what they want to do. And their communication to the group that met to discuss this matter, which included Hon Members from the other side, indicated that they wanted to, in addition to taxing, the conception of “user” in the Communications Service Tax Act to tax the providers as well. And the way they want to tax the providers, is through interconnectivity.

[DR KUNBUOR]

That explains why, if you look at the definition of electronic communication, it is completely different from the one that was in the Communications Service Tax Act, and it extends to include inter-connection. So, we are no more talking about electronic communication in terms of — but it extends to include interconnection. The interconnection is at the level of the provider.

If you come to “user”, the interpretation has defined “user” again to include a provider. These are the essentials of the amendment. So, I do not see the legal issue here. This is because they want to now begin to tax providers through inter-connectivity. They expanded the definition of “user” to include the provider; and in electronic communications or communications services to include a producer through interconnection. That is what is in the Interpretation section.

That is why I am saying, if you take the object of the Bill, and you go and take the new definition of electronic communication and you go to the interpretation section what a user means, you will see that all of them converge and the object is to tax the providers. So, the first charging section in the Communications Act that is left, you have brought the second charging section to now bring in interconnection and that is why it is worded the way it is. And all these issues were considered yesterday.

So, I would want us to look at it just from the pure legal perspective; if there is a problem with it, we re-draft. But the policy issue in the object of the Bill we debated, it is clear that they want to tax the providers and the providers being taxed would be through inter-connectivity. So, there is no doubt whatsoever in what the object of the tax is.

Papa Owusu-Ankomah: Mr Speaker, I do not have a problem with the explanation offered by the Hon Majority Leader. What it then means is that, now, for the purposes of the Communications Service Tax, the service providers are supposed to be users for purposes of the Communications Service Tax. And that is in conformity with international conventions.

If that is the case and if that is what the Government wants, I do not have a problem. So, if that is the undertaking being given by the Hon Minister in charge of Government Business, well, then — *[Laughter]* — He says if we have contrary views, fine. Once the issue is not — *[Interruption.]*

Dr A. A. Osei: Mr Speaker, there is no problem — *[Interruption]*

Mr Speaker, I do not have a problem if the Government’s policy now is to tax service providers as well. But the way it is being brought here, is very problematic. If you go to the memorandum, that section on clause 2, it is specific and I beg to quote:

“Where the service is received from a source outside this country, the tax is to be paid by the user who receives the service.”

The amendment that is being introduced, would change that to “service provider”. That is the policy change. So, I think we should think about bringing it properly.

The neater way would have come with a new Act that deals specifically with the service providers because using a definition in the Interpretation, then if you go to clause 1 (2) (b) — even in clause 1 (2) (b), the original language is “user”; it is not “service provider”. That is the problem we have and I think that we should look at this carefully, the Interpretation —

Mr Speaker: Hon Majority Leader, they are referring next to the memorandum of the Bill — and if you look at clause 2 — the explanation offered to clause 2 in the memorandum to the Bill, it says that where the service is received from a source outside this country, the tax is to be paid by the user who received the service. Now, we are making it “service providers” and that is the point that is being made. Maybe, you can clarify that position and we may see our way forward. After that, the Hon Member for Wa West —

Dr Kunbuor: Yes, Mr Speaker, it is because there is an old sense of the use of the word “user” and then a new sense in a subsequent legislation, which is the electronic communications and that is what has been lifted and brought into this amendment.

If we had not defined “user” here at page 7 of the Bill, which states that —

“... after the interpretation of “tax period”, “user” means a customer or a subscriber of electronic communications network or service or broadcasting service and includes a customer that is an operator or provider of electronic communications network. . .”

It is because of this expanded context of “user” in the amendment that it now also means “user” can be used interchangeably with “provider”. At the meeting yesterday, they said, to make it clearer, we should rather remove the “user” and bring “provider” in. That is why that was done, otherwise, the original rendition used “user” as understood in the Interpretation section, Mr Speaker.

So, if you are looking at “user” at the level of your old legislation, then you will not see “provider” in it. But if you are using “user” in the Bill and in the

Electronic Communications Act as defined, then it includes a “provider”, Mr Speaker. This is the technical nature of the issue.

Mr Joseph Y. Chireh: Mr Speaker, I think that what the Hon Majority Leader is saying clarifies the position. Number two, if you look at the amendments that are being proposed, there are two Bills that are involved. Now, because of the extensive nature of the amendments, I will agree with what many of my Hon Colleagues are saying, that a substantive Bill ought to have come, which would reconcile all the languages from the two and the most recent ones.

But in terms of the policy, I think the policy is clear. If you also look at the means by which the collection is done, if you say a “user”, you are not going to come to me directly and take the money. I must use the service of the provider and the provider will collect the tax and then transfer it to Government — the percentage we are talking about.

Therefore, sometimes, the conception about the use of the words “consumer” and “user” and the “provider”, we must also be linking them to the method of collection of the tax. And I think that with this clarification — Another issue of what the Hon Majority Leader is saying, is that, once we change what we are charging from just “communication” to “electronic communications”, it then clarifies what we are charging. Therefore, there should be no issue —

I have heard Hon Members talk about international conventions. But I am also saying, if we do not have these international conventions readily available, those who are using them, can they tell us what is in them? Otherwise, we are making our own policy to tax providers who in turn would charge users. Nobody is running away from that fact but it is the providers

[MRCHIREH]

you are going to charge. If you charge me, I would not pay because I do not know who to go and pay to, but I have been already charged when I was talking. I have also heard about farmers being charged and they may not be able to pay; that does not arise at all. This is because currently, we do not even know how much the charge is genuinely and particularly, those who generate Ghanaian numbers, even though it is somebody calling you from outside.

I think that the clarification is clear, the policy is definite and we should support the amendment that is being proposed.

11.30 a.m.

Mr Speaker: Hon Majority Leader, if you are telling this House that the definition of “users” is the definition in the Electronic Communications Tax, why do you not use that definition and why are we now changing it to service providers?

Dr Kunbuor: Mr Speaker, this was precisely what we started discussing. At the Committee meeting, I insisted yesterday that there is nothing wrong with using the word “user” if you go to the interpretation section and they said — But to give it some clarity, so that people can make a distinction between “user” as provider and “user” as consumer of the service —

Mr Speaker: But the point is that, having done that, you are still using the definition of “users” in the current Bill. You are using the “users” in the Electronic Communications Act; that definition is the same definition, which is in the current Bill. So, for consistency sake, you should not have filed this amendment; you should have left the clause there because we are using the “user” as referred to in the Electronic Communications Act.

Hon Majority Leader, are you getting the point I am making? This is because if you change it again, then it confuses the issue further.

Dr Kunbuor: Mr Speaker, this is exactly the type of consensus that we are trying to build and Hon Opere-Ansah and Hon J. B. Danquah would agree with me. I insisted that technically speaking, one could not change this word to “provider” without changing your definition of “user” in the interpretation.

It was like we had to build consensus to make the law clearer because they said clarity was the object. But technically speaking, there was nothing wrong with the use of the word “user” and that was why the Chairman agreed, that well, why do we not bring it that way while it would not do any violence whatsoever to it?

That is why this amendment became necessary. Otherwise, legally speaking, the amendment is not necessary to clarify the Bill. And if Mr Speaker agrees, we can stand down this matter and do further consultation and bring back the original rendition and we should not have that problem.

Mr Speaker would realise that yesterday, on this floor, I kept drawing attention to the technical soundness of the drafting because my attention was drawn to the Electronic Communications, which lifted and put in here. When one legislation is passed after another, it is anticipated by implication that if there is a conflict between the two, the latter legislation takes precedence.

And the draftsman used those as a guide in drafting. So, I thought this matter was understood in that context. So, if Mr Speaker would stand it down, we can do further consultations on it and get an acceptable rendition with the policy people and then come back.

Mr Opare-Ansah: Mr Speaker, the Majority Leader seems to be labouring to determine whether to use “user” or “service provider.” The fact remains that whatever he succeeds in doing, the Government wants to levy some tax on inbound international traffic; that is the issue.

As the Hon Leader alluded to, we held a meeting yesterday and we drew the attention of the policymakers to the fact that in the Electronic Communications (Amendment) Act, there is already a 6 per cent per minute levy. By law, no operator is allowed to charge anything below 19 cents per minute. And 32 per cent of that money is paid to the National Communications Authority (NCA) to be paid into the Consolidated Fund.

So, clearly, Government wants to now impose a 6 per cent additional tax on the 13 cents that accrue to the operator. And our position is that, if this is the policy that Government wants to implement, they should come very clear instead of this confusion that we seem to be having over the definition of who a “user” is.

Mr Speaker, that is when we drew attention to the Melbourne Convention. Mr Speaker, I have it here now. In article 6, specifically 6.13 of the *International Telecommunication Union (ITU)*, it says, and Mr Speaker, with your permission I beg to read:

“Where in accordance with the national law of a country, a fiscal tax is levied on collection charges for international communications service, this tax shall normally be collected only in respect of international services billed to customers in that country.”

Mr Speaker, that is why we are saying that if there is a call originating from Ghana, where users are billed for calling destinations outside this country, then

you are free per this convention to levy your taxes on them. But where calls are coming into your country, originating from sources outside this country, according to the clause that we are dealing with, then it is against the principles of this convention to try to levy any tax on them.

Mr Speaker, that is why in amending Act 775 previously, to get that 6 cents for Government, Government could not come straight to this House in the form of a tax, but raised it to 19 cents and took a whopping 6 cents out of the 19 cents as if it is doing some revenue sharing with the operators. Today, after doing your revenue sharing for several years, suddenly, you are going against the principle of this Convention to tax the 13 cents that the operator is keeping.

Mr Speaker, after taking this tax, it is a revenue that would accrue to the operator. At the end of the day, the operators would have to pay taxes again — coming to this House with this policy and other things like stabilisation levy and the rest —

Mr Speaker: Hon Member for Suhum, you are shifting to something else. Let us concentrate on the Bill before us. You raised the issue and referred to the International Treaty or Convention to which Ghana is a signatory and they were asking for further and better particulars from you. Let us see whether it is one of policy, let us see whether it is illegal. Those are things that we are concerned about. Whether what we are doing is contradicting the law that you referred to, so that we would know exactly what we are doing.

Hon Majority Leader, why do we not defer this matter and take sometime with it and then bring it back?

Dr Kunbuor: Very well, Mr Speaker.

Mr Speaker: This is a very technical —

Dr A. A. Osei: Mr Speaker, if I can crave your indulgence, I think it would be useful to get the communications people involved in terms of policy because this matter is coming as a revenue measure and I am not sure the Ministry of Finance will be able to deal with telecommunication issues because that is where the problem is. I think, for us to move forward, it will help this House if they are involved, not the Hon Minister necessarily but in policy form, so that we can combine the two.

Mr Speaker, if you look at it purely as a revenue measure, we would run into the kind of trouble we are in now.

Dr Kunbuor: Mr Speaker, there are many areas of their own regulatory regime and when one moves in to tax that particular regulatory regime, one must be very careful not to look at the regulatory regime of that sector in terms of tax regime. The two are completely different. Mr Speaker, that is why I am saying that you can bring in all your communication experts on this matter.

They will take you through the regulation threshold and what you need to do in terms of international regulation. But that still will not answer your question on what you want to tax. That was why yesterday, I drew attention to something which had to do with the tax base. This is because what we are dealing with now is to identify the particular base, which is the circumference of what is out to be taxed. Government is the one that will take political responsibility for that policy decision to tax.

It comes with consequences. So, we cannot sit in this House and be seen taking away the consequences of a policy decision that is not illegal or unconstitutional. If there is something illegal about

it, if there is something unconstitutional about it, this House would make sure that that does —

But if it is an executive policy position and it is not so absurd to the extent that they said they want to tax and tax again, then it is a political question that has to be decided and taken over. But whether legally, we have structured the tax regime in a way that it can go through the House, I think we have. As a tax regime, we have — but I am amenable to —

11.40 a.m.

Mr Speaker: Hon Majority Leader, I entirely agree with you that we should concentrate on the legal and constitutional issues that are being raised and that is why it is — and then the technical issues in terms of definitions and all those things and at least, your explanation now has actually clarified some of the confusion in the minds of some of us that you are lifting the definition from a latter legislation into the current one.

That has also clarified the position. But in order to make progress, I suggest that let us move on and then we come back to this particular Bill.

Do we take item numbered 12, the Value Added Tax (Amendment) Bill, 2013?

Which item are we taking?

Dr Kunbuor: Item numbered 16, Mr Speaker.

Mr Speaker: Why not 12?

Dr Kunbuor: I was guided —

Mr Speaker: Very well.

Hon Deputy Minister for Finance, they took permission —

Hon First Deputy Speaker to take the Chair.

BILLS—SECOND READING**Special Import Levy Bill, 2013**

Deputy Minister for Finance (Mr Cassiel A. B. Forson) (*on behalf of the Minister for Finance*): Mr Speaker, I beg to move, that the Special Import Levy Bill be now read a Second time.

Mr Speaker, the purpose of the Bill is to impose a special import levy on imported goods at the point of importation.

Mr Speaker, I thank you very much.

Question proposed.

Vice Chairman, Committee on Finance (Mr Gabriel K. Essilfie) (*on behalf of the Chairman*): Mr Speaker, I rise to support the Motion. And in doing so, Mr Speaker, I would like to crave your indulgence to present your Committee's Report.

Introduction

The Special Import Levy Bill was presented to Parliament by the Hon Minister for Finance and read for the First time on Friday, 28th June, 2013. The Bill was referred to the Finance Committee for consideration and report in accordance with article 174(1) of the 1992 Constitution and Order 169 of the Standing Orders of the House.

Mr Speaker further directed the Committee to determine whether the Bill is of urgent nature to be taken through all the three stages of article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Pursuant to the referral, the Committee met with the Hon Minister for Finance, Mr Seth E. Terkpeh, Deputy Ministers of Finance, Hon George Kweku Ricketts-Hagan and Hon Cassiel Ato Forson, officials from the Ministry Finance,

Attorney General's Department and the Ghana Revenue Authority (GRA) and considered the referral.

The Committee is grateful to the Hon. Minister, Deputy Ministers and officials from the Ministry, Attorney-General's Department and the GRA for their assistance.

Reference

The Committee referred to the following additional documents during its deliberations:

The 1992 Constitution of Ghana.

The Standing Orders of the Parliament of Ghana.

The Ghana Revenue Authority Act, 2009 (Act 791)

Harmonised System and Customs Tariff Schedules 2012.

Background

The Government in the 2013 Budget Statement and Economic Policy presented to Parliament outlined a number of measures aimed at fiscal consolidation and promotion of growth. However, the 2013 Budget has a funding gap of about eight billion Ghana cedis. There is therefore, the need to identify other avenues for revenue generation to help mobilise funds to finance the funding gap in the budget as well as reduce the 2013 budget deficit.

The Special Import Levy, therefore, represents one of the measures being adopted to increase revenue generation to support government programmes outlined in the 2013 Budget.

Purpose of the Bill

The Bill seeks to impose a special import levy on selected imported goods at the point of importation.

[MRESSILFIE]

Provisions of the Bill

The Bill is divided into six clauses as follows:

Clause 1 imposes a special import levy on imported goods to be paid at the point of importation and to be computed on the Cost, Insurance and Freight (CIF) value of the goods for the 2013, 2014 and 2015 calendar years.

Clause 2 provides a schedule for the computation of the levy imposed under clause 1 for the various imported goods described.

Clause 3 provides for the administration of the Levy. The clause mandates the Ghana Revenue Authority as the sole entity responsible for the administration of the Levy.

Clause 4 provides that the Customs, Excise and Preventive Service (Management) Act, 1993 (PNDCL 330) applies for the assessment, collection and recovery, of the Levy imposed and for related matters with the necessary modifications.

Clause 5 mandates the Commissioner General of the GRA to pay all amounts collected into the Consolidated Fund.

Clause 6 relates to interpretation and definition of terms used in the Bill.

Observations**Urgency of the Bill**

The Committee, in its deliberations, considered the Bill to be of an urgent nature and must be taken through all the stages in one day in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Expected Revenue

The Minister informed the Committee that the estimated revenue expected from the imposition of the Levy for the remaining half year of 2013 will amount to two hundred and eight million Ghana cedis (GH¢208,000,000). The Minister added that the revenue will ensure fiscal stability and provide resources for investment in social services and infrastructure across the country

Levy on fertilizers

The Committee observed that the Bill proposed a 1 per cent levy on all fertilizers listed under Chapter 31 of the Harmonised System and Customs Tariff Schedules, 2012. Though the Committee is not against the attempt by Government to raise additional revenue to implement the programmes and projects outlined in the 2013 Budget, it believes that the proposed levy will increase the cost of fertilizers and ultimately lead to an increased food cost.

The Levy further has the potential to impoverish the many subsistence crop farmers, most of whom are below the poverty line. The Committee accordingly proposed the deletion of the 1 per cent levy on fertilizers.

Amendments

Based on the above observation, the Committee proposed the following amendments to the Bill:

- i. Schedule (Regulation 2) S/No 2 — Amendment proposed — *delete*.
- ii. Schedule (Regulation 2) S/No 3 — Amendment proposed — line 3, after “27” *insert* “and fertilizers listed under Chapter 31”.

[MR ESSILFIE]

Conclusion

The Committee, upon a thorough examination of the Bill, is confident that the Levy would help raise additional revenue needed to implement projects and programmes outlined in the 2013 Budget. The Committee accordingly recommends to the House to adopt its Report and take the Special Import Levy Bill through all the stages in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Respectfully submitted.

11.47 a.m.—

[MR FIRST DEPUTY SPEAKER IN THE CHAIR.]

Dr A. A. Osei: I think something has gone amiss. We should have done item number 15 before 16. But we suddenly jumped to 16 when item 16 has not been taken care of. Procedurally, we have to do item number 15. This is the first time we are looking at this Special Import Levy Bill and we are going to the Second Reading. I think a mistake has been made and we ought to correct it before we go further.

Mr First Deputy Speaker: Hon Member, I believe that if you look at the first Motion numbered 5, the reason for doing away with that would appear to be the same reason that we would have to apply to this one.

Dr A. A. Osei: Mr Speaker, yesterday, we went through all of that Motion through the Second Reading and the Consideration Stage was today. So, that is the reason. But this is the first time we are coming to this one.

Mr First Deputy Speaker: Yes, I appreciate the point you are making but you see, because the Bill has been placed

under a certificate of urgency or has been decided by the Hon Members of the Committee to be urgent, we do not need to be looking at notices any longer. So, that is the position.

Ranking Member of the Committee (Dr Anthony A. Osei): Mr Speaker, the purpose of the Bill as stated in the Memorandum, with your permission, I beg to quote:

“... is to impose a special import levy on imported goods at the point of importation.”

Mr Speaker, if you look at the Schedule at the back of the Bill, you would notice that the Government is specific about which harmonised codes they are picking — that is 84 and 85 on the first one — Mr Speaker, are you with me? — On the Schedule —

Mr First Deputy Speaker: Yes, I am with you. Which part of the Schedule?

Dr A. A. Osei: Number one — Machines and Equipment listed under Chapters 84 and 85 of the Harmonised System and Customs Tariff Schedule 2012. That is the Special Import Levy on the back.

Mr Speaker, I am informed that — *[Interruption]*

Mr First Deputy Speaker: Yes, we are listening.

11.50 a.m.

Dr A. A. Osei: Mr Speaker, I think the senior Hon Members who are making that noise ought to be disciplined —

Those included items such as outboard motors, generators, energy saving bulbs— **[An Hon Member:** Cocoa spraying machines] Cocoa spraying machines? No! I am not sure. I am wondering if the

[DRA. A. OSEI]

Government has thought this through very well. These items were given zero rated for a specific reason. Now, suddenly, we are looking for money and we want to go and tax one per cent of the CIF value of these items? I think the Government ought to reconsider it.

These items were given a zero per cent rate to encourage people to bring energy saving bulbs. Energy saving — I am sure the Hon Minister for Energy and Petroleum was not consulted on this matter, neither was the Hon Minister for Fisheries and Aquaculture Development. This is because we are going to discourage specifically the Food and Agriculture Ministry.

Mr Speaker, I am wondering — This is supposed to be a Cabinet decision, so unless the Government is telling us that this “Better Ghana Agenda” now wants to tax fishermen, farmers, and people who want to save energy. If that is what they want to do, let the people of Ghana decide. But I am sure that if you look at it as a purely revenue measure — *[Interruption.]* So, I think I am raising this issue as we go through the Memorandum for the movers of the Bill to look at it carefully.

Mr Speaker, I see the conference of Hon Ministers —

Mr First Deputy Speaker: Hon Member, can we get the response from — *[Interruption.]* No! I know. This is a very important point that he has raised. I think we need some kind of response. The Energy and Petroleum Minister, fortunately, is over here with us and — *[Interruption.]* Let us hear from him.

Alhaji Mohammed-Mubarak Muntaka: Mr Speaker, with the greatest respect, if you could allow the debate to

continue, because these things were taken care of at the Committee level. At the tail end, the Hon Minister will have the opportunity to do a wind up instead of responding to every issue that is raised. So, I would plead with you, even though you have made this comment, to allow the debate to flow, so that towards the tail end, he summarises on all the issues. I think that would be better than responding to every single issue.

Mr First Deputy Speaker: All right. Thank you very much.

Hon Member for Old Tafo, continue.

Dr A.A. Osei: Mr Speaker, it would have helped me greatly with my contribution if I had been given answers. It would help in the other parts of my contribution, to enrich the debate. I think it would have helped me.

But Mr Speaker, you and I were not there, so, once you have directed, I will —

Mr First Deputy Speaker: Hon Member, I can assure you that after the response has been given at the end of your contribution, if there is any need for you to come back, I would let you.

Dr A.A. Osei: Mr Speaker, I thank you.

The second issue I would want to bring your attention to, is the matter of clause 1 of the Bill. I do not see the Hon Chairman of the Committee. Clause 1 of the Bill, and the Hon Chairman of the Committee whom I am addressing just read it. We are addressing it and he is standing there having a conversation —

Mr First Deputy Speaker: Hon Chairman of the Committee, we need you to take your seat, so that you can listen to the contributions.

Dr A. A. Osei: Mr Speaker, the Hon Chairman has brought us the Report and we are addressing the principles in it and he is not paying attention.

[DR A. A. OSEI]

Mr Speaker, you would recall that yesterday, I indicated that I was not at the Committee meeting, so, I could not raise some of these issues. But I think now that the Report has come, it is important that we raise them.

Mr Speaker, I will read clause 1 of the Bill. With your permission, I beg to quote:

“There is imposed by this Act for the calendar years of 2013 . . .”

Today is July 3rd, 2013, and there is imposed by this Act, calendar years of 2013. The Committee knows very well article 107 of our 1992 Constitution, so, I am wondering what the Committee was thinking about. They are not proffering any amendment. They want to give us retrospective taxation; yes. “Calendar year” means calendar year. It starts from January 1, as defined at the back. [Interruption]

Mr Joseph Y. Chireh — *rose* —

Mr First Deputy Speaker: Yes, Hon Chireh, is it on a point of order?

Mr Chireh: I have a point of order, Mr Speaker.

The Hon Old Tafo —

Mr First Deputy Speaker: Hon Member for Old Tafo —

Mr Chireh: The Hon Member for Old Tafo is misleading the House by what he is saying. No law can be implemented unless it is passed, and it takes effect only when it is passed by this House, with effect from the day it is passed. The six months are gone. So, he should not mislead anybody.

Dr A. A. Osei: My Speaker, my senior Friend and Hon Colleague should go to page 3 of the Bill, unless he is optically,

physically challenged. “Calendar year” means the 12 months period starting from 1st January. [Interruption.] That is what we are being told. I am saying that no amendment is being proffered, even on the Interpretation and that should have come. So, what he is saying about the Bill is neither here nor there.

The Committee met and is giving us a Report. It is unconstitutional for Parliament to accept what the Committee is telling us — The January 1st. That is the point I am making, that an amendment should have been proffered. [Interruption.] It is not, and I am bringing the Committee’s attention to it, that clause 1 as it is, ought to have been amended. That is all I am suggesting — [Interruption]

Mr Essilfie: Mr Speaker, I would want to respond to what the Hon Ranking Member of the Committee — *On a point of order.*

Mr Speaker, at the Committee meeting, this issue was actually raised by another Hon Member and I, because, definitely, as an accountant, when I read that, it meant something differently to me than what I was told. And the Hon Minister explained, just as the Hon Member for Wa West said, that once the Bill is passed, its effective date for the charge is when the Bill is assented to and that it is not a retroactive charge. There would be no retroactive calculation. And that was why in the Report, we would have addressed it.

So, I do not want the Hon Ranking Member to play to the gallery as if the Finance Committee members do not know what they are doing.

Mr First Deputy Speaker: Hon Member, please, watch the choice of words. I think he has raised a point; we need to address it. Some contributions have been made indicating that it is

[MR FIRST DEPUTY SPEAKER]

effective from the date of the passage of the Bill into an Act, so, let us make some progress.

When he completes his submissions, we would listen to the Hon Members of the Committee and then possibly, the Hon Ministers responsible.

Dr A. A. Osei: Mr Speaker, the Hon Vice Chairman is my good Friend, but I find it offensive and I am asking you to direct him to withdraw the statement that I am playing to the gallery. I find it very offensive. He is my Hon Friend, but on this matter, I am sorry. [An Hon Member: Do you play to the gallery at committee?] Was he playing to the gallery at the Committee?

Mr Speaker, he should withdraw it.

Mr First Deputy Speaker: Hon Vice Chairman, I think it is in order that you withdraw that portion of your contribution.

Mr Essilfie: Mr Speaker, I withdraw it, but I do not know why my Hon Friend is so upset because the gallery is empty.

12.00 noon

Dr A. A. Osei: Mr Speaker, it is good and well to say that it was discussed by the Committee but we have this Report and nothing is said about it. Even if that discussion had been put in the Report, we would have raised different issues. Mr Speaker, I have told you why I was not there, if you want me to repeat it, I will. [Interruption.]

Alhaji Collins Dauda — *rose* —

Mr First Deputy Speaker: Hon Member, is it on a point of order?

Alhaji Dauda: Yes. Thank you very much, Mr Speaker.

Mr Speaker, my Hon Friend is misleading the House. In considering a Bill in this House, particularly at the Consideration Stage, the Committee proposes amendments but the House is not tied to the amendments proposed by the Committee.

Hon Members of the House also equally have the right to propose amendments and therefore, he should not continue to say that the Committee omitted to make that amendment. Other Hon Members of the House can equally make amendments. So, if he wants to propose an amendment to that effect, he can do so and save us the trouble of going round this issue.

Mr First Deputy Speaker: Hon Member for Old Tafo, I think the point is well made.

Dr A. A. Osei: Mr Speaker, I am not sure of where he is going. My point is that we are debating the principles and also the Report. I do not know if he has a copy of the Report. It does not mention anything about a discussion on the time for it to be effective; it does not. And I am saying it should have — I am not talking about an amendment.

I know— he has been here longer than me but I know that at the Consideration Stage, Hon Members can propose amendments. I am a member of the Committee but I was not present. I am inferring that the Committee should have looked at that.

Mr First Deputy Speaker: Hon Member, from what you are saying, if we should go along with you, it will mean that there will be the need for an amendment to that portion. That is why he is saying that if it is a question of amendment, you are free to also propose it.

Dr A. A. Osei: Mr Speaker, as a Member, I know I am free. He does not have to tell me. The people of Old Tafo brought me here to propose that. I have no problem.

The next point I would want to look at is the information on the expected revenue. Yesterday, I raised the question on the expected revenue on the Communications Service Tax. I was told that the information would come but so far it has not come. I am drawing the Hon Minister's attention that when we go back, it would be useful. The Hon Minister informed the Committee that the estimated revenue expected from the imposition of the levy from the remaining half year for 2013 would amount to GH¢208 million

I think in discussing this matter, it would be useful for the Hon Minister — because we are talking about three categories and already the Hon Chairman is proposing an amendment that will *delete* 2. By implication that GH¢208 million should be less. It would be helpful if in talking about the matter for item number 1, he can give us the amount that is expected from there.

As I said, right now, item number 2 is zero. If we take the amendment and maybe, for item number 3, he can give us the figure that will help us see the way forward.

With those few words, I thank you, Mr Speaker.

Mr First Deputy Speaker: Any more contributions? No more contributions, so I will go ahead and put the Question.

Hon Minister, can you address the issues raised, especially with regard to what the Hon Member for Old Tafo said?

Mr Forson: Mr Speaker, it is true that the HS Code, we have certain items like engines and other machinery which are

zero-rated. But this has become necessary in view of the fact that there is an urgent need for us to close the fiscal gap. That is why the Ministry of Finance is coming in with an amendment to be able to raise enough revenue to address the fiscal challenges that we are facing at present.

Mr Speaker, I also want to make a quick remark how —

Mr First Deputy Speaker: The Hon Deputy Minister is winding up; I do not know —

Dr A. A. Osei — rose —

Mr First Deputy Speaker: Is it on a point of order?

Dr A. A. Osei: Mr Speaker, I would want to make sure that I understand what he said, because he is answering to my direct query.

Is he saying that the Government has decided that because they want revenue, they are willing to tax fishermen? Is that what he is saying? He should be clear.

Mr First Deputy Speaker: Hon Deputy Minister, please, proceed.

Let us have some order.

Mr Forson: Mr Speaker, I would want to put on record that we are not saying that we are taxing fishermen. What I am trying to imply is that, indeed, there are items in the HS Code that say that items such as engines and other motors are zero-rated but we are very much aware of its implication. But it does not necessarily mean we are taxing fishermen. It does not necessarily mean that and I would want to put that on record.

[MRFORSON]

Mr Speaker, I would want to further state that this has become necessary in view of the fact that there is an urgent need for us to close the fiscal gap and that is why we are coming with this tax measures to close the gap.

Mr Kyei-Mensah-Bonsu: Mr Speaker, it seems to me that the Hon Deputy Minister has left several questions unanswered.

First, he raises the issue that Government has determined to resort to measures to close the fiscal gap. Now, he must tell this House what the quantum of the fiscal gap is.

Second, the Hon Muntaka, the Majority Chief Whip is indicating to me that that amount was in the budget; I agree. But let him be assured — Mr Speaker, there are so many figures that have changed in the budget document. The Hon Deputy Minister knows that. There are figures that have changed in the budget document. *[Interruption]* Are you asking me “what”? Should I tell you one?

Mr First Deputy Speaker: Hon Member, can you please, address the Chair. Please, address the Chair.

Mr Kyei-Mensah-Bonsu: Mr Speaker, so, it is something that he must allude to. Then he says, relating to the question that has been posed to him, they are resorting to these measures of taxation to rake in funds to bridge the gap. Would that justify the resort to any vehicle at all to rake in funds because there is fiscal deficit? Clearly not. There should be reason-ableness and affordability injected in this. So, he should let us know if he will consider this resort to be reasonable.

He just spoke to us about the application of this tax on engines including outboard motors and he said that: “Oh, fishermen are not being taxed”. But outboard motors are included in the engines that he is applying this tax on. That is why we are saying that we should be very reasonable in the application of the tax.

First of all, we agreed that if there is a funding gap, we need to resort to taxation. It is time that we lived up to our responsibilities. I agree. But it should not be because we need to fill the gap, the resort should apply to whatever, however, regardless of whatever is raised. That is the issue being raised by my Hon Colleagues and we would want him to specifically answer to these queries.

Alhaji Dauda: Mr Speaker, I am very clear in my mind that you were about to put the Question but you asked the Hon Deputy Minister for Finance to wind up. I would want your direction on this matter, whether in a debate, a Minister is under obligation in this House to respond to all the concerns raised. I would want a direction from the Chair.

12.10p.m.

Mr First Deputy Speaker: Hon Members, I think it would be very absurd to expect that every point raised would be addressed at this stage. No! I think that we have to be as reasonable as possible.

Dr A. A. Osei: Mr Speaker, on the second matter which is on the revenue, he did not respond to it at all. *[Interruption.]* It is very important because the Report says GH¢208 million. Already — *[Interruption.]* So, I think it is important.

Mr First Deputy Speaker: All right. I will ask him to respond.

Mr Forson: Mr Speaker, at the Committee, after taking off the fertilizers, we came to an estimate of a total amount of GH¢208 million to be raised as and when this law becomes active. *[Interruption.]*

Dr A. A. Osei — *rose* —

Mr First Deputy Speaker: Any more? I thought I was going to put the Question?

Dr A. A. Osei: Mr Speaker, just for clarity. *[Interruption.]* We are going to vote on the matter, just for clarity.

Mr Speaker, I was specific in my query. We have three items; he said the total is GH¢208 million and I am saying, as it is now, number 2 has been neutralised to zero. So, is he saying that between one (1) and three (3) is where the GH¢208 million is coming from and what is the distribution if he has it here? This is because if he gave it at the Committee, then it means he has it.

Mr First Deputy Speaker: Hon Deputy Minister, do you have a response to that, please?

Mr Forson: Mr Speaker, I think I have answered the question. I said, that obviously, outside the fertilizers, we are estimating a total amount of GH¢208 million and that is what I said. It is GH¢208 million per our estimate, and I would want to say that that is an estimate. It is not cast that we are going to accrue that revenue. This is an estimate.

Dr A. A. Osei: Mr Speaker, just —

Mr First Deputy Speaker: Hon Members, I think that I will put the Question.

Question put and Motion agreed to.

The Special Import Levy Bill, 2013 was accordingly read a Second time.

Alhaji Muntaka: Mr Speaker, we would want to proceed further to item 18, which is the Consideration Stage of this very Bill.

Mr First Deputy Speaker: Item 18 —

Dr A. A. Osei — *rose* —

Mr First Deputy Speaker: I thought we had finished with that issue?

Dr A. A. Osei: Mr Speaker, I stood up to catch your eye, but your eyes apparently were looking elsewhere. Mr Speaker, I would want to crave— I was looking for you to get a headcount on the earlier vote but —

Mr First Deputy Speaker: Hon Members, item 18 — Special Import Levy Bill, 2013 at the Consideration Stage.

BILLS — CONSIDERATION STAGE

Special Import Levy Bill, 2013

Clause 1 — Imposition of special import levy.

Mr First Deputy Speaker: There is no amendment pending. Is that alright with you?

Dr A. A. Osei: Mr Speaker, I was going to ask the Hon Chairman to consider that clause again, and maybe, at the Second Consideration Stage — It is not clear in clause 1 what the words “at the point of importation” means — This is because what we are saying is that it should be collected — That is how I am reading it — It should be collected at the other end but there is no definition.

So, the Hon Chairman should consider it, otherwise, at the Second Consideration Stage, we may have to — *[Interruption.]*

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think it is important that the Chairman of the Committee takes this on board. This is because the point of importation is different from the point of entry; it is different. I think for reasons of clarity, we should look at that. *[Interruption.]*

Mr Speaker, the answer does not lie in the shaking of the head of the Hon Vice Chairman. The answer does not lie in the shaking of the head. The two are different. We should look at that.

Mr Speaker, then the other one is the point raised by the Hon Member for Old Tafo in respect of the calendar years 2014 and 2015. There is nothing wrong with 2014 and 2015, but 2013 would pose a problem, the way it has been captured. Mr Speaker, we should not be misled by whoever is saying that it comes into effect and it starts counting when the President appends his signature.

Mr Speaker, that is not true. It does not exist in the Constitution. The Constitution provides that it becomes law when the President assents to it. As to when it starts counting — *[Interruption.]* He himself has given a definition of the calendar and he says calendar year means “the twelve calendar months starting from 1st January”. That is where the problem is. So, we have to look at it and re-capture it. So, these are the two things that I may want the Committee to reconsider. *[Interruption.]*

Mr Mahama Ayariga — *rose* —

Mr First Deputy Speaker: Before you make a contribution, Hon Minister for Information and Media Relations, I think that if there is a problem with the definition, when we get to clause 6, we can look at it. But for now, let us go with it. When we get to clause 6 and there is a need to amend it by way of a definition to make it more specific, we can do that.

Mr Kyei-Mensah-Bonsu: Mr Speaker, there are two issues; the date and the point of importation as against the point of entry.

Mr First Deputy Speaker: The point of importation, can you address that?

Mr Ayariga: Mr Speaker, I think that clearly, Hon Members on the other side have raised concerns about the interpretation of “calendar year”. My understanding, Mr Speaker, is that, the Bill makes provision for a calendar year and tries to define it. When the law comes into force, that is when the power to charge, levy or to take the duty comes into force. So, at that point, when one imports an item, it is only then that one becomes liable to pay.

As we speak, one is not liable to pay if one imports any item until this becomes law. So, it does not matter if the definition of a “calendar year” says “a calendar year begins from January to December.” It is the day that one imports the item and if at the day that one imports the item there is in existence of a law that says that one is liable to pay a duty, then one’s liability arises.

So, I do not see why there is an attempt to relate the definition of “calendar year” to when an individual becomes liable to pay a duty. One only becomes liable if the law comes into force. As for the law, it makes a general definition of a calendar year. So, I think that once the law comes into force, it is the day that the President gives his assent; it is from that day that all those who are importing become liable to pay their duty. It has nothing to do with the definition of “calendar year.”

Mr First Deputy Speaker: Hon Members, if we are not careful, we will belabour this point. I think that when we get to clause 6, we can set the record straight. Assuming that there is the need for an amendment regarding the definition of “calendar year” —

12.20 p.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I agree with you that we may have to perhaps, wait. But the path that the Hon Minister for Information and Media Relations is leading us onto is very, very erroneous; it is a path of unrighteousness. Mr Speaker, he says to us that the date that the President assents to a Bill is the effective date of the operation of the law. Mr Speaker, he is totally wrong. It is not true.

Mr Speaker, article 116 (11), for instance, gives Parliament the authority to postpone the effective date of a Bill. So, if the President assents to it today and Parliament says that it should have come into operation in December or even the following year, he will be wrong to say that immediately the President signs it becomes operational. He is totally wrong. That is number one.

Number two, Mr Speaker, there is nothing here which suggests, that is, article 106 (11), which says that immediately the President assents to that Bill, it becomes operational. There is nothing there. That is why we should be careful when we construct the language in this manner. Yes, article 1 says that it should be imposed in calendar year 2013 and it goes on to say that calendar year 2013 starts on January 1st. Let us make it neater; that is all that we are saying.

I think that it is not beyond us. We can have a re-construction of that in respect of year 2013 — in respect of that year alone. I think it is very reasonable a proposition, which should be understood by the Hon Minister who is striving in a very spirited way to mislead this House.

The leg I guess, Mr Speaker, we should also address, that is the entry point and the point of importation, is something innocuous and we can also take that on board.

Mr Ayariga: Mr Speaker, the object in this Bill for which the calendar years have been specified, is to state that this is not a law that will stay until amended or repealed. This is a law that is applicable for just a period of three (3) years and then there is an attempt to define the calendar year, so that we know from when it starts and when it ends. That is why in the opening clause, we have a provision that says “for calendar year 2013, 2014, 2015” —

It is to give an indication that this is a policy that is meant to be implemented within a certain limited period; that is the object. Now, when it comes to the issue of whether or not for 2013, if we pass this Bill and it is assented to, if one imported an item in February, the importation of that item will attract a duty — Mr Speaker, the argument I am putting forward is that the duty is at the point of entry, which is usually the port or the border where one is entering the country.

That is where the duty is applicable. I am saying that as we speak, there is no such law and the law will only apply at the point of entry. So, if at the time that this law is in force, the item arrives at the point of entry, that is when one is held liable for the payment of the levy. Mr Speaker, there is no dis-ingenuity in this and there is no attempt to mislead this House.

If he thinks that it is not clear enough and he wants to introduce an amendment, Mr Speaker, he can introduce it. It will be

[MR AYARIGA]

debated in this House. We will decide whether or not we will accept his amendment and if we vote on it and subsequently anybody thinks that it violates a Constitutional provision, so be it. But this is my understanding of the provisions contained in this Bill.

Mr First Deputy Speaker: Thank you very much. I will want us to make some progress. I have already indicated that when we get to clause 6, we can take a bite at the issues being raised now. In the meantime, we are dealing with clause 1.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect — the other point is the unclarity about the point of importation or point of entry. If we stick to it, then I would suggest that we define “point of importation” so that we are very clear in our minds.

Mr First Deputy Speaker: Hon Chairman, what is your response?

Mr Essilfie: Mr Speaker, it is taken on board and when we get to the amendment, we will do so.

Mr First Deputy Speaker: Clause 1 ordered to stand part of the Bill —

Clause 1 to 5 ordered to stand part of the Bill.

Clause 6 — Interpretation.

Mr First Deputy Speaker: Yes, over here, we have a number of amendments. If we can take those amendments.

Mr Ayariga: Mr Speaker, even though I had said earlier that clause 1 could be read to mean when the Act comes into force, for clarity, I think it would be good to indicate that in the Interpretation of Calendar Year and to add at the end of the same year, that provided that for 2013 — *[Pause]* — except that for 2013, the Calendar Year will commence upon the passage of this Act — *[Interruptions.]*

Mr First Deputy Speaker: I am not too clear with it. Upon the passage of what? Just go over the proposed amendment and let us see how it goes.

Mr Ayariga: Mr Speaker, upon the coming into effect of this Act — that is the amendment, Mr Speaker.

Dr A. A. Osei: Mr Speaker, if my good Friend would not mind, if I amend his amendment slightly but it may mean amending one. I think the neater way is to delete that Interpretation, “Calendar Year” and then when we go to one, this Act for the years 2013, 2014, 2015 — This is because it can only be charged after it becomes effective but mentioning the years will not affect anything but we do not need to define the calendar years at all.

So, if the Hon Chairman may want to consider those amendments, I think it will be neater and I think the reason is that we may have a customs officer who might say that as for him, we said January 1st so, he is going by January 1st. It will be a nuisance but the mischief would have been caused.

12.30 p.m.

Mr Chireh: Mr Speaker, as I indicated earlier, if we pass a law and we mention calendar year — By the way, a year is defined in the Interpretation Act and therefore, no matter what we say — If we say year, it has a meaning in Ghana. Now, what I am saying is that, we do not need to talk about these past six months. Nobody can go back and collect any taxes. This is because we have passed a law effective today. It does not happen anywhere because the power to tax is based on the law and if the law was not made at the time, we cannot go back.

There is a problem about retrospectivity and retroactive legislation and that is technical. Supposing we had said that the law, whenever it is passed, takes effect from the 1st of January, that would have been a problem. But this one, it is clearly from the date, that month onwards. We do not need to legislate; we do not need to do anything else. Our laws have effective dates.

Mr Kyei-Mensah-Bonsu: Mr Speaker, it is exactly what the Hon Member for Wa West has said; if we say in the Bill, that the levy is being imposed for calendar year 2013 and then we go further to define “calendar year 2013”, as starting from 1st January, then you are giving it a retrospective effect. That is the point we are making and I thought that was clear enough.

Mr Speaker, the Hon Member should not wipe his mustache; does he understand? So, let us deal with that; that is why it is important that we listen to the amendments being proffered by the two Hon Colleagues.

Alhaji Dauda: Mr Speaker, I oppose the amendment being proposed by my Hon Friend and Colleague because I do not see any problem or difficulty at all when we leave it to stand as it is. Mr Speaker, clause 1 says that —

“There is imposed by this Act for the calendar years 2013, 2014 and 2015 a special levy on imported goods to be paid at the point of importation and to be computed on the cost insurance and freight value of the goods.”

Mr Speaker, I am opposing the amendment because in January this year, goods were imported and those goods that were imported in January are either in the market or have been consumed.

So, on what basis are you going to impose a tax? The tax is supposed to be imposed at the point of entry and so, how are we going to do it? The interpretation of “calendar year” is just in conformity with what is provided in the Interpretation Act and I think therefore, that because this House has no right or authority to enact a law to have a retrospective effect, it implies that this law will come into force when the President assents to it and therefore, the interpretation must be left as it is.

I thank you very much, Mr Speaker.

Mr K. T. Hammond: Mr Speaker, I agree entirely with my Hon Colleague. *[Interruptions.]* No! I will explain. The fact of the Interpretation of “calendar year” commencing from January does not relate to the issue of retrospectivity at all. January to July, as the Hon Member rightly said, the goods are not there in anyway. And the fact is that whoever is going to import would have to now import for the goods to come to the port for the tax to be imposed.

So, the question of relating it to January does not mean that the tax is going to be retrospective. Mr Speaker, I contemplate that we should, for the sake of completeness, add the point that this law shall not be taken to be retrospective but that will be otiose, it will be absolutely useless because everybody knows that we cannot do that sort of thing. So, I agree with that sort of thing. Let us leave

[MR HAMMOND]

that sort of definition; whatever is left of 2013, 2014 and 2015, we should leave it like that. I guess that really makes some sense.

Dr Kunbuor: Mr Speaker, I guess that this thing is raising this problem because we have expressly attempted to define a “calendar year”. Mr Speaker, the idea is that when a law is being made, it takes into consideration the existing law. So, anytime we expressly make a provision on a matter that is covered by an existing law, then we mean you want to effect a form of a change.

I have not seen anything in the Bill that wants to give “calendar year” a different meaning as it is understood and it has no linkage whatsoever with this Bill. So, let us just delete that definition of a “calendar year” and leave it to the general law of interpretation and then we do not even have the problem once the law comes into effect.

So, immediately “calendar year” is put there, then everybody begins to ask “Do they want the calendar year to be different from what is understood in the Interpretation Act of retroactivity?” Let us leave it out. This is the content; if we leave it out, it does not raise any issue at all, Mr Speaker. So, I will rather ask that we should *delete* the “calendar year” in the definition and then leave it. Even the Act addresses this same issue.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I may agree somewhat with what the Hon Majority Leader is saying. The description may not be necessary; in which case, we could say there is imposed by this Act for the years 2013, 2014 and so on. Mr Speaker, the Interpretation Act, section 44 (9) (d) provides,

“In an enactment, a reference without qualification to a year shall be construed as a reference to the period of 12 months as specified in the enactment”.

A reference without qualification — but we are qualifying the year. That is the problem. So, I guess, in that case, we could *delete* the “calendar” qualifying the year, then we will not need to define what we mean by “calendar year.” That will be sounder but the moment you introduce the qualification, then you have to make it explicit, so that it does come without any bargain.

12.40 p.m.

Mr Haruna Iddrisu: Mr Speaker, thank you very much.

I rise in support of the position adopted by the Hon Majority Leader and partly supported by the Hon Minority Leader for the deletion of the entire calendar year for the interpretation clause under (6). Mr Speaker, it is important — and I have Act 792 here.

I have listened to the various debates about various principles of retroactivity, objection to constitutional provisions with reference — date of commencement of enactment is section 17 of Act 792 and Mr Speaker, with your indulgence, let me quote article 106 (11) of the Constitution:

“Without prejudice to the power of Parliament to postpone the operation of a law, a bill shall not become law until it has been duly passed and assented to in accordance with the provisions of this Constitution and shall not come into force unless it has been published in the *Gazette*”.

Mr Speaker, I come back to 17 (2) again which says that The day, month and year of the assent shall be inscribed on an Act and that inscription is part of the Act. So, that should put to us whether what

[MR H. IDDRISU]

Parliament is doing today will offend the Constitution or not. If you rely on the Interpretation Act, we are clearly covered, that whatever Parliament passes is assented to by the President — and he must indicate the day, the month, which means that that is when the Act — will so become effective in accordance with law.

So, we do not need to belabour defining “calendar”. What we do know is that this legislation will only take effect after Parliament has passed the Special Import Levy Bill, 2013, expecting that the President will assent to it and it will take effect from that day when it is officially *gazetted*. So, I will plead with Hon Colleagues that we *delete* “calendar” and make some progress.

I thank you.

Dr A. A. Osei — *rose* —

Mr First Deputy Speaker: Yes, you are alright with the contribution?

Dr A. A. Osei: I was going to crave your indulgence to put the Question on the amendment, so that we can move on on clause 6.

Mr First Deputy Speaker: You would want to do what?

Dr A. A. Osei: Put the Question on this amendment, so that we can — clause 6 as amended — move on.

Mr First Deputy Speaker: All right. Hon Ayariga.

Mr Ayariga: Mr Speaker, I think that the contributions from both sides of the House give indication that the consensus is towards going back to clause 1 to amend it, so that it will have the consequential effect of making my proposal regarding clause 6 unnecessary. If that is the case,

then I will withdraw my proposal regarding clause 6, so that we go back and deal with the problem from clause 1 and that will address the concerns of the House.

Thank you, Mr Speaker.

Mr First Deputy Speaker: I believe that as matters stand, I will relax the rules, so that we will go back to clause 1 and effect the necessary amendment and we can then come back to clause 56. Who is moving the application?

Mr Gabriel K. Essilfie: Mr Speaker, I beg to move, clause 1 instead of —

“There is imposed by this Act for the calendar years of 2013, 2014 and 2015”,

we will make it —

“There is imposed by this Act for the years 2013, 2014 and 2015”.

So, we are deleting “calendar” and then “of”.

Question put and amendment agreed to.

Clause 1 as amended ordered to stand part of the Bill.

Mr First Deputy Speaker: Now, we move back to clause 6.

Clause 6 —

Mr Essilfie: Mr Speaker, I beg to move, clause 6, amend “point of importation” as follows:

“. . . and explain that “point of importation” means “point of entry”.

Dr A. A. Osei: Mr Speaker, if the Chairman may be kind enough, I would want to suggest that instead of putting that in the Interpretation, that clause 1, line 3 “importation” just put “point of

[DRA. A. OSEI]

entry”; then you do not need to put something like — because “point of entry” is known by the customs officers, so, you do not have to put it in the Interpretation; if he can consider that amendment.

Mr First Deputy Speaker: I cannot hear you; if you could speak a little loud.

Dr A. A. Osei: In clause 1, I am asking for his permission, that instead of including the definition in the Interpretation, that in clause 1, line 3, *delete* “importation” and *insert* “entry”. He was amending clause 6 to define “point of importation” as “point of entry”. And I am suggesting that in clause 1, line 3, *delete* “importation” and *insert* “entry” as a new amendment.

Mr First Deputy Speaker: Hon Members, I believe that for record purposes, let me again relax the rule, so that we come back to clause 1 and then Hon Member, you can move your proposed amendment or the Chairman of the Committee can do so.

Mr Essilfie: Mr Speaker, in line with what the Ranking Member for the Committee just suggested, I would like to withdraw the amendment that I was making on the clause 6, withdraw it and rather amend clause 1, line 3, to change “importation” to “entry”.

Dr Prempeh: Mr Speaker, “point of entry” is wrong. Goods in transit will come through a point of entry; bonded warehouse goods will come through a point of entry. So, maybe, we need to refine the term but “point of entry” is wrong. The fact that the goods have entered Ghana, does not mean they are dutiable because they might be in transit to Burkina Faso. So, it is not that every good that lands at Tema — When you are going to

a point of entry — Maybe, unless the destination is in Ghana, so, it has to be refined.

Dr Kunbuor: Mr Speaker, the point of entry is clear in all the customs schedules. Transit goods have their categorisation in the entries. “Entry” does not mean “physical entry”. “Entry” is in relation to destination; that is why there is the distinction between transit — *[Interruption]* — *[Pause.]* I am resisting the temptation. The entry I am talking about is in relation to customs entry; I am not talking about going inside. It is a technical term for the customs.

Mr First Deputy Speaker: I believe we are alright with that kind of explanation.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think reasonably so. This is because my worry really is not to do with the bonded warehouse but the landlocked countries using our ports as entry points, that was my worry. But if we are to believe what the Hon Majority Leader has said, then perhaps, we could go along with it. Otherwise, if perhaps, the “destination point” is more user friendly, then we can use that.

But I think it is a term of art; let the draftspeople, now that we have this understanding, apply the better word and we would be comfortable whether “destination point” or “entry point”, either of them, depending on the language of the Customs, Excise and Preventive Service (CEPS).

Dr Dominic A. Ayine: Mr Speaker, with respect to the debate about entry, it is important to note that in world trade law, whenever goods are subject to customs valuation, they are only dutiable at the point where they are destined for consumption. So, if the goods are not

[DRAYINE]

destined for consumption, then they cannot be subject to duty. Therefore, the worry about transit goods is a misplaced one because at the end, the goods have been described as not destined for consumption in the destination, so, they will not be subject to custom duty. So, the “point of entry” as the Hon Majority Leader has put it, is the best term or better term to use in this circumstance.

Mr First Deputy Speaker: All right. Thank you very much. I think we will stick to that and give some directive that the draftpersons should look at the best form of rendering that particular form of amendment.

So, we will go back to take the amendment as taken now —

Question put and amendment agreed to.

Clause 1 as amended ordered to stand part of the Bill.

12.50 p.m.

Mr First Deputy Speaker: Now, shall we go back to clause 6? Yes, we were debating clause 6, so, if there are any further contributions, let us look at them.

Mr Essilfie: Mr Speaker, we are amending the Schedule by *deleting* the entire Schedule and the reason for that is explicitly put in the Report, page 3 —

Mr First Deputy Speaker: Can you just give us the reason instead of referring

us to your Report? Can you give us the reason in a brief summary form?

Mr Kyei-Mensah-Bonsu: Mr Speaker, I know the antecedents of the Vice Chairman of the Finance Committee. But Mr Speaker, Ghana was a British colony and we gained independence on 6th March, 1957.

Mr Speaker, we subscribe to the Queen’s Language and the words the Vice Chairman is pronouncing as *sked.jul* (“Schedule”) is not known to the Queen. It is “*Sed.ju:l*” [*Laughter.*]

Mr Essilfie: Mr Speaker, yes, it is understandable that those who were trained in Britain say “*Sed.ju:l*” but I do not pronounce “Schedule,” as “*Sed.ju:l*”. So, since he knows I was not trained where he was trained, my word is “*Sked.jul*”, not “*Sked.jul*,” so, he has to accept it.

Mr First Deputy Speaker: Hon Members, I think that it is a question of choice. Shall we look at the Schedule again?

Now, Hon Members, I thought we were dealing with clause 6 before we moved on to the Schedule. So, let us look at clause 6, if the way we have couched it is alright for us; otherwise if there is the need for any amendment — Hon Chairman for the Committee.

Mr Essilfie: Mr Speaker, I beg to move, clause 6, *delete* Interpretation of “calendar year”.

Mr First Deputy Speaker: Yes, I think that is in order.

Question put and amendment agreed to.

Clause 6 as amended ordered to stand part of the Bill.

Mr William O. Boafo: Mr Speaker, about the definition of “levy”, I do not see that it is necessary because that is the only “levy” referred to in the Bill. Clause 1 gives the full rendition and then when we come to the subsequent clauses, the definite article is used “the levy,” which is referable to only the one in clause 1. So, I do not think there is the need for a definition of “levy.”

Mr First Deputy Speaker: Yes, Hon Chairman of the Committee, how do you react to that?

Mr Essilfie: Mr Speaker, I do not know, but I believe what my Hon Member is coming up with is basically, maybe, in the parlance or the language that he understands. But as far as I am concerned, the referral to “levy” is an interpretation for the Bill that we want to pass and what it is meant to do. That is the understanding I have. So, we should leave the “the” there and not take it out.

Dr Kunbuor: Mr Speaker, I guess that, we have used “Special Import Levy” in some clauses; we have used “levy” in some clauses; we have used “the levy” in some clauses. So, what they have done is to clarify that wherever we come across this, it is actually referring to the “Special Import Levy” imposed under this Act. So, we need to leave it there because of the different ways in which we have used the word “levy”, and I think that makes it easier for interpretation.

Mr First Deputy Speaker: Yes, Hon W. O. Boafo, how do you respond to the Majority Leader’s comments?

Mr Boafo: Well, Mr Speaker, if he wants it out of the abundance of caution, I do not have any problem.

Dr A. A. Osei: Mr Speaker, I know — [*Laughter*] — Mr Speaker, I think the Chairman is right, for the avoidance of doubt. We ought to be able to keep it there, men — [*Laughter.*]

Question put and amendment agreed to

Clause 6 as amended ordered to stand part of the Bill.

Mr First Deputy Speaker: Now, shall we move on to the Schedule or Schedule, whichever way you want to pronounce it?

The Schedule — Regulation 2 — Rate of Special Import Levy

Mr Essilfie: Mr Speaker, guess for the purpose of this House “in the House,” so that even I would conform to how you pronounce “Schedule”. “Schedule” I would use “Schedule.”

Mr Speaker, I beg to move, Schedule, *delete* the entire item (Regulation 2) S/ No 2.

The reason for that, Mr Speaker, has to do with the levy that was proposed on fertilizers and considering the economic constraints that it would put on our farmers and the country in general in terms of fertilizer as an input, and then in the end prices of the output may go up and the economic hardships and all that; and in addition to what we are closely elaborated in the Report at page 3, that is the reason we are *deleting* that.

1.00 p.m.

Papa Owusu-Ankomah: Mr Speaker, but by parity of reason, I would have thought that we would do the same for outboard motors and all fishing gear. Why do we restrict it to fertilizers? In fact, if he is saying that putting the duty on fertilizers would affect the farmers, the fishers are also farmers in a way. They produce food, and I would have thought that the Chairman being the MP for Shama, a fishing community, he would extend this amendment to fisher folks. So, I am saying that —

Mr First Deputy Speaker: Hon Member, he is not an autocratic Chairman. He has a team, so, maybe — *[Laughter.]*

Papa Owusu-Ankomah: Thank you. Forgetting that the Hon First Deputy Speaker also represents a fishing community — *[Interruption]* — The Hon Deputy Minister for Finance, Cape Coast South, he represents a fishing community; I represent a fishing community and I am proposing that — *[Interruption]* — yes; I thought that — unfortunately, Mr Speaker, some of us do not have the harmonised system with us — *[Interruption]* — Yes.

So, for instance, we have agricultural machinery — ploughs, harrows, cultivators, outboard motors, energy saving fluorescent lamps — I think all these things should be deleted. Fishing nets — *[Interruption]* — what they call “*putsiisee*”; what is *putsiisee* in English? Weight; they should all be exempted. Yes.

So, I am proposing that we look at this thing and then include energy saving fluorescent lamps, outboard motors, agricultural machinery, *et cetera*. As for diary and milking machinery, I do not think that too many people in this country use them.

So, I would want to propose a further amendment to the amendment that has been proposed by the Committee — *[Interruption.]*

Mr Speaker, unfortunately, when we were dealing — the first one — machinery and equipment, listed under Chapters 84 and 85, except outboard motors, diary milky machines and agricultural machinery — ploughs, harrows, cultivators — *[Interruption]* — No! As for transformers, they are for the Electricity Company of Ghana.

Mr First Deputy Speaker: Hon Deputy Minister, can you respond to this proposal?

Papa Owusu-Ankomah: I so propose.

Mr Forson: Mr Speaker, I beg to oppose the proposal made by my Senior, Hon Papa Owusu-Ankomah. Mr Speaker, the reason is that, at the Committee, we explained the reason behind the removal of the fertilizer, that there is already a standing Government policy in place that says that we give some subsidy to fertilizers.

So, imposing a tax on it will indeed, defeat the purpose of the subsidy. But we do not have a subsidy in place for outboard motors and that is why Mr Speaker, I propose that I cannot bear with my Hon Colleague.

Mr Essilfie: Mr Speaker, to add to what the Hon Minister said, when we talk about fishermen, I am surprised that the Hon Member for Sekondi made it look like fishermen do not get any subsidy or any break from Government.

Mr Speaker, we all know the outboard motors that are sold to the fishermen are sold at a reduced price — *[Interruption]* — No! Those subsidised ones are — *[Interruption]* — and then not only that. Mr Speaker, we all know, pre-mix fuel, as a

[MRESSILFIE]

policy, came into effect purposely to help fishermen and the price of fuel today, one gallon, is not what the fishermen pay. Fishermen are paying less than 50 per cent of the cost of a gallon of fuel.

So, with that, if we are considering to exclude fertilizer, it is just an even playing field because fishermen are already enjoying the petroleum subsidy. So, it is important for us to do that same thing for fertilizer for fishermen.

Papa Owusu-Ankomah: Mr Speaker, in fact, there is serious contradiction. While the Hon Deputy Minister, MP for Ejumako/Enyan/Essiam is saying that already, the subsidy — *[Interruption]* — No, he is from Central Region even though he originated from my constituency, actually, my polling station. The Chairman is saying that already there is a subsidy for something else. Whatever it is, if already there is a subsidy even on outboard motors, it is not for every outboard motor.

Government purchases outboard motors at subsidised prices and distributes them to some fishermen — *[Interruption]* — and I do not want to go there; I do not want to go there. They are distributed at the Regional Co-ordinating Council offices — *[Interruption.]*

Dr Kunbuor — *rose* —

Papa Owusu-Ankomah: Mr Speaker, we know these things, we do not want to go there. I am saying that for those who do not benefit from this selective Government largesse, because Government cannot offer it to all fishermen —

Mr First Deputy Speaker: Hon Majority Leader, is it a point of order?

Dr Kunbuor: Yes, I am on a point of order.

Indeed, this categorisation of special rates is not selective. It is actually informed by the nature of the occupations that use these items and that is why that is permitted. For instance, if the Hon Member were asking for exemption rates in relation to nets, we know that nets are capable of use in fishing for commercial and non-commercial purposes. But an outboard motor is certainly going to be used for commercial navigation activity.

Fertilizer is used by peasant farmers who just want an improved yield to see — *[Interruption]* — They just want an improved yield to see without any recourse to commercial activities. So, it is not selective and it is not discriminatory.

Papa Owusu-Ankomah: Thank you.

I will tell the fisherfolks of Abuesi in the Shama Constituency that the outboard motors, the Hon Majority Leader says, are for commercial purposes. But with the fertilizer, they are for only peasant farmers and so, for those fishers at Odododiodioo, Shama and other places, of course, they are engaged in commercial fishing, but the peasant — *[Interruption.]*

Dr Yakubu Alhassan: Thank you very much.

Mr Speaker, it is always the case that when agriculture is being discussed, some element of ridicule is introduced into it. The facts are as follows:

Government has never passed on the entire price of outboard motors to fishers. It has always been sold to them at discounted prices. So, it is a subsidy that fishers enjoy.

Number two: I have seen the former Hon Minister for Food and Agriculture when the Fisheries Department was under the Ministry, presenting outboard motors to fishers and it was not at the Regional

[DR ALHASSAN]

Co-ordinating Council offices. It was at the beaches where the fishers do the job.

Lastly, Mr Speaker, I would like to make it clear that the issue is not about whether we should impose a levy or not. It is about generating sufficient money to power the economy, so that the very people that we are fighting for can be the beneficiaries.

I thank you very much.

1.10 p.m.

Dr Prempeh: Mr Speaker, the Hon Member for Ajumako and Deputy Minister for Finance says that they took away fertilizer because there was a certain subsidy on fertilizer. So, they did not see why if it is a policy on fertilizer, they should still bring it here. Mr Speaker, like the Hon Deputy Minister for Food and Agriculture said, in this country, Government policy has always been not to pass 100 per cent cost of outboard motors to fishermen. So, if there is a subsidy and it is good for farmers, it is good for fishermen. [*Hear! Hear!*]

Mr Speaker, in 2004 and again, in 2009, the Ministry of Energy as a Government policy brought enough, a lot of compact fluorescent tubes, energy-saving bulbs into this country, because the US\$10 million worth of energy-saving bulbs were equivalent to about 200 mW — [*Hear! Hear!*] 192 — Which is a serious policy that we even had to encourage.

Mr Speaker, the danger in what we are doing here, is being lost on us. The Ministry of Finance alone goes to sit in its Ministry of Finance and proposes these levies without consultation across board. The Ministry of Communication was not consulted, the Ministry of Food Agriculture was not consulted, and the Ministry of Energy and Petroleum was not consulted. How can you give with

the right hand and steal with the left hand? Mr Speaker, it is very dangerous to say that energy-saving bulbs should be levied whereas the Government policy is even to distribute them for free. Buy them for US\$10 million for Philips and distribute them for free and you turn round — Who is going to pay the 1 per cent levy? [*Interruption.*]

Mr Speaker, it is not only that, dairy and milk machinery, book-binding machinery — [*Interruption*] — Weaving and knitting machinery, electric transformers — Yes, it is only the Electricity Company of Ghana (ECG) that buys transformers, so why put the levy anyway? If it is only ECG, why put the levy?

Mr Speaker, this is dangerous; it is dangerous; it is dangerous; it is a way of the Ministry of Finance taking over the affairs of this country for the interest of the financial people and not for the interest of ordinary Ghanaians.

Dr Kunbuor: Mr Speaker, I would want us to get back to the fact that we are at the Consideration Stage and there are special rules that apply to the various clauses. It looks like we are getting back to Second Reading in which policy issues are being raised and we might sacrifice the line-by-line clause reading of this particular Bill. So, I just want Mr Speaker to guide us on this matter.

Dr A. A. Osei: Mr Speaker, the difficulty is that, the Hon Deputy Minister is not making it clear to us what the policy is. Mr Speaker, the amendment seeks to *delete* an original policy, which was to tax fertilizers; that is what the Bill says. So, the Ministry is now saying that they have changed their minds. In fact, that is not what was first presented.

Mr Speaker, it is the Committee that is telling us that it excludes fertilizers. But the original Bill from the Ministry did not proffer that argument. So, now, we are not sure what the Minister wanted to do,

[DR A. A. OSEI]

because here, you are saying that it includes fertilizers on Schedule No. It is the Committee that saw wisdom and decided to offer a recommendation; it is not the Ministry. So, as a policy matter, what was the Minister seeking to do when it brought the 1 per cent on fertilizers as policy matter, since this is coming from the Ministry?

So, that is where we are having problems and that is why people are saying that if you can see the logic there as has been said by the Committee —

Mr Speaker, with your permission, I would read:

“It believes that the proposed levy would increase the cost of fertilizers and ultimately lead to an increased food cost.”

What my Hon Colleagues are saying is that if you do not extend it to the first category, the same logic applies because imposing 1 per cent levy on outboard motors would lead to the cost of fish and therefore, affect the farmers. That is where you have to make it clear. We want to support you, but right now, we are not sure which side of the fence you are on. So, make it clear to us. Are you for fishermen or not?

Mr First Deputy Speaker: Before we get to the Hon Deputy Minister for his response, the Hon Majority Leader?

Dr Kunbuor: Mr Speaker, that is precisely why I was talking about the procedure. The fact that fertilizer has become an issue at this stage of considering the Bill is because we are dealing with it line-by-line; it is at the Consideration Stage. The time this matter should have been raised was the Second Reading where the policy matters and

objectives were being discussed. At the Consideration Stage of a Bill, you have reached a schedule and people are coming under Consideration Stage to say “I want to make an amendment”. The Committee itself says it would make the amendments. It is not because necessarily of the policy.

The Consideration Stage at which this matter and amendment are coming is the proper place. But if we take it back to the policy objectives and those other issues, then it is not clear why this amendment is coming.

Papa Owusu-Ankomah: Mr Speaker, at the Consideration Stage, we have rules but we do not have hard and fast rules. That is why the Mace is tilted; that is why a Member can speak on more than one occasion. The Committee has moved an amendment in respect of fertilizers with certain reasoning and I am saying that by parity of reasoning, it should be extended to outboard motors.

That is what I am doing and that is why I moved the amendment, and I was then asking if you are talking about food production, fishers also produce food albeit in the form of fish. So, I would want to move a further amendment to it and I have done it. And I was arguing and then Mr Speaker, you deferred to the Majority Leader; he is rather proceeding on a path which is offensive to the rules. So, he should allow me to finish.

So, Mr Speaker, if we are talking about saving the work of those who produce food, then I am also moving that we further amend the amendment proposed by the Chair of the Committee, so that excepting fertilizers is extended to outboard motors, fishing nets, *et cetera, et cetera*.

Mr First Deputy Speaker: I think you made that point and I ask for a response from the Chairman of the Committee and the Hon Deputy Minister who opposed your further amendment. So, probably, if we cannot get it in one form of an amendment, we would probably have to separate the proposed amendments, so that we see the way forward.

1.20 p.m.

Mr Benjamin K. Kpodo: Mr Speaker, in addition to the opposition to the amendment being proposed by our senior Hon Member for Sekondi, I would want to clarify a particular point. If there is any confusion in the mind of anybody regarding the policy on fertilizers, certainly, it is not the Ministry of Finance.

This is because the Minister was present at the meeting when we were dealing with these issues clause by clause, and he agree that we should *delete* the number (2) which appears in the Schedule. So, you cannot say that the Minister for Finance was confused; not at all.

Dr Owusu Afriyie Akoto: Mr Speaker, I would want to draw the House's attention to something very fundamental. We are looking at increasing the levy on major items of agricultural inputs, which has implications not only for agricultural producers, our farmers and our fishers, but also the consumers of food in this country. What this is going to do, is to increase food prices.

Mr Speaker, I would want to remind this House that 60 per cent of our protein intake in this country comes from fish. If you add livestock, then it is going to go up. We know that catches on the seas have been collapsing. In the last ten years, the total catches from our fisher-folk have been going down by more than half, and we know that. *[Interruption.]*

Mr First Deputy Speaker: Order! Order!

Hon Member, you have the floor.

Dr Akoto: So, Mr Speaker, why would anybody instead of encouraging our fishermen to use more outboard motors,

would they want to increase the tax to discourage the usage of outboard motors? We know the livestock situation in this country. Mr Speaker, the last ten years, imports of meat, poultry and other such products have been skyrocketing through the roof because local production has been collapsing. Instead of providing financial and economic incentives for them to produce more, we are going to tax them by this levy.

Mr Speaker, I think this is a misguided policy and we should do everything to remove these items from the list.

Alhaji Muntaka: *On point of order.*

Mr Speaker, my Hon Colleague from Kwadaso is grossly misleading this House. For him to state that we are discouraging the use of outboard motors *[Interruption.]* Nowhere in this Bill — Whether in the Memorandum or elsewhere is it stated that it is to discourage the use of outboard motors. Mr Speaker, my Hon Colleague should know — I am just drawing his attention to this fact — That he may have to make his case, but for fertilizers, it is solely used for farming.

But outboard motors are used for other things other than only fishing. So, he cannot put them on the same level. Mr Speaker, so, he should address the issue and stop saying that there is a deliberate attempt to discourage the use of outboard motors. Nobody has stated so, Mr Speaker. So, he should take it on board.

Mr First Deputy Speaker: All right. Thank you.

Yes, Hon Member, continue with your contribution.

Dr Akoto: Mr Speaker, indeed, anybody with Ordinary Level knowledge — He is not even listening to me, Mr Speaker. The man makes a wild statement and I am trying to counteract him and he is not even listening. — The point I am

[DR AKOTO]

making is that anybody with a very basic knowledge of economics will know that if one increased prices, the demand of that goes down. The same way, if one increased the price of outboard motors, the usage of outboard motors will go down.

Mr Speaker, we are not only talking about diary milking machinery, but we are also talking about agricultural implements. We want to increase agriculture productivity. We want to increase the application of agricultural technology, yet we are increasing levies on prices of farm implements and fertilizers. What kind of policy is this, Mr Speaker?

I would strongly support the Hon Member for Sekondi, Hon Papa Owusu-Ankomah to say that, we have to urgently revisit the Schedule I, so that we review it to ensure that our farmers and our fishers are encouraged to apply more technology to improve their productivity in this country of agriculture rather than discourage it.

Thank you, Mr Speaker.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the Hon Deputy Minister for Finance has indicated to us in this House the purpose of this Bill. It is about Government trying to bridge some funding gap. I believe the argument by my Hon Colleagues is that, this really goes against encouraging industry to grow, which is a cornerstone of Government.

Also, as far as inputs — the equipment and machinery that they have referred to are concerned, it is going to have a negative event on the users. I think that is the point being raised by my Hon Colleagues.

As for the intervention of the Hon Majority Chief Whip that outboard motors in Ghana — So many of them — A huge proportion of them are used for other things. Mr Speaker, it is neither here nor there. This is because Mr Speaker, in the same way, we all know that fertilizer could also be used for other things other than fertilizing the soil, like bomb making. — **[Some Hon Members: Bomb?]** Yes.

Mr Speaker, the former Hon Majority Leader is saying it is not that type. What is the content in fertilizer that is used for bomb making? Mr Speaker, he does not even know and he is saying that it is not that type. Mr Speaker, let us not go there.

I think that Government has made clear, their intention — And we do know that the Committee is not proffering any amendment in respect of Schedules 1 and 3. We have made the point, if nobody is listening to that and Government, for purposes of raking in funds, is purposed to do that, let them go ahead; as simple as that.

Mr First Deputy Speaker: Yes, the last contribution from the Hon Member for Pru East.

Dr Kwabena Donkor (NDC — Pru East): Mr Speaker, the issue of outboard motors that is being raised in this House should be seen in context. The subsidy on premix far more compensates for the duty on outboard motors. I represent a revering constituency, and for us, outboard motors are major source of not just fishing but transportation in bringing foodstuffs to markets. Therefore, I am very sensitive about outboard motors.

But we have a situation where already, the subsidy on premix which is meant to be used exclusively by outboard motors should temporarily compensate for

[DR DONKOR]

whatever duties. But it is also important that to send a signal, this House may consider a notational reduction on duty of outboard motors, so that it reinforces this Government's policy decision that agriculture should be supported to the tilt.

Thank you, Mr Speaker.

Mr First Deputy Speaker: Hon Members, I think we have enough debate on this issue. As matters stand now, we have the original proposed amendment moved by the Hon Chairman of the Committee. The Hon Member for Sekondi sought to further amend the original proposed amendment, but we do not appear to have a consensus. So, I would first put the Question with regard to the Hon Member for Sekondi, further proposed amendment.

If the stand of the House is that, it be allowed, then we come back to the proposed amendment by the Hon Chairman of the Committee. If the House feels that it should not be part of the amendment, then again, we come back to the original amendment, then we move on.

So, I am first going to put the Question as to the further amendment by the Hon Member for Sekondi regarding the inclusion of some more items — outboard motors, fishing gears, *et cetera*.

Question put and amendment negated.

Mr First Deputy Speaker: Now, we come back to the original proposed amendment by the Hon Chairman of the Committee.

Question put and amendment agreed to.

1.30 p.m.

Dr A. A. Osei: Mr Speaker, I thought under our rules once Hon Member for Sekondi's proposed amendment did not pass, automatically, that of the Hon Chairman of the Committee passes. So, there is no need to specifically —

Mr Speaker: It is for the avoidance of doubt.

Mr Kyei-Mensah-Bonsu: Mr Speaker, since we are in the arena of — For the avoidance of doubt, I would want the House to take note that when you put the Question on the amendment proposed by the Hon Member for Sekondi in respect of exempting the levy on outboard motors, fishing gears and related items, our side, the side of the Minority, voted in support of the proposed amendment.

Mr Speaker, it is important that this House takes such notice for the avoidance of doubt.

Dr Kunbuor: Mr Speaker, since this is the time of taking notice of the pattern of voting of Hon Members, I would want the House too to take special notice that, the entire Committee including Hon Members on the other side recommended the issue of fertilizers with no objection whatsoever. And that on the floor here, when an issue of outboard motors was raised by one Hon Member — We should take notice of it.

I would want us to take a special notice of the fact that on the issue of fertilizers, it was a consensus of the House. But on the issue of the outboard motors, it is not the consensus of the House.

Some Hon Members — *rose* —

Mr First Deputy Speaker: All right. Hon Members, if I allow this debate to proceed, it would be degenerating into fist-cuffs. I want us to end it there.

For the avoidance of doubt, both sides have given their rendition.

Let us move to the next item, (ii), The Schedule.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect, we have in this House today, the Hon Bagbin, who, as Chairman of the Committee on Legal, Constitutional and Parliamentary Affairs of this House, indicated that when a committee presents to this House a report of the committee, even the Chairman of the committee who signed the Report can dissociate himself from the report.

This is the Bagbin theory in this House and I would want the Hon Majority Leader to take note.

Mr First Deputy Speaker: Hon Minority Leader, that is why I indicated that let us end it here. I do not want us to go any further as far as this line of debate is concerned. But since he has mentioned your name, Hon Bagbin, if you would want to make a comment.

Mr Bagbin: Mr Speaker, the Bagbin's theory is not exactly what he stated. The Bagbin's theory which was propounded on this floor and Mr Speaker ruled on it, was that, if one is a member of a committee, and the committee takes a decision at the committee level, the member is not thereby prohibited from raising the matter on the floor, which is different from the position taken by the committee. That is the theory — *[Interruption.]* Not the Chairman. I was not the Chairman at that time.

I was a member of the Committee and I disagreed on an issue during the Committee discussion and followed up to the floor to raise that issue and then the Chairman said I was a member and so I could not have raised an objection to a report that I was supposed to be part of. So, that was the theory. And the late Rt. Hon Justice D. F. Annan ruled in my favour. That is the Bagbin's theory.

Mr First Deputy Speaker: Thank you very much.

Mr Essilfie: Mr Speaker, I beg to move, The Schedule — Item S/No. 3 “Description” line 3, after “27” *insert*. “and fertilizers listed under Chapter 31”.

Mr First Deputy Speaker: What is the reason?

Mr Essilfie: Mr Speaker, the reason is just what we discussed about excluding fertilizers from the levy. And since item (3) only talks about petroleum products, we wanted to make the amendment to bring that to that particular Schedule and make it part of the items that are to be excluded.

Mr First Deputy Speaker: Thank you. I will put the Question.

Question put and amendment agreed to.

The Schedule as amended ordered to stand part of the Bill.

The Long Title —

Dr A. A. Osei: Mr Speaker, I think there is a consequential amendment in the Long Title because, we used point of importation and we have now changed it to point of entry but the Hon Chairman

[DR A. A. OSEI]

has not proffered that amendment yet. In line 2, I think the “importation” should be “entry” so that it would be consistent with the changes we made earlier in clause 1. It should be consequential, but I want the Hon Chairman’s attention.

Mr Speaker, I beg to move, Long Title, line 2, *delete* “importation” and *insert* “entry”.

Mr Essilfie: Mr Speaker, I beg to second the amendment.

Question put and amendment agreed to.

The Long Title as amended ordered to stand part of the Bill.

Mr First Deputy Speaker: This brings us to the end of the Consideration Stage.

Mr Kyei-Mensah-Bonsu: Mr Speaker, just a minor point. What we have done would automatically affect the language that was used in the Memorandum. I believe the draftpersons then would take note of that, so that it affects it consequentially.

Mr First Deputy Speaker: Point well made. The Table Office is directed that the draftpersons take account of that.

Dr Kunbuor: Mr Speaker, if we could take item 20.

1.40 p.m.

Mr First Deputy Speaker: Item 20 — Motion.

BILLS — THIRD READING

Special Import Levy Bill, 2013

Special Import Levy Bill, 2013 — *Read the Third time and passed* — [Deputy Minister for Finance (Mr Cassiel A. B. Forson)(*on behalf of the Minister for Finance*)]

Dr Kunbuor: Mr Speaker, if we could take item 22 on the Order Paper.

BILLS — SECOND READING

National Fiscal Stabilisation Levy Bill, 2013

Deputy Minister for Finance (Mr Cassiel A. B. Forson) (*on behalf of the Minister for Finance*): Mr Speaker, I beg to move, that the National Fiscal Stabilisation Levy Bill, 2013 be now read a Second time.

Mr Speaker, the object of the Bill is to re-impose the National Fiscal Stabilisation Levy for a period of 18 months to raise funds for fiscal stabilisation of the economy.

Mr Speaker, thank you very much.

Question proposed.

Vice Chairman of the Committee (Mr Gabriel K. Essilfie) (*on behalf of the Chairman*): Mr Speaker, I support the Motion. In doing so, I present your Committee’s Report.

Introduction

The National Fiscal Stabilisation Levy Bill was presented to Parliament by the Hon Minister for Finance and read for the First time on Friday, 28th June, 2013. The Bill was referred to the Finance Committee for consideration and report in accordance with article 174 (1) of the 1992 Constitution and Order 169 of the Standing Orders of the House.

Mr Speaker further directed the Committee to determine whether the Bill is of urgent nature to be taken through all the three stages of passage in a day in accordance with article 106 (13) of the

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Constitution and Order 119 of the Standing Orders of the House.

Pursuant to the referral, the Committee met with the Hon Minister for Finance, Mr. Seth E. Terkpeh, the Deputy Ministers for Finance, Mr. George Kweku Ricketts - Hagan and Mr. Cassiel Ato Forson, officials from the Ministry of Finance, Attorney-General’s Department and the Ghana Revenue Authority (GRA) and considered the referral.

The Committee is grateful to the Hon Minister, Deputy Ministers and officials from the Ministry, Attorney-General’s Department and GRA for the assistance during the deliberations.

Reference

The Committee referred to the following additional documents during its deliberations:

The 1992 Constitution of Ghana.

The Standing Orders of the Parliament of Ghana.

The Ghana Revenue Authority Act, 2009 (Act 791).

Internal Revenue Act, 2000 (Act 592).

Communications Service Tax Act, 2008 (Act 754).

Background

The Government of Ghana, in an attempt to ensure fiscal stability, introduced the National Fiscal Stabilisation Act, 2009 (Act 785) in the second half of 2009 to raise funds for national development. Act 785 was repealed in late 2011 following recovery/stability of the economy. However, the implementation of

the single spine salary scheme among others, have led to budget overruns in many sectors of the economy. Expenditure on the single spine salary scheme also threatens to crowd out investment in critical sectors of the economy. There is therefore, the need to re-impose the levy to help generate revenues to support the shortfalls in the budget.

Purpose of the Bill

The Bill seeks to re-impose the National Fiscal Stabilisation Levy for a period of eighteen months to raise funds for fiscal stabilisation of the economy.

Provisions of the Bill

The Bill is divided into eleven clauses as follows:

Clause 1 imposes a National Fiscal Stabilisation Levy of 5 per cent on the profit before tax of the companies and institutions specified in the schedule.

Clause 2 deals with the scope of application of the Levy.

Clause 3 provides that the levy payable is not an allowable deduction under the Internal Revenue Act, 2000 (Act 592).

Clause 4 limits the application of the levy to the profit before tax for 2013 and 2014 years of assessment.

Clause 5 mandates the Commissioner General of GRA to prepare a provisional assessment in respect of the companies and institutions liable to pay the tax.

Clauses 6 and 7 respectively deal with the time for the payment of the levy and the powers of the Ghana Revenue Authority to collect the Levy.

[MR ESSILFIE]

Clause 8 mandates the Commissioner General of the GRA to pay all monies collected under the Act into the Consolidated Fund.

Clause 9 applies the relevant provisions of the Internal Revenue Act, 2000 (Act 592) for purposes of recovery of the levy.

Clause 10 amends the Schedules.

Clause 11 is on interpretations.

Observations

Urgency of the Bill

The Committee, in its deliberations, considered the Bill to be of an urgent nature and must be taken through all the stages in one day in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Expected revenue

The Minister informed the Committee that the estimated revenue expected from the imposition of the levy within the specified period will amount to eighty-eight million Ghana cedis (GH¢88,000,000.00). The Committee expressed the hope that the revenue would be applied to the purpose for which it is intended.

Tax rate

The Committee observed that a stabilisation levy of 5 per cent is to be imposed on the profit before tax of selected companies and institutions. Commenting on why the rate was pegged at 5 per cent, the Minister explained that though Government hopes to get more revenue

through taxation, it is not the intention of Government to overburden businesses with high rates of taxes. According to the Minister, the economy is now recovering from effects of the water and energy crises and any higher tax rate is likely to adversely affect businesses and eventually slow down the recovery of the economy. The 5 per cent proposed levy seems reasonable under the circumstance.

The Committee holds the view that although the proposed tax is generally not high, the Government could generate more revenue if other areas other than the “traditional sources” are explored. The Committee, therefore, calls on the Ministry to broaden the tax net to rope in other sectors of the economy.

Amendment proposed

The Committee proposed the following amendment to the Bill:

Long Title — Amendment proposed — lines 2 and 3, *delete* “in order”.

Conclusion

The Committee has thoroughly examined the Bill and realised the urgent need for fiscal discipline and stability of the economy. The Committee, therefore, recommends to the House to adopt its Report and take the National Fiscal Stabilisation Levy Bill through all the stages in accordance with article 106 (13) of the Constitution and Order 119 of the Standing Orders of the House.

Respectfully submitted.

Ranking Member of the Committee (Dr Anthony A. Osei): Mr Speaker, earlier this morning, we were discussing an issue relating to the telecommunication operators, if you recall, and we were told that there was a policy directive to now make them pay communications service tax.

[DRA. A. OSEI]

Mr Speaker, you would recall that, yesterday, a Colleague reminded us that a former Member of Parliament for Bole/Bamboi lamented why we were taxing the operators at that time, even though the law referred to the users. Mr Speaker, now, the person happens to be at the helm of affairs and he is asking us to further tax the telecommunication operators. Mr Speaker, the question one is asking is, why is this apparent focus on the telecommunication operators? We need to be very careful.

Mr Speaker, I am aware that as we speak, there is a matter in court, and since we are being taught to be careful about speaking on matters in court, I would be very careful here. I would not want to spend a few days languishing in prison.

But the fact is that, the Government is appealing against a case taken against it by the telecommunication operators. Yesterday, we were informed that on some of these issues that are coming to Parliament, there was no discussion with the operators.

In fact, we were told that it was only yesterday that they found out that there was an attempt to tax them as service providers. Mr Speaker, I thought the proper thing to do is that, if we feel a need to discuss such a policy issue with a particular industry, we would engage.

Mr Speaker, we know that if you look at the penetration of mobile phones in Ghana, certainly, they are making a lot of profits but they are also paying lots of taxes. This reintroduction of the stabilisation levy, in my view, compounds what we were about to do earlier and I think the Government should look at it closely.

They should not perceive us as an attack on a particular industry. This is because as it is, if we are not careful and it is not explained properly, it would appear that everywhere we go, the telecommunication industry is being attacked.

Mr Speaker, it would be useful for the Hon Minister when they are discussing these matters, to tell us why that perception is before us. If it is not, he can explain to us that it is by coincidence. But as of now, when I look at all the Bills that are coming, even the Special Import Levy, there is some electronic transformers that may be affected.

So, there is a perception rightly or wrongly that they are being focused on. It is important since they are a big industry in Ghana for that doubt — *[Interruption.]*

1.50 p.m.

Mr Sampson Ahi: On a point of order.

Mr Speaker, my Hon Friend is portraying that it is only the telecommunication companies that are being imposed - but he has a copy of the Bill and it includes banks, non— bank financial institutions, insurance companies *et cetera*. The way he is emphasising on the telecommunication companies in referring to the Bill — the way he is talking about this Bill, he is just misleading the House.

Dr A. A. Osei: Mr Speaker, it looks like when people have assumed the position of Whips, they choose to talk the way they want to talk — *[Interruption.]*

Mr First Deputy Speaker: No, no, Hon Member, I think the language is rather harsh. Can you withdraw it?

Dr A. A. Osei: Mr Speaker, but he is right now —

Mr First Deputy Speaker: Please, withdraw it.

Dr A. A. Osei: Mr Speaker, I withdraw it. Mr Speaker, but it is clear that he has not been paying attention to what I am saying and we should not allow that to happen: he is sitting on a front bench. I thought he would be listening —

Mr First Deputy Speaker: Please, go ahead and make your submission.

Dr A. A. Osei: Mr Speaker, I am going ahead, so, he should sit down. I never said it is the only company.

An Hon Member: Hon Ahi, are you a Whip?

Dr A. A. Osei: I never said it is the only company —

Mr First Deputy Speaker: Yes, Hon Ahi, what is the point?

Mr Ahi: Mr Speaker, this is not the first time my Hon Colleague has spoken this way to me. He should know that I am a Member of Parliament as he is, and so, what I did — I raised the issue within the Standing Orders of this House — *[Interruptions.]* So, please, I am only saying that he is misleading the House — the way he is going, he is only indicating that the tax is being levied on the telecommunications only.

So, for him to tell me that I just speak anyhow, it is not enough to say that he withdraws; he has to apologise to me — *[Interruptions.]* — Mr Speaker, I expect him to apologise to me.

Mr First Deputy Speaker: Hon Dr Osei, I believe that if you render an apology, it would not be too far-fetched, yes.

Dr A. A. Osei: Mr Speaker, first of all, I said a Deputy Whip, he is not a Deputy Whip right now. He is a Minister. So,

why is he assuming the position? I made reference to Deputy Whips. He is not a Deputy Whip, so, why is he complaining?

Mr First Deputy Speaker: Hon Member, you made reference to people in the House *[Interruptions]* — in a portion of your presentation, which I think is not in good taste. So, if you could just render an apology.

Mr Ahi: Who is the Deputy Whip who has spoken here?

Dr A. A. Osei: He is not a Deputy Whip.

Mr Ahi: Mr Speaker, can he tell us the Deputy Whip who has just spoken? He was responding to what I said. And so, I am surprised that he is saying this.

Mr First Deputy Speaker: All right. Hon Ahi, please, resume your seat.

Hon Dr Osei, I would want you to just apologise, so that we can make some progress, all right. Withdraw that portion of your statement and apologise and let us make progress.

Dr A. A. Osei: Mr Speaker, I do not have any difficulty. “But Mr Speaker, in this House, this is what he was doing” — is that proper behaviour — he was using his left hand; that is improper behaviour. If he wants me to apologise, he should not be doing what he is doing, like I am doing now. *[Interruptions.]* He was using his left hand in pointing at me. We do not do that in this House. I will tell him what he was doing; he was using his left hand in pointing to me.

Mr First Deputy Speaker: Hon Member, let us deal with his objection first. After that, yours can be taken on board. So, please, render your apology and then we can take on board the use of the left hand.

Dr A. A. Osei: Mr Speaker, I apologise to the Whips — *[Laughter]*.

Mr Speaker, I am offended by anybody who is talking to me, using the left finger and pointing in my direction. Mr Speaker, it is a man’s left finger — I do not want to go there. He should withdraw the left-finger and use the right-finger — *[Laughter]*.

Mr First Deputy Speaker: He has withdrawn it. Let us move on, Hon Dr Osei.

Dr A. A. Osei: Mr Speaker, I would want him to get it clear what I was saying, and he should get it in good faith. The focus — *[Interruption.]*

Alhaji Collins Dauda — *rose* —

Mr First Deputy Speaker: Hon Minister, are you rising on a point of order?

Alhaji Dauda: Mr Speaker, in this House, our Standing Orders provide that if you use unparliamentary language, you are asked to withdraw it and apologise in some cases. Mr Speaker, I do not think that the use of the left or right hand offends any Orders of the House. Therefore, I need your guidance on that, whether we are always required to use the right hand or left hand in this House. I need direction on that.

Papa Owusu Ankomah: Thank you very much, Mr Speaker.

Mr Speaker, there may be certain conduct which may not be specifically proscribed under our Standing Orders. Having regard to our culture, there are certain things that we generally accept.

For instance, there is nothing in our Standing Orders to say that you cannot stand on your table or jump around, but it does not accord good order and

decorum. It is in that context that I believe the Hon Member for Old Tafo was saying. I do not think, Mr Speaker, this invitation is really necessary for you to give guidance. I know, with your vast experience, you avoid — I am just taking a pen — *[Interruptions]* — Yes, that is why. Yes, it could be; that is all.

Mr First Deputy Speaker: Hon Members, I think that Hon Ahi has already apologised and withdrawn. Yes, let us let sleeping dogs lie. I do not think we need to push it any further.

Dr Kunbuor: Mr Speaker, just in case this matter recurs, we also do know as a matter of fact that the Hon Sampson Ahi is left-handed —

Some Hon Members: He is not!

Mr Ahi: Yes, I am!

Dr Kunbuor: I am telling you that, it is indeed, the case, particularly when he is in full flight and he is making his submissions — *[Interruptions]* — and so, just because it will recur, I would want that this should also go on the record. Hon Ahi is here and he can indicate his personal circum-stances.

Mr First Deputy Speaker: Hon Members, let us go back to the meat of the matter.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I just for the records, I know the Hon Ahi is not left-handed. He is right-handed. I know that — *[Interruptions]* — I know that he suffered some injury and for that reason, the right hand is not very active. You know that, but he is not left-handed.

But Mr Speaker, it is important to make this statement because, for instance, I myself, would detest the use of the left hand and in particular a left finger of a right-handed person, for example, my good Brother and Friend — *[Interruptions]* —

[MR KYEI-MENSAH-BONSU]

Mr Speaker, he is saying to me that I should not mention his name. I will mention his name — the Hon Collins Dauda — I will detest Hon Collins Dauda using his left hand and left finger to point at me for very obvious reasons — *[Interruptions]* — known to him and me.

Mr Speaker, I will rest the case.

Mr First Deputy Speaker: Hon Members, I thank you very much.

Hon Members, having regard to the time, I direct that proceedings go beyond the stipulated time under our Standing Orders.

Dr A. A. Osei: Mr Speaker, the issue that we are talking about, even though my good Friend did not understand the import, it is something to look at. There is that perception, I know — We first brought this stabilisation levy but when it is perceived, Government ought to look at it and talk to the industry. I think talking helps because if there is a perception that, that industry is being attacked, we know their importance to this nation.

It is true that as a result of severe shortfalls in revenue generation, Government finds it almost critical to bring these measures in spite of their social democratic principles. You see, if I am burdened already like the former Member of Parliament for Bole Bamboi said, 25 per cent income tax, 15 per cent VAT, that is 40 per cent already; 5 per cent National Stabilisation Levy, that is 50 per cent; 6 per cent interconnection tax — that is 56 per cent!

Mr Speaker, this is a very serious matter — *[Power outage.]*

2.00 p.m.

Mr Joseph B. A. Danquah: Mr Speaker, our Hon Colleague is misleading the House. Of course, 15 per cent VAT is not borne by the operators, it is borne by the users. So, in calculating the tax, we should not add it to it.

Mr First Deputy Speaker: Hon Member, can you start winding up?

Dr Kunbour: Mr Speaker, I would want us to put it on record and in the proper perspective that, these levies and taxes that are actually emerging from the Budget and Economic Policy Framework are counter-balanced by a number of tax relief measures in that same budget. So, when you bring a cumulative of what is taxed without putting it within the context of the tax relief that is granted, it does not present a fair view of the level of fiscal exposure of the normal citizen.

Dr A. A. Osei: Mr Speaker, I am confused; I get a point of order here in the debate. Mr Speaker, he wants us to follow procedure, so as a Majority Leader, I urge him, when it gets to his time, he should debate but point of order on a point of order or a point of debate — Mr Speaker, I crave your indulgence.

Mr First Deputy Speaker: Hon Member, I pray that you just address the issues that they have raised.

Dr A. A. Osei: Mr Speaker, that is why I am surprised that he is having a point of order.

Mr Speaker, ultimately, the consumer is going to bear the brunt of these taxes. Mr Speaker, in any case, on this particular industry, there is no countervailing measure in the budget. I can tell him that there is not; that is why I am bringing it to his attention. The personal income tax relief does not affect them.

There is no relief, so to say, that it is a proper — Mr Speaker, the truth, we know, the Government has admitted it; it is not a secret. Bank of Ghana said there is a severe shortfall. The Hon Minister for Finance, the day after, said that I agree with you.

[DRA. A. OSEI]

Mr Speaker, on Metro TV, an Hon Deputy Minister said: “The shortfall is so bad the Ministers have not been paid their gratuity” — a Deputy Minister who is also a Member of Parliament (MP). In fact, we are told that some Ministers, because gratuity has not been paid —

Mr First Deputy Speaker: Hon Member, please, concentrate on your submission.

Dr A. A. Osei: Mr Speaker, I am talking about the impact of taxes.

Mr Speaker, on the matter of the Auditor-General’s Report, I am saying that if the Government can plug the leakages and make GH¢2 billion, for example, as was reported, you will not need to tax. So, I am urging the Government this is the easiest way.

But already, Mr Speaker, if you knew that there was a severe shortfall in the first quarter, it tells you that profits are going down. Further taxation would be passed on to higher prices for the consumer.

So, I am urging the Government to tread carefully because ultimately, maybe, you are looking for higher revenue, but may end up, according to the Laffer theory, with less revenue. It is important that we look at it. If you look at what the Committee is saying here, any higher tax is likely to adversely affect business.

You yourself are admitting that higher taxes affect business but 5 per cent is reasonable and you have looked up in the future and said 18 months. Why do you not first look at 12 months? By 2014, it is going to affect their investment plans, that is why I urge you to look at it carefully. Most of them have planned already.

Now, it is clear, in my view, that they are going to be a bit hesitant. I do not think they would want that because they are going to throw all their plans and more

importantly, the effect on consumer prices. Mr Speaker, ultimately, this would be passed on to you and me.

Inflation is already in the last (3) months has been in double digits. This is likely to be pushed further. So, we ought to be very careful that the short-term objective of acquiring lots of revenue, they may end up being defeated and I think that the Government should look at it closely and see if this is something that they still would want to pursue.

Thank you, Mr Speaker.

Mr First Deputy Speaker: Thank you very much.

Hon Members, I would like to put the Question.

Mr William O. Bofo (NPP — Akwapim North): Mr Speaker, I have made some three observations and I would like to bring them to the notice of the House.

Mr Speaker, the first one is about the duration of the Act. The opening sentence to the Memorandum states that it will be in force for 18 months; there is nothing in the Bill to indicate that it is of such limited period. Mr Speaker, under section 19 of the Interpretation Act, we have provision relating to the duration of enactments and if it is to expire within a certain period, there is the need for its indication in the Bill and it also provides certainty to those who will be affected to enable them plan very well.

Secondly, Mr Speaker, the Commissioner General is enabled to make provisional assessment. I do not find in the Bill any provision which will enable persons who are over-assessed to get their money back. The Chairman or the Hon Minister would explain.

Mr Speaker, the last one is about the amendment. The Hon Minister is allowed to amend the Schedule by Legislative Instrument (L.I.). Mr Speaker, we are talking

[MR W. O. BOAFO]

2.10 p.m.

in terms of money and we know how many days the L.I. has to spend in this Chamber before it takes effect. I am just asking the Majority Leader whether there is no other means of amending the Schedule apart from an LI, so that we can get the money quickly into the coffers.

Thank you very much, Mr Speaker.

Mr First Deputy Speaker: Very well. I believe, at the Consideration Stage, we will take on board all these suggestions.

Question put and Motion agreed to.

The National Fiscal Stabilisation Levy Bill, 2013 was accordingly read a Second time.

Dr Kunbour: Mr Speaker, item number 24.

BILL— CONSIDERATION STAGE

National Fiscal Stabilisation Levy Bill, 2013

Vice Chairman of the Committee (Mr Gabriel K. Essilfie) (on behalf of the Chairman of Committee): Mr Speaker, I see an amendment under the Schedule for (i), items 6, 7, and 8 with my name there as having proposed these amendments, maybe, at the Committee level. I do not recall — I am representing the Chairman of the Committee; I am the Vice Chairman of the Committee.

The Committee did not propose this; so, whoever made this proposal is the one who has to talk to it and be able to explain.

Mr Speaker, on that note, I am withdrawing that amendment for (i) under the Schedule for 6, 7 and 8 as on the Order Paper.

Mr First Deputy Speaker: So, now, you agree that it was proposed by you; so that you would be in the position to withdraw?

Mr Essilfie: No!

Mr First Deputy Speaker: Just for the records.

Mr Essilfie: Mr Speaker, we did not propose that. So, whoever in their own fine way brought it in there, should speak to the matter.

Mr Danquah: Mr Speaker, on this matter, at the Committee meeting, the Hon Minister was of the view that Parliament has the authority to add unto the list and amend the Schedule and therefore, we brought out these companies and these sectors. That is how these companies were added unto it. Actually, the shipping companies even included the maritime and airport terminal operators.

Dr A. A. Osei: Mr Speaker, he is not a member of the Committee; he cannot purport to speak for the Committee. No! Mr Speaker, a member of the Committee is here; he went there and now, he is purporting to speak for us. Mr Speaker, this is not proper. This is from the Committee.

Mr Kofi Frimpong: Mr Speaker, I am a member of the Committee; I stood up and you did not call me.

Mr Speaker, I was there when this amendment was proposed by the Minister after deliberation by us all, and the Minister asked us to include it in the amendments. Mr Speaker, some companies were left out and it was decided that these companies — GCNET, mining services, shipping companies, including airports and terminals operators and whatnot should be included.

[MR FRIMPONG]

So, if the Chairman is saying, Mr Speaker, — *[Interruptions.]* I am not contravening any Standing Order, so nobody can stand on a point of order — nobody. — *[Laughter.]* If the Chairman is saying —

Mr First Deputy Speaker: You are taking over the job of the Speaker.

Dr Kunbuor: He is, indeed, breaching almost all the Standing Orders because we must take one thing at a time.

An issue has been raised about the authorship and ownership of this amendment and I have been advised that this has not taken place but there are members of the Committee who might be interested.

So, if the Chairman has withdrawn and a Member feels strongly, you can bring the amendment in your name, then we can deal with it. But the Chairman of the Committee is not the author of this amendment — as first, a member of the Committee and as somebody who has done the background crosschecking for the business of this House.

Mr First Deputy Speaker: Hon Frimpong, can you conclude?

Mr Frimpong: Mr Speaker, when the acting Chairman said he was withdrawing it, he did not want to own up the amendment. Mr Speaker, it was wrong on his part. So, I would want to own it. It is a proposal made at the Committee level and I beg to move, the Schedule, page 7, add the following new paragraphs:

“6. Inspection and valuation companies including ...”

All right,. Going on, I may want to delete number 6. *[Interruptions.]* Oh! Do not confuse me. *[Laughter.]*

Mr First Deputy Speaker: Hon Member, please, concentrate on your submission.

Mr Frimpong: I would not be distracted.

Mr First Deputy Speaker: Let us be clear, what kind of amendment you are proposing.

Mr Frimpong: The amendment I am proposing is that, number 6 on page 8 — numbers 6, 7 and 8 should be included in the list of companies that should be added to the tax list in the Schedule, Mr Speaker.

Mr First Deputy Speaker: All right, Can you give your reasons for the proposed amendment?

Mr Frimpong: My reason is that, after mentioning a lot of companies, the Committee saw there were some sectors that were making a lot of profit and were not included in the list. So, we had to bring them in for Government to rake in more money and when the money is raked — *[Interruption.]*

Alhaji Dauda — *rose* —

Mr First Deputy Speaker: Hon Alhaji Collins Dauda, is it on a point of order?

Alhaji Dauda: Mr Speaker, I am on a point of order.

My Hon Colleague is misleading the House when he said that these issues were discussed at the Committee level and a position was taken. I guess the position in the House now is that, the Committee does not propose to make these amendments and that you gave direction that if he wanted to make the amendment, he should make it.

[ALHAJI DAUDA]

Therefore the reference he is making to the decision at the Committee is my source of worry because at the Committee, no such decisions were taken. I appreciate the fact that all these concerns were raised at the Committee level but no decisions were taken. And indeed, the Finance Minister rejected the inclusion of these agencies to be taxed. That was the position; so, if he has any interest, he should argue his case without making reference to the Committee because I was there and no such decision was taken.

Mr Kyei-Mensah-Bonsu: Mr Speaker, since this matter is becoming contentious — that is what transpired at the Committee level — Mr Speaker, may I demand that we resort to Standing Order 198 which will settle the matter. This will settle the matter. When the Minister was talking a few minutes ago, I saw the Deputy Minister signalling to him that there was an exemption of one. He is saying that no such thing transpired there, no agreement.

The Deputy Minister was signalling to him that there was one that was agreed to. Mr Speaker, clearly, there is some dispute. Let us avail ourselves of Standing Order 198 (3).

“The Clerk of a Committee . . .” — and we are informed there was a Clerk at the Committee —

“... shall record the minutes of proceedings and all proceedings upon consideration of any report or Bill in the Committee and upon every amendment proposed to such report or Bill together with a note of any decision taken by the Committee and the names of all Members voting therein”.

Mr Speaker, I demand that we be served with that report and that it will help us to resolve this matter.

Mr First Deputy Speaker: I think you will add 3, if you go down a little?

Mr Kyei-Mensah-Bonsu: Mr Speaker, it is the 3 that I read.

Dr Kunbuor: Mr Speaker, we have not even reached the stage in which Standing Order 198 ought to be evoked. I am a member of the Committee and what I am saying is that there is no major idea that they are saying that the Committee did not discuss this matter, which the minutes of the Committee would reveal.

The issue is whether the Committee reached a position that an amendment should be done. Why I think it is a slippery road to go under 198 is that, you are not only going to be asking for whether this was done but that there is evidence further that they said there should be an amendment. That is what I am saying and I know as a matter of fact because I have been briefed adequately on this matter.

That there were discussions in which these matters were raised and the only exception that was taken was mining and even with the idea of mining, it was left to an individual member of the Committee who could bring the amendment.

That was the position and the guidance that I was given on this matter and I did not think that the matter is foreclosed. If we really want to pursue this amendment, it can simply be adopted but there was no position reached that it was going to be an amendment put in there by the Chairman of the Committee. That is the context in which I think we should not go down to Standing Order 198.

2.20 p.m.

Papa Owusu-Ankomah: Mr Speaker, I beg to differ from the position taken by the Hon Majority Leader. Mr Speaker, this proposed amendment was included in the Order Paper by the Table Office, officers of this Parliament in the name of the Chairman of the Committee. Mr Speaker, I do not want us to call the integrity of the Table Office into question. It could be a mistake, but if it were a mistake, then it would be a very grievous one and we ought not to presume that for the Table Office. We ought to preserve the integrity.

The Chairman has come to say that there was no such decision. The Hon Majority Leader, who is a member of the Committee but who obviously did not attend the meeting says he has been briefed; by whom, he does not say, but presumably, by the Vice Chairman who is acting as the Chairman.

This must have been given to the Table Office by the Clerk to the Committee. So, if the Vice Chairman gets up on the floor of the House to make a positive statement that this was not an agreement reached at the Committee, then it throws into serious question the conduct of the Committee’s meeting.

Obviously, there is a doubt, and if there is a doubt, the best way to resolve this doubt is to resort to the minutes which are more or less a verbatim — or let us say, just like the *Votes and Proceedings*. I would not want us to go through that route because we have always had a problem with minutes. I have raised it several times but if the Majority Leader is now going to say that well, we should take the Chairman’s word for it and then another Member would adopt it, I do not intend to agree.

The Chairman may say that on second thought, he thinks that he is not going to move the amendment. He is at liberty to do so even though that can be contested. But to get up on the floor and say that it was not agreed — if you look at the amendment, it is a very well considered amendment. It just could not have happened by a mistake or error.

So, let the Majority Leader help the House by using his skills; he always has something to say and he should wriggle himself out of this corner because — *[Interruption]* — Oh yes, he is an intellectual worm.

Mr First Deputy Speaker: Before I hear from the Majority Leader, I would like to hear from Hon J. B. Danquah.

Dr Kunbuor: I would want Leadership to handle this matter. In fact, the Hon Member for Sekondi, if he had allowed me to open up on this matter — When we saw it on the Order Paper, I did hold consultations. It was at that point I asked how it got onto the Order Paper and the understanding was that the Committee was going to move it through the Chairman.

But once they could not agree whether it should be limited to mining or to others, the Hon J. B. Danquah, he said, he would adopt it when the matter comes to the floor of the House and move it as the person who held very strong views. This might be parliamentary administration but we do not have to come all the time and indicate the levels of consultations we have had on this matter.

So, my position was that, it would be withdrawn in the name of the Chairman and then the Hon Member who had a very strong position on it would adopt it and move the Motion and we move on from there.

[DR KUNBUOR]

There was a second Hon Member who said he would come with an amendment Motion even to the Motion of the Hon J. B. Danquah to limit it to mining. So, when I indicated that it should be withdrawn, it was the first step to clear the ground to enable Hon J. B. Danquah who was almost on his feet but did not catch Mr Speaker's eye and this matter would have been resolved. This is because a more senior Member of the House was also on his feet and preference was given to him. Otherwise, it would have been unnecessary.

Mr Kyei-Mensah-Bonsu — *rose* —

Mr First Deputy Speaker: Hon J. B. Danquah?

Mr Danquah: Mr Speaker, I yield to the leader.

Mr First Deputy Speaker: I would want you to confirm or deny what has just been said about you regarding this particular proposal.

Mr Danquah: Mr Speaker, that is the case.

Mr Kyei-Mensah-Bonsu: Mr Speaker, when I made my intervention, the Majority Leader rose and said that we were not there yet for anybody to request for minutes to be produced— He now sees the wisdom in what I said.

Mr Speaker, this House should not come to rest on adequate briefings to the Majority Leader by whoever. Mr Speaker, it cannot be done that way. The evidence should be the minutes recorded and then the Chairman would perhaps, not rise to say that this did not even come before the Committee, and another person to say that well it came but we did not come to

some consensus on that about who to author the amendments. So, you would see that people are even talking at cross-purposes — those of them who were even at the Committee level.

The Majority Leader and I were not at the Committee — he was not there; I was not there and he now tells us that he has adequate briefings by whoever. Mr Speaker, we cannot rely on that.

I do not know whether minutes were recorded but Mr Speaker, it is for this reason that I have always insisted that this thing ought to be done. This is not a major issue that we would have to drag on and on but I just went on this tangent, so that we see the relevance for writing minutes and then we could refer to them easily to resolve this matter; instead of the Hon Minister rising up to challenge and attempting to challenge what I have said.

So, I am saying that the minutes certainly would resolve this matter in such events. So, let us insist at the level of committees that whenever they sit to transact business, they should write minutes and then it would be part of the report that would be presented to this House, so that if there is any misunderstanding — that is what the Standing Orders provide — So, if there is any dispute, we can refer to it.

Mr Speaker, the Majority Chief Whip is shouting “hei”; let him address his mind to the Standing Orders and he would know that — *[Interruption]* — No! I am not saying that it should be —

Mr First Deputy Speaker: Hon Minority Leader, please, address the Chair and ignore the asides.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I would want him to address his mind to it, that is why I am looking straight at his face, so that next time he would not pretend this was not said in the House. I

[MR KYEI-MENSAH-BONSU]

am saying this on the floor of the House. Let us insist that the committees do what is right.

Mr Speaker, before I sit down, I notice my Colleague and Friend wants to really interject himself. May I sit down and allow him to make his intervention? Maybe, a point of order, I do not know, or a point of information.

Mr First Deputy Speaker: Hon Minority Leader, I am giving some direction. I think that Hon J. B. Danquah should own the proposed amendment, move it and then we can make some progress.

The point you have made about the minutes is well said. I think that we need to take it up seriously, so that if there is any such dispute in the future, we can easily resolve it. But as matters stand now, I would plead with Hon Kofi Frimpong to give way to Hon J. B. Danquah to own it and move it, so that we can make some progress.

Mr Kofi Frimpong: Mr Speaker, I will resume my seat. But before I do that, I would want this one to be on record, that these amendments that are coming were discussed at the Committee meeting. So, if somebody went to pray somewhere along the line and he was not present when these things were discussed, he cannot come and tell us that he was here and that thing was not spoken about and that we cannot talk about it.

Mr Speaker, we —

Mr First Deputy Speaker: All right. Hon Frimpong, well said, the point is well taken.

Can we let Hon J. B. Danquah have the floor?

2.30 p.m.

Mr Danquah: Mr Speaker, I rise to bring these amendments to the floor of the House. Mr Speaker, it is very important that as we bring this Stabilisation Levy, we widen the net and not all the time go to the same companies and continuously milk the same cow year on year on.

I remember the Question was put to the Minister for Finance, why do we go to the insurance companies, the telecom companies, the financial institutions or the banks and the answer was, oh, the last time they were the same companies that we did.

We did it during President Kufuor's era; we are doing it on and on. Therefore, we want to widen the net and in widening it, some of these companies make so much money more than even the insurance companies that are listed here or some of the Ghanaian or indigenous banks.

Moreso, a lot of these financial institutions do not get the benefit of some of the things that we do when there are big monies to be made, like the raising of funds for COCOBOD or raising of the 1 billion dollar bonds. We always tend to look at the foreign banks but when we want the taxes, then we go to the indigenous Ghanaian banks—

Therefore, we felt the need to widen the net by adding these sectors — the inspection and valuation companies, the mining services — *[Interruption]* — the Hon Minister was of the view that the mining sector has been taxed enough and therefore, we should not add the mining companies. But this is the mining services; they are different from mining companies.

[MR DANQUAH]

Therefore, there is a distinct difference when we talk about mining services and when we talk about mining companies. When you go to the mines, yes, Ashanti Goldfield Company (AGC) might be a mining company, but Norman is a mining services company that is doing the services. Or AMS — Australia Mining Services might be doing the mining services but it is very different.

Mr Speaker, we also talked about the shipping companies. Unfortunately, the Clerk missed my handwriting but it was the shipping companies and maritime and airport terminal operators. “Shipping companies and maritime and airport terminal operators.”

Mr Speaker, this sector makes so much money and therefore, we felt the need that if we were tackling ordinary non-banking institutions like the *Susu* Company in my district, then there is no reason we could not increase and widen the net to include the maritime and airport terminal operators and the shipping companies who were making so much in terms of foreign exchange revenue.

With these few words, Mr Speaker, these were the arguments by which and through which this list was added to the Schedule.

Mr First Deputy Speaker: Thank you very much.

Having got this background, I would now like us to start from the beginning. You know, we start with the Long Title or possibly we come to that as the last item but we should go clause by clause and when we get to the Schedule, then he can move his proposed amendment. Once we have all understood the background to the appearance of this proposed amendment on the Order Paper— I hope Hon Members agree with me. Let us go clause by clause.

Clause 1 to 4 ordered to stand part of the Bill.

Clause 5 — Assessment of levy payable

Mr W. O. Boafo: Mr Speaker, I would want to make an amendment to clause 5 by an addition of a new subclause. Mr Speaker, the amendment being proposed is to enable any company or institution which is over assessed under a provisional assessment by the Commissioner General to apply for a refund of the difference within a specified period.

Mr First Deputy Speaker: Hon Member, I would prefer that you set out the proposed amendment and after that, you give your reasons.

Mr Boafo: Mr Speaker, the proposed amendment is as follows:

“Where any company or institution is over-assessed under a provisional assessment by the Commissioner, the company or institution may request the Commissioner for a refund of the difference within the period of 21 days from the date of the receipt of the demand.”

Mr Speaker, I beg to move.

Mr First Deputy Speaker: Yes, Hon Majority Leader —

Dr Kunbuor: Mr Speaker, that amendment cannot be sustained as a matter of tax law. A provisional assessment is an assessment that is done on the best judgment rule. You cannot make a refund of a provisional assessment until the assessment is final. It is after you have finalised the assessment that you can find out whether the provisional assessment has been over-assessed.

[DR KUNBUOR]

But Mr Speaker, from my experience, the provisional assessment is done in such a way that it is always lower than what will be the final assessment. So, the provisional assessment provided in Act 592, being a term of art, if you were to put it that a refund is capable of being made under provisional assessment, it would be technically incorrect.

It is only under VAT where your input system and refund system will admit of that type of arrangement but on income tax, it is not a possibility that you can be refunded money based on a provisional assessment. It is when the assessment is finalised that you can then tell that the provisional assessment figure was higher than the final assessment. So, technically, in tax administration, it cannot be done. And I will advise that we should not put this into the legislation.

Mr First Deputy Speaker: Yes, Hon Boafo, how do you react?

Mr Boafo: Mr Speaker, the amendment is being made on the presumption that the over-assessment will be realised after the final assessment. So, what he is saying, I do not understand it. I am not saying that the money should be refunded at any time at all. The over-assessment would be realised after the final assessment. So, his argument is predicated on the fact that the over-assessment is not necessary because it should depend upon the final assessment. But that is precisely what I am saying.

Dr Kunbuor: I would want to clarify. That is precisely what I am saying; that when you have a provisional assessment and then they are finalising your final assessment, by the time they let it out, you will be informed after the final assessment that we have found that you

have over-paid a tax of this nature or that you have underpaid based on the provisional assessment and we are asking you to pay an additional assessment. That is how the administration is done.

So, automatically, under 5 (9), you will be notified that you have over paid your tax and Hon Members who have asked for tax clearance certificates would have received those types of notices in the assessment that you have actually over paid the tax and they might even negotiate with you whether to carry it forward to the next assessment year or not. So, it would automatically be refunded if you require it.

2.40 p.m.

Mr Chireh: Mr Speaker, I would beg my Hon Friend to drop the amendment because who is to determine the over assessments; is it the one who is being taxed? No! Anybody who is assessed to pay tax would have to go and challenge the basis of the assessment and at that point, the correct thing would be done.

But if you have paid and you did not have the evidence to show at the point you were paying, now, you gather evidence, you can only go and continue with the debate there. But it is not appropriate for us to put it here because who is to determine it?

In fact, if you propose such an amendment, it would also involve proposing how it should be done. And as the Leader has already indicated, in tax payment, they assess you, you agree with the assessment or you do not agree. So, I do not think that it is necessary. I would beg him to drop the request.

Mr Boafo: Mr Speaker, the argument by both the Majority Leader and the Hon Hon Member for Wa West (Mr Chireh) are all based on the extension of the

[MR W.O. BOAFO]

provisions in the Internal Revenue Act, about how refunds are made in respect of provisional assessment. But that provision in the Internal Revenue (Amendment Act) has not been extended by way of specific provision to the Bill that we are considering. Mr Speaker, I would concede that it could either be an administrative or operational exercise. So, I would drop the amendment.

Clause 5 ordered to stand part of the Bill.

Clause 6 — 11 ordered to stand part of the Bill.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the time for payment — I am wondering how it has been captured 6 (1) — Mr Speaker, I am just looking at the language:

“The levy assessed for a year of assessment is payable quarterly and is due on 31st March, 30th June, 30th September, 31st December of that year”.

I am just looking at the language.

Mr First Deputy Speaker: It looks like it is a quarterly kind of payment.

Mr Kyei-Mensah-Bonsu: Yes, I know. The issue I am raising is how it has been captured. Can it be paid on 30th March for instance? It can be paid on 30th March. But if you say it is due on the last day of the month — *[Interruption.]* Mr Speaker, I resume my seat on this.

Mr First Deputy Speaker: So, now, let us move on to the Schedule.

Mr Boafo: Mr Speaker, I would want to propose a new clause which relates to the duration of the Act. “This Act shall

be in force for a period of 18 months from the date of its commencement”. It would be in line with the opening paragraph of the Memorandum.

Mr First Deputy Speaker: Hon Chairman of the Committee? *[Pause.]* Hon Chairman, please, pay attention; there is a proposed amendment. Please, go over it Mr Boafo.

Mr Boafo: By the addition of a new clause to indicate the duration of the Bill or the enactment. Headnote — Duration of the Act: “This Act shall be in force for a period of 18 months from the date of its commencement” — to be in line with the opening paragraph of the Memorandum.

Dr Kunbuor: Mr Speaker, if you read clause 6 carefully, particularly subclause (2), the combined effect of subclause (1) and subclause (2), you would see that it cumulatively builds up into it. *[Interruption.]* Yes, and clause 4.

Mr First Deputy Speaker: Hon Boafo, you get the point THAT is being made?

The point being made is to the effect that it has been taken into account, the issue you are raising.

Mr Opare-Ansah: Mr Speaker, if you read clause (4) and with your permission, let me quote. It says:

“The levy is paying in respect of the profits before tax for the 2013 and 2014 years of assessment.”

So, it is clear which years it refers to. If you go ahead to put some limitation on the application of the law, then if somebody does not pay within that time, I do not know whether it would not provide room for them to escape the net. This is clear that it does not affect any other years apart from 2013 and 2014; so, I think it is alright as it stays.

2.50 p.m.

Dr Kunbuor: In fact, the danger about it is that, if you put 18 months from the effective dates, it means it is going to go into a number of budget cycles which might not reflect your revenue reality and expectations at that time. So, the way we have it would make it clearer.

Mr First Deputy Speaker: Hon Boafo, how say you?

Mr Boafo: Mr Speaker, my lone voice cannot withstand the sense of the House.

Mr First Deputy Speaker: So, now, let us move on to the Schedule and I would like to invite Hon J. B. Danquah to move his proposed amendment.

The Schedule —

Mr Joseph B. Danquah: Mr Speaker, I beg to move, *add* a new paragraph: “inspection and valuation companies” *delete* “including GCNet”, (7) “mining services”, (8) “shipping companies and maritime and airport terminal operators”.

Mr First Deputy Speaker: I believe your background gave the reasons, so, we do not need to belabour it?

Alhaji Muntaka: Mr Speaker, I support the amendment proposed by our Hon Colleague, except to suggest to him to consider further amendments. This is because “mining services” is “mining support services”. And then the “shipping companies”, if he would accept that we make it “shipping lines”. Then we would add paragraph 9 as “cargo and container terminal operators” to capture all those that he has been talking about. *[Interruption.]* That is, the shipping lines.

I thought the “shipping lines” covered the vessels. *[Interruption.]* I thought they used one term to cover all of them?

So, if I can take it again. I support the amendment but I am seeking for a further amendment and that paragraph 7, instead of “mining services” it should be “mining support services”. That is their actual name. And then when it comes to paragraph 8, instead of “shipping companies” we make it “shipping lines”, so that we would have paragraph 9 as “cargo and container terminal operators” so that it will take care of those at the airports and harbours.

Mr First Deputy Speaker: Can you go over your proposal?

Alhaji Muntaka: Mr Speaker, I support his amendment but I am seeking his indulgence to further amend but that we do not really have a name called “mining services”. What we have is “mining support services”. Then the paragraph 8, where he said “shipping companies”— Those shipping companies are those with the vessels, that is, the shipping lines. And then you have those who have the container terminal operators, but it is both at the ports and airports.

Those at the airports are termed as “cargo operators” and those at the harbour are termed “container terminal operators”. So, if we can broaden that one to make it paragraph 8 — Shipping lines, and then paragraph 9, you have “cargo and container terminal operators” to make sure that it is broad enough to capture all those categories.

Mr Danquah: Mr Speaker, I understand where my Hon Colleague is coming from. But the reason we are calling it “maritime and airport terminal” is that it encompasses maritime and airport terminal operators. The moment you go “cargo handling” or “cargo” — you will narrow it. So, that is why we called it — I think the Hon Minister responsible for Aviation would — *[Interruption.]* Yes.

Dr A. A. Osei: Mr Speaker, I just need clarification. The freight forwarding group, which category would they fall under? They are conspicuously missing and therefore, I seek your indulgence to add them as the 10th paragraph. [Interruption.] Freight forwarding — [Interruption.] Why? “No, no.” That is my amendment.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I would beg your indulgence, if you could put the Questions on those of them that we have agreed on and then when we come to the last one, and then we would work on those other ones. So, if you can begin with paragraph 6, then we move to paragraph 7 and so on — In that chronology and if we have difficulties, then we would know how to deal with them.

Mr First Deputy Speaker: Mr Speaker, I do not really understand. I thought we were taking that particular amendment in addition to what we already have in the Schedule, so that it comes as one item.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I know. But if we went through it one after the other, I think we would make further progress.

Mr First Deputy Speaker: All right.

Alhaji Muntaka: Mr Speaker, I am equally with him. This is because we are at the Schedule, once there is no contention on paragraph 6, for example, where it says: “Inspection and Valuation Companies including GCNET — [An Hon Member: Deleted.] All right. He has deleted that one.

Mr First Deputy Speaker: He has deleted “including GCNET”.

Alhaji Muntaka: “Including GCNET”, so that it would be “Inspection and Valuation Companies”. So, we would take

that one and then we would come to the second one — “Mining Support Services”. We would take it and then we come to — in that order, so that it becomes easier to follow.

Mr First Deputy Speaker: All right. Let us go that way. We would take it paragraph by paragraph.

Alhaji Dauda: Mr Speaker, for clarity, I think the issue about the ‘mining support services’ — [An Hon Member: We are not yet there.] We are not yet there?

Alhaji Muntaka: Yes, we would want to take the first one. We want to take the first one first, and then we come to —

Mr First Deputy Speaker: Yes, we are taking them paragraph by paragraph, so, when we get there —

Alhaji Dauda: When we get there?

Mr First Deputy Speaker: Yes, when we get there.

Mr First Deputy Speaker: Yes. Paragraph 6 — Inspection and Valuation Companies. I would put the Question.

Question put and amendment agreed to.

Mr First Deputy Speaker: Paragraph 7 — Mining Support Services — the inclusion of the word “Support”.

Alhaji Dauda: Mr Speaker, if we leave it as “Mining Support Services” we may not be able to tax anybody. Rather, we should be clear about what we want — “Companies providing mining support services”. If we leave at “Mining Support Services”, we have not done anything. You would not catch anybody. It should be “Companies providing mining support — [Interruption.]

Mr Danquah: Mr Speaker, I do not have any problem with that kind of amendment.

Mr Opare-Ansah: Mr Speaker, the heading of the Schedule is “Companies and institutions liable to pay National Fiscal Stabilisation Levy”.

Alhaji Dauda: Mr Speaker, he is right. But we have “Insurance Companies”, “Non-banking financial institutions”, “Telecommunication companies”.

Mr Opare-Ansah: So, Mr Speaker, it does not matter whether you qualify it or not.

Alhaji Dauda: Mr Speaker, it is just for emphasis.

Mr First Deputy Speaker: I think we would go by what Hon Collins Dauda is saying.

Alhaji Muntaka: Mr Speaker, instead of saying “Companies providing”, we could say “Providers of mining support services”.

Mr First Deputy Speaker: What about “Mining Support Services Providers”?

Question put and amendment agreed to.

Mr First Deputy Speaker: Paragraph 8 — Shipping lines —

An Hon Member: It is more than that.

Mr First Deputy Speaker: It is more than that? All right.

Mr Danquah: Mr Speaker, the rendition was “Shipping lines, maritime and airport terminal operators”.

Mr Chireh: Mr Speaker, you have put the Question on the “Mining Support Services”. If you do that, you are charging a tax; you must charge somebody, a company. In fact, it does not detract from anything. If you do not add it, it would be difficult to go round trying to tax mining support services. Is it when somebody is supporting services that you would go and charge? So, we should add the “company”.

Mr First Deputy Speaker: Finally, we settled on “Providers of Mining Support Services”.

Mr Chireh: Mr Speaker, no, no. If you say “providers”, tax must be exact. If I go and get some *toroko* and I want to push something uphill, am I a provider? No! It would be difficult to get that tax. It must be companies.

Mr First Deputy Speaker: Hon Member, what about firms that are not limited liability companies — Enterprises — for example? Would that capture it?

I would have thought that “Providers” would just cover everything.

Dr Kunbuor: Mr Speaker, because it is a question of collection and administration, I think “Companies” would specifically target the subject of the tax, so that we are not left in limbo because clause 9 is saying that you would use the administrative framework of Act 592 to collect it.

If you look at Act 592, they have categorised the individual, partnership, corporate entities, unincorporated individual. So, we must put it under one of those categories to make it easier for collection, except we are not going to use Act 592. So, it will not do any harm if we add “Companies” to the “mining services”.

3.00 p.m.

Mr Speaker: So “Companies providing mining support services.” All right? So, let us go back and let me put the Question.

Mr Kyei-Mensah-Bonsu: Mr Speaker, by extension of reasoning, paragraph 5 provides for “Breweries”. What do we mean by “Breweries”?

Mr First Deputy Speaker:: Hon Minority Leader, we will cross the bridge when we get there. We have gone past that one.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I thought the heading was there — “Companies and Institutions Liable to pay National Fiscal Stabilisation Levy”.

Mr Opare-Ansah: Mr Speaker, I wanted a little clarification regarding the amendment proposed by the Hon Member for Abuakwa North (Mr J. B. Danquah) with regard to the Airport Terminal Operators. Does it include the operators of the passenger terminal or was it just looking at the operators of the cargo terminal?

Mr First Deputy Speaker: Hon J. B. Danquah, what do you say?

Mr Danquah: Mr Speaker, it covers both passenger and cargo. Is that very clear, Hon Colleague?

Mr First Deputy Speaker:: When it has to do with maritime, are you also talking about passengers?

Mr Danquah: We are talking about Maritime and Airport Terminal Operators. So, the airport is also covered. The airport has both the cargo terminals and then the passenger terminals. So, the fees that accrue to these operators will be subjected to the extra stabilisation levy.

Mr Woyome: Mr Speaker, then in this case, we should be looking at airlines. **[Some Hon Members: No!]** No, because per your submission, if you are considering passengers for the airport, the terminal operators definitely are airlines.

Alhaji Dauda: Mr Speaker, a terminal operator is a company engaged to provide terminal services. In Ghana, at the Kotoka International Airport, we have Aviance that provides terminal services and engages other smaller companies to do other things. So, that is what is being referred to in the amendment proposed and — *[Interruption.]*

Mr Opare-Ansah: Mr Speaker, that is exactly my point. Aviance provides cargo terminal services not passenger terminal services. Ghana Airport Company provides that service and it is this House which makes the law that gives them the power to collect the Airport Tax a portion of which goes for — And now, we are saying that we are going to levy them.

Alhaji Dauda: Mr Speaker, Aviance does not provide cargo services; they deal with passengers, and I am not aware of a company dealing with cargo terminal at the Airport.

Dr A. A. Osei: Mr Speaker, who operates the airport terminal for us passengers — the VVIP Lounge, who operates it? Ghana Airport Company. So, if he says passenger operators — No! Airport Company operates where we live and we do not want to tax them.

Alhaji Dauda: Mr Speaker, the VVIP services provided there is provided by Protocol. It is not provided by the Ghana Airport Company. That is for your information.

Dr A. A. Osei: They are in charge of buildings. The protocol people work in there. The Airport Company is in charge of the passenger terminal. *[Interruption.]*

Alhaji Dauda: And I am saying that the company that is charged, contracted to provide those services is Aviance. I am not aware of cargo as part of their contract.

Mr Speaker, that is one of the reasons at the Committee level, some of us were hesitant. Even determining who should be taxed has become a problem here and therefore, you impose a tax and it is difficult to administer the tax. That is why I thought that we should think through the institutions that we are putting on, otherwise, we will have this tax on paper and we cannot earn anything.

That is my difficulty and therefore, this airport thing, cargo thing, we should take it out.

Dr A. A. Osei: Mr Speaker, I am surprised at the former Minister for Roads and Highways. Aviance provides cargo services; that is what we want to tax, but passenger terminal is managed by the Ghana Airport Company Limited. We do not want to tax them. He included passenger operators and that is where we are being careful. We cannot tax Airport Company.

We have made laws to seed our Airport Tax to them, then we go and tax them, again. So, if we are looking at the Aviance that we define, that is where we want to go to.

Mr Kofi Frimpong: Mr Speaker, I disagree with Dr Akoto Osei when he said that the services provided to the passengers is only by Ghana Airport Company. When you see the gangway that is attached to the aircraft, it is Aviance. **[An Hon Member:** That is an advertisement] No! It is not an advertisement.

It is Aviance. So, it is Aviance that is operating at the passenger terminal point and not the Ghana Airport Company. We know the Ghana Airport Company —

Mr Opare-Ansah: Mr Speaker, I would want to help my Hon Colleague.

As part of providing the terminal services at the Airport, the Ghana Airport Company has contracted a security company that provides security services at the Airport. Would you say that they are the operators of the terminal services at the Airport? This is because you see them wearing a different company’s uniform, they are at the car park, there is somebody there collecting tolls at the car park, are they the operators of the terminal?

It is the Ghana Airport Company that is mandated by law to operate the passenger terminal in this country. If you see Aviance stairways at the Airport, it does not mean they are the operators of the terminal

Mr First Deputy Speaker: All right. Thank you very much.

Alhaji Muntaka: Mr Speaker, just to help all of us avoid the confusion that we are not sure whether that includes Ghana Airport Company, why do we not follow the sentence with “with the exception of maybe, Ghana Airport Company” so that it becomes “Maritime and Airport Terminal operated excluding Ghana Airport Company”? So that we are sure we are not talking about the operation of the Ghana Airport Company as a way of avoiding the confusion.

Alhaji Dauda: Mr Speaker, Ghana Airport Company is the managers of the Airport and takes responsibility of all the activities that take place at the Airport. But for some aspects of its operations, they contract it out to a private company to do for it. For instance, the passenger services, that is provided by Aviance. If you want to impose a tax and you are not clear who you are imposing the tax on,

[ALHAJI DAUDA]

you will end up not getting anything. If it is companies such as Aviance we are targeting, we need to be very clear because a law that is seeking to impose a tax on any institution must be concise. That is my fear. The mover of the amendment himself is not sure.

3.10 p.m.

Mr Danquah: Mr Speaker, I am very sure.

Alhaji Dauda: Mr Speaker, he is not sure. He is certainly not sure. You will realise that Hon Members are the ones canvassing arguments to support his position. This is because he is not sure; we should not allow him to mislead the House into making a law that will remain on paper where we cannot get the results that we want.

So, I think that we should agree to take that aspect out — *[Interruption]* — the Airport aspect, we can take it out. At the maritime level, at the sea port, it is very clear who we are targeting. But the Airport, we have doubt. He is unable to justify it.

Mr Ayariga: Mr Speaker, I have just crosschecked from the Airport and they are saying that Aviance actually does manage the passengers' cargo and that the buses that take the passengers to the aircraft and back and all the others, Aviance is actually responsible for that.

But there is also the aspect about ground handling of cargo. They are also involved and other companies are also involved. *[Interruption.]* So, the “operators” is correct because they are private operators who have been contracted by Ghana Airport Company to provide those services.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the Stabilisation Levy is on profits before tax. The Hon Minister is telling us the target rake in is GH¢88 million. Now, the amendment the Hon Member is proffering is to add to the basket. The Hon Minister is saying that he is comfortable, so, I do not see the beef of the Hon Mmember. *[Interruption.]* I do not want to hear the argument that he has made.

Mr Speaker, the Hon Minister is responsible. He is saying that this is for a specified period and he has told us that it is 18 months, and for the 18 months, he says he is targeting to receive GH¢88 million. I do not know why the Hon Member is burdening himself when the Hon Minister says that with what he has suggested, he will get the GH¢88 million that he wants. So, what is the Hon Member's worry?

Mr Speaker, I would request my Hon Colleague, Hon J. B. Danquah, if the Hon Minister himself is satisfied that he will get that amount, let us leave it as simple as that.

Mr First Deputy Speaker: Hon J. B. Danquah, let us hear from you.

Mr Danquah: Mr Speaker, I think my Leader, as I made the argument, why we needed to widen the net and deepen the net and not to overburden the same sector — Actually, when we talk about non-banking institutions, where we are talking about some of the *susu* companies which are not even making a million dollars in profits, while some of these companies are making tens of millions of dollars in profit — And the Hon Minister himself proffers that Parliament has the authority to *add*, so, we should *add*.

So, Mr Speaker, I think I still stand by these amendments and all the things that I am proposing in this amendment.

Mr First Deputy Speaker: Let us get the rendition from you. What is the rendition?

Mr Danquah: Mr Speaker, it states:

“ . . . shipping lines and maritime and airport terminal operators”.

Mr First Deputy Speaker: All right. Hon Members, I think we need to make some progress. Let me put the Question.

Question put and amendment agreed to.

The Schedule as amended ordered to stand part of the Bill.

The Long Title — An Act to impose a special levy to be known as the National Fiscal Stabilisation Levy on specified companies and institutions in order to raise revenue for fiscal stabilisation of the economy and to provide for related matters.

Mr Essilfie: Mr Speaker, I beg to move, Long Title — Line, 2 and 3, *delete* “in order”.

Question put and amendment agreed to.

The Long Title as amended ordered to stand part of the Bill.

Mr First Deputy Speaker: Hon Members, this brings us to the end of the Consideration Stage of the National Fiscal Stabilisation Levy Bill.

Alhaji Muntaka: Mr Speaker, Motion 26.

Mr First Deputy Speaker: Hon Majority Chief Whip, you are referring to item 26. Is that right?

Alhaji Muntaka: Yes, Mr Speaker.

3.20 p.m.

BILLS—THIRD READING

The National Fiscal Stabilisation Levy Bill, 2013 — *read the Third time and passed* — [Deputy Minister for Finance (Mr Cassiel A. B. Forson)(*on behalf of the Minister for Finance*)]

Alhaji Muntaka: Mr Speaker, we were of the view that we could do one more because it is a very light one, none controversial, if it could be done — Motion numbered 28, with the indulgence of my Hon Colleagues.

Mr First Deputy Speaker: What is the sense of the House? Do we go ahead?

Some Hon Members: Yes, Mr Speaker.

Mr First Deputy Speaker: Now, item 28 on the Order Paper — Deputy Minister for Finance.

Mr Kyei-Mensah-Bonsu: Mr Speaker with respect, some of us are not properly constituted as we sit here and we need to apply the relevant doses. Unfortunately, persons not connected with the transaction of Business in the House today, have availed themselves of some resources which were meant people transacting business in the House today.

For which reason, Mr Speaker, I may want to suggest that we avail ourselves the opportunity to enrich our physical constitution and come to it tomorrow.

Mr First Deputy Speaker: I am inclined to agree with you. Today, we started on time and therefore, we have been here for quite sometime. So, accordingly, the House is adjourned till tomorrow at 10.00 in the forenoon.

Thank you very much.

ADJOURNMENT

The House was adjourned at 3.24 p.m. till Thursday, 4th July, 2013 at 10.00 a.m.

Correction of errors of substance may be made only on the floor of the House with the permission of the Speaker. However, correction of typographical or grammatical errors which Members suggest for the Bound Volumes which will be compiled at the end of the Meeting may be clearly marked in the Daily Report, and the copy containing the corrections must be received at the Editor's Office, Parliament House, not later than four clear days after the publication of the Daily Report.

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TUESDAY
9TH JULY, 2013

PARLIAMENTARY DEBATES

OFFICIAL REPORT

TUESDAY, 9TH JULY, 2013

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THE
PARLIAMENT OF THE REPUBLIC
OF GHANA

SECOND MEETING, 2013

Tuesday, 9th July, 2013

The House met at 10.50 a.m.

[MR SPEAKER IN THE CHAIR]

PRAYERS

Votes and Proceedings and the
Official Report

[No correction was made to the Votes and Proceedings of Friday, 5th July, 2013]

Mr Speaker: We do not have any *Official Report* for correction. So, we move to the Commencement of Public Business.

Dr Benjamin B. Kunbuor: Mr Speaker, we will take item 4 on the Order Paper.

Mr Speaker: Hon Majority Leader, have you addressed the concerns raised on the floor?

Dr Kunbuor: Sorry, Mr Speaker, I was busy —

Mr Speaker: I asked whether you have addressed the concerns raised on the floor of the House with regard to item number 4 on the Order Paper.

Dr Kunbuor: That is so, Mr Speaker. This morning, we concluded on it.

Mr Speaker: Very well.

11.00 a.m.

BILLS—CONSIDERATION
STAGE

Communications Service Tax
(Amendment) Bill, 2013

[Resumption of debate from 3-7-2013]

Mr Speaker: Hon Members, we were on clause 1 last week.

Clause 1 —

Chairman of the Committee (Mr James K. Avedzi): Mr Speaker, I beg to move, clause 1, subclause (1), lines 1 and 2, *delete* “Communication” and *insert* “Communications” and in line 4, *delete* “communication” and *insert* “communications” and do same wherever “communication” appears in the Bill.

Mr Speaker, the purpose of this amendment is to make sure that it corresponds with the Act, which is being amended because the Act is “Communications Service Tax Act, 2008 (Act 754)”. So we are amending this to ensure that we have the amendment agree with the Act.

Mr Speaker: Hon Members, this is a straightforward amendment because the Act being amended mentioned “communications”. So, that is the import of the amendment and I will put the Question, unless somebody has a contrary view.

Mr Osei Kyei-Mensah-Bonsu: Mr Speaker, for consistency, I was just looking at the last but one line in clause 1(1).

Mr Speaker: Which clause are you referring to?

Mr Kyei-Mensah-Bonsu: Mr Speaker, subclause 1, lines 3 and 4. We are just adding the letter “s” to “communication” to reflect both the Long Title and the Short Title. I was just asking that on the same wing, could we then look at the use of the words “service” and “services” in lines 3 and 4?

Mr Avedzi: Mr Speaker, I think I agree with the Minority Leader, that for consistency, we need to amend the —

Mr Speaker: Hon Members, in actual fact, this is a drafting issue; it is not really an amendment properly so-called. So, I direct the draftspersons to realign the clause with the Electronic Communications Act accordingly.

Table Office, have you captured my directive?

Still on clause 1 —

Mr Joseph B. A. Danquah: Mr Speaker, I beg to move, clause 1, subclause (2), paragraph (b), *delete*.

Mr Speaker, the entire amendment will read:

“the charges payable on electronic communications service received by users from sources outside this country.”

Mr Speaker, I beg to ask this House —
[Interruption]

Mr Speaker: Let us listen to him and then I would call you, Hon Member for Old Tafo.

Mr Danquah: Mr Speaker, the basis for the proposed deletion of this clause is very simple. We were told at the Committee hearing that the essence of this clause was predominantly to bring it in line on an equal playing field among the competitors, especially when we were receiving services from outside the country as opposed to those who were buying the services in the country. This is especially with regard to the ISPs and therefore, this was going to equalise the playing field.

However, Mr Speaker, listening through the argument, it becomes very clear that this is a competition issue and it should not be used, or we should not

go through the tax system to correct whatever imbalances there are or that exist in the market place. Therefore, it should be one that should be left to the National Communications Authority (NCA) and in terms of advising the operators and ensuring that there is an equal playing field.

Especially, if for instance, one is an operator and one is given a preferable or preferential rates to one’s own service providers or ISPs or cafes, then the NCA should ensure that you offer the same rates to those who are not one’s own operators or café owners. In that sense, the NCA can correct such imbalances in the market place. We should therefore, not bring such a law or such taxes in the law at this stage. This is the main reason for calling for the deletion of this clause.

Dr Anthony A. Osei: Mr Speaker, I have no difficulty with the amendment but what we have now does not read “users.” It was amended earlier by substituting “users” for “service provider”. So, it is that that he is deleting but not the one with the “users.”

Mr Speaker: He is deleting the entire subclause (2) (b)?

Dr A. A. Osei: Mr Speaker, the entire clause he read has already been amended. What he read is the original. I do not know if you get me.

The last time it was amended by replacing “users” with “service provider” by the acting Chairman of the Committee. When he got up, he read this original clause and I am saying that that clause does not exist.

Mr Speaker: No! But he is dealing with the Bill.

Dr A. A. Osei: Mr Speaker, I am talking about the subclause (2)(b). He read — [Pause.] — [An Hon Member: — “It was deferred; no decision was taken.”]

Mr Speaker: We never put any Question on it; it was at that stage that I deferred the Consideration of the Bill, so that further consultations could take place.

Hon Vice Chairman or Chairman, have you taken over?

Mr Avedzi: Mr Speaker, exactly so. I have taken over — [Laughter.]

Mr Speaker, I think we agree with the amendment proposed by the Hon Member, that clause 1, subclause (2)(b) should be deleted. Mr Speaker, I support the amendment.

Dr A. A. Osei: Mr Speaker, I need your guidance here. In the Memorandum, paragraphs (1), (2) (3), 4; there is a clear policy that is being articulated — [Interruption]

Mr Speaker: The House has agreed with that clause in the Bill. It is as simple as that. The House, as a House, disagreed with that clause in the Bill. That is what it means.

Dr Matthew O. Prempeh: Mr Speaker, before you put the Question, it has an effect on clause 2, subclause 2(3) because clause 1, subclause 2(b) refers to electronic communications service and then when we go to clause 2, “persons liable — [Interruption]

Mr Speaker: Hon Members, they have filed some amendments in clause 2, so, when we get there, you can draw the House’s attention to it.

Question put and amendment agreed to.

11.10 a.m.

Clause 1 as amended ordered to stand part of the Bill.

Mr Speaker: Clause 2 — Section 2 of Act 754 amended.

Mr Danquah: Mr Speaker, I beg to move, clause 2, subclause (2), *delete*.

Mr Speaker: Almost consequential.

Mr Danquah: Yes. It follows from the clause 1 (2) (b).

Mr Speaker: Hon Members, this amendment is consequential to the earlier one already moved by the Hon Member for AkimAbuakwa North.

Question put and amendment agreed to.

Mr Speaker: Subclause (2) of clause 2 accordingly *deleted* from the Bill.

Hon Chairman, your amendment is a drafting issue.

Mr Avedzi: It is a drafting issue.

Mr Speaker: I so direct.

Hon Member for Manhyia South, you were going to raise some concern. Has it been taken care of by the amendment that has been moved by the Hon Member for Akim Abuakwa North?

Dr Prempeh: Mr Speaker, I have been given too many Order Papers and I do not know which one we are talking about.

Mr Speaker: Hon Members, we are on clause 2; which of them has clause 2? I have two Order Papers — the original Order Paper and an Addendum. The Original Order Paper has clauses 1 and 2 amendments —

Dr Kunbuor: Mr Speaker, actually, one is an Addendum that redrafts the one in the main Order Paper. So, I wanted to catch Mr Speaker’s eye to apply that we move to the Addendum on that item.

Mr Speaker: Yes. Let me put the Question on clause 2 first, then when we get there, we draw the House’s attention to it.

Dr Prempeh: Mr Speaker, the proposed amendment has nothing to do with what is in clause 2 that I was raising. Mr Speaker, after clause 1, the persons liable to the tax, like the Hon Majority Leader was saying the last time, is what is in clause 2. And if we have deleted clause 1 (2) (b), then the reference made in clause 2 (2) (iii) cannot be applicable in this law, in the original Bill.

If we have deleted all the charges payable in electronic communications service, then reference to that parent Act 775 and its subsequent legislation cannot be part of this Bill.

Mr Speaker: I do not get the point that you are making. Hon Member, we are at the Consideration Stage of the Bill. Are you moving an amendment?

Dr Prempeh: Mr Speaker, before, maybe, as an oversight, we get into the problem when we have finished, I am asking that the amendment that was done, the — “*delete* 1(2)(b)” — if 1 (2)(b) is what is in the original Bill, then that is the only reference to Electronic Communications Service. [Pause.]

Question put and amendment agreed to.

Clause 2 as amended ordered to stand part of the Bill.

Dr Kunbuor: Mr Speaker, if we could move to the Addendum.

Mr Speaker: So, it means that the amendment with regard to the new clause as advertised on the original Order Paper is being abandoned? Is that the meaning?

Dr Kunbuor: That is so, Mr Speaker.

Mr Speaker: Very well.

Hon Members, we now move to the Addendum Order Paper.

Hon Member for Suhum —

Mr Frederick Opore-Ansah: Mr Speaker, I beg to move, new clause, *add* the following new clause:

“Section 14 of Act 754

The principal enactment is amended in section 14 by the substitution for subsection (4)—

“(4) (a) The Minister in collaboration with the Minister responsible for Communications —

(i) shall establish a monitoring mechanism to verify the actual revenue that accrues to service providers for the purpose of computing taxes due the Government under this Act;

(ii) shall be given physical access to the physical network nodes of the service providers’ network at an equivalent point in the network where the network providers’ billing systems are connected; and

(iii) shall ensure that a common platform is used for the purposes of monitoring revenues under this Act as well as revenues accruing from levies under the Electronic Communications (Amendment) Act 2009, (Act 786).

[MR OPARE-ANSAH]

- (b) Any service provider who fails to provide access to its network for Government or its appointed agents as specified in subsection (a)(ii) above, commits an offence and is liable to pay a penalty of five per cent of annual gross revenue of the last audited financial statement of the service provider after the first thirty days and if the situation persists after ninety days, the National Communications Authority may revoke its operating licence.
- (c) The monitoring mechanism referred to in subsection (a)(i) shall not have the capability to actively or passively record, monitor, or tap into the content of any incoming or outgoing electronic communications traffic, including voice, video or data existing discreetly or on a converged platform whether local or international.
- (d) Any service provider who has an objection to the introduction of any equipment to a physical node on its network shall within seven days of receiving a request from Government or its appointed agents demonstrate before a High Court the validity of the stated reasons for the objection and how the equipment being introduced offends subsection (c)."

Mr Speaker, my reason for proposing this amendment is the fact that in the original Act, there is provision for the Ministry to monitor the service providers in terms of their revenue mobilisation for the purpose of being able to tax them as specified. Unfortunately, this regime does not seem to be working properly and so, my proposition is to strengthen the monitoring regime.

Again, if you look at the Electronic Communications Amendment Act, it also creates another monitoring mechanism. And so, I would want to propose this amendment also to try and unify the two platforms, so that service providers are not getting too many monitoring platforms connecting to their systems from Government.

It is also to ensure that whatever platform Government connects to these operators to monitor those revenues cannot be intrusive. In other words, it will not have the capability of listening into people's conversations and being able to see the content of their messages. So, the proposal I have put in there is to ensure that this cannot happen.

If you look at the parent Act, although the monitoring was there, there were no restrictions imposed on Government.

Mr Avedzi: Mr Speaker, I support the proposed amendment as has been explained by the Hon Member. It is to institute a mechanism that would monitor the revenue that is due to Government based on the tax we are imposing there, so that the telecom service providers can allow government to have access to their systems in order to monitor the taxes due Government.

Dr A. A. Osei: Mr Speaker, I support the amendment except that the (b) part seems so punitive and I am wondering if we should not look at it. Mr Speaker, 5 per cent of gross revenues from the telecom companies is a gargantuan sum. I am sure it is even bigger than the taxes we are even paying to the Ghana Revenue Authority (GRA).

So, I am wondering if the sponsor of this amendment could tell us why he is going to the gross revenue. It is a very huge sum. Five per cent of 5 billion plus is a huge sum. Not being a lawyer, I am not

[DR A. A. OSEI]

sure if there is any sanction in this country that will come close to this except for the death penalty. So, Mr Speaker, I would want the sponsor to convince me why they are imposing such a huge sum. And I think it should be monitored. But within 30 days, to pay 5 per cent of the gross revenue, not net revenue— this is a very huge penalty that I am sure if anyone of them pays, that would be the end of their business.

I know we would want to deter them but this is too serious. And I think that we should, as a House, look at the sanctions very closely. I am not aware if the Commissioner General can tell us if any company in this country has ever paid such a huge sum. I am sure we will be happy collecting it but we should be very, very careful.

11.20 a.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think the appropriate language that we have been using in these matters is "consultation" and not "collaboration". So, if we could have "The Minister in consultation with the Minister responsible for Communication" instead of saying "the Minister in collaboration". I think it should be "consultation." And then we bring "shall" up in the opening construction.

Mr Speaker: But who grants the licence? It is the National Communications Authority (NCA). One applies to the NCA for a licence, so, they can revoke same. If in applying, one uses the process of involving the Ministry, then it can then go that one can use the same mechanism in its revocation.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I am just saying that the "collaboration"

that we are talking about here — and I was craving the indulgence of the Hon Chairman and the House to *substitute* "consultation" for "collaboration". But I am being told by the sponsor of the proposed amendment that he prefers "collaboration". I thought in this environment "consultation" —

Mr Speaker: What constitutes "collaboration"?

Let us take the issues one after the other. The issue raised by the Hon Member for Old Tafo is in terms of the five per cent. So, I would want us to take them one after the other and we go back to see whether there should be "consultation" or "collaboration".

Hon Member for Suhum, the Hon Member for Old Tafo thinks the five per cent of the annual gross revenue of the last audited financial statement of the service provider is on the high side. What do you say to that?

Mr Opere-Ansah: Mr Speaker, I believe penalties, as I was taught this morning, has one of two uses. It is either as a revenue collection mechanism or it is a deterrent mechanism. Mr Speaker, in this sense, it is supposed to serve as deterrent and that is why —

Mr Speaker: Having worked in the communication industry, do you have an idea of what that five per cent will amount to, generally, the range — just a raw idea?

Mr Opere-Ansah: Mr Speaker, the service providers are enjoined by law to pay —

Mr Speaker: The principle is being accepted but I think that it is the amount that people have a problem with. This is because you have just mentioned five per

[MR SPEAKER]

cent without giving us any guide for the House to know that it is either on the high side or on the low side. Now that somebody is saying it is on the high side, do you have any figure in mind based on your own personal knowledge of the industry?

Mr Opare-Ansah: Mr Speaker, the smallest operator has less than 200,000 subscribers and the biggest operator has more than 12 million subscribers. So, it is going to be very difficult. If one says one million dollars, it may not be a big sum to the bigger operator. He may choose not and just continue paying the penalty. But if one says one million, that smaller operator may just go out of business. That was why I felt it will be better to tie it to —

Mr Speaker: Why do you not just give a range depending on the —

Mr Opare-Ansah: Also, if one looks at what is supposed to accrue to Government over time, it is in about that range for the period that they will not allow Government to properly monitor them, including whatever they might be hiding. If one looks at the statistics of previous collection, it is about that range. We have six per cent of that revenue as Communications Service Tax (CST). So, if they do not allow Government — It is the gross revenue that we are charging six per cent on as CST anyway, and this is five per cent of that gross revenue.

Papa Owusu-Ankomah: Mr Speaker, I do not have any object to a penalty being imposed. But a penalty must, one, be certain. It must not be based on revenue. It must be certain. It is just like saying that if one is guilty of a traffic offence and one is using a Mercedes Benz S Class, then that should be the amount payable. It should be certain. That is my point.

So, if the Hon Member has a certain figure, he must state it.

Mr Speaker, and two, if one marries subclause (b) with subclause (d) of the proposed amendment, then it creates quite a problem. If there is going to be a penalty, then I presume that the penalty should be payable only after the person or the service provider has failed to satisfy the High Court that it has reasonable grounds for failing or refusing to permit the introduction of any equipment.

So, I believe that we should just have a look at it — one has seven days within which to do that. Meanwhile, it says that, if after the first 30 days — meanwhile, if after the first 30 days, the High Court has not yet even determined one's suit— So, I believe, yes, there is the need for deterrence, but for penalty, it should be the revocation of the licence. So, after the first 30 days — Unless of course, he thinks that punitive sanctions are not enough deterrent. But if they are, why is it that after the first 30 days, they have to get the licence revoked? So, I believe that the time limit itself — the 30 days will not be enough.

Then, another point is that “any service provider who fails”— I believe it should be “who refuses” and not “fails” — So, while I agree in principle with the Hon Member who proposed the amendment, I believe that we need to think through the processes before. I do not know — this matter being a policy matter, I believe we would have had immense assistance from the Minister responsible for Communications.

It is not merely a money Bill because with its introduction — with this amendment — we are dealing with major policy and the Minister should, probably, come and advise us, so that we know our way clear.

11.30 a.m.

Dr Kunbuor: Mr Speaker, we had been discussing this matter and the manner in which the proposed amendment was called, is based on so many considerations. The deterrent effect which the Hon Member for Sekondi has indicated, shows that it should be certain in terms of, perhaps, penalty units. But the difficulty is that if one looked at the providers' sizes and turnovers, the gap between the lowest and the highest can be so big that if one were to use penalty units, one will automatically just wipe most out of them of the business.

Because it is based on the contingency, a future situation, we cannot go back to the normal tax rendition in which the amount of tax evaded will be what one could use as the basis. So, we had a discussion with the Hon Member; it got to a point that perhaps, just one or two big providers might be at the real heavy end of this return.

But if deterrence is to mean anything, it simply shows that if one is standing by a cliff and one knows how deep it is, one does not stay around or do things that will let one go down the cliff. But we do appreciate the concerns and it is because of the futuristic nature of this particular thing that we cannot put a figure on it. That is actually the challenge.

Dr Matthew O. Prempeh: Mr Speaker, I am going to raise three issues on this, I think, sophisticated deterrent of five per cent.

Mr Speaker, in those economies which I would describe as sophisticated tax economies, percentages are used for even ordinary penalties. I had the time to engage one of the tax experts at Organisation for Economic Cooperation and Development (OECD) and she said

that in Norway, when we say driving offence, it is five per cent of your salary. If you do ‘over-speeding’, it is five per cent of your salary. So, when you are unemployed, five per cent is the welfare money and if you are a millionaire, it is five per cent of your income.

In fact, the percentages make it better than penalty units because we do not all have the same pockets. So, the percentage — I think if the tax experts are looking at it, we should be seeing more percentages because we are not on the same income in the country.

Mr Speaker, the five per cent, in my view, is even low; it is not deterrent enough. It is not deterrent enough because evasion, if you do not make it punitive that much, so that the companies see in the sense that should be part and parcel of it, we will not achieve the point that we would want to achieve.

The only problem I have with the proposed amendment is, when you say that the Government shall ensure a common platform — It is used for the purpose of monitoring — It cannot be a common platform. The platform might have similarities but it cannot be common. It depends upon the equipment that is used by a provider. So, to say that “shall ensure a common platform”, I get the sense but you cannot use a common platform for all the providers.

It has to be custom-made for the network; it depends. If you have a CDMA network, you cannot have the same platform as the GSM network. So, maybe, that is where we need to improve.

But the five per cent, Mr Speaker, I am of the opinion that it is not even deterrent enough, considering the range that we have.

Alhaji Mohammed-Mubarak Muntaka: Mr Speaker, earlier, when our Senior Hon Colleague, Hon Papa Owusu-Ankomah was making his comment, he said that it was not also very specific. I just wanted to draw his attention to the statement that said, and Mr Speaker, with your indulgence I beg to read:

“Penalty of five per cent of annual gross revenue of the last audited financial statement.”

I thought that stated and showed specifically what he is talking about. I do not know whether that takes care of the non-specific nature that he was talking about. I do not know whether he has seen that, and that was what I wanted to draw his attention to.

Papa Owusu-Ankomah: Mr Speaker, I am just talking about the philosophy behind penalties in Ghana; that is all. The Hon Member for Manhyia South said that in Norway — Well, in terms of Ghana, when you are imposing a penalty, it is not based on percentages of revenue. This one then becomes a crime, so to speak. So, if probably, he thinks that in terms of our penalty, we should be moving towards that, fine. But when you —

Mr Speaker: Hon Members, the point being made by the Hon Member who moved the amendment is that, we have very big service providers and very small ones. Therefore, if you use a specific figure, it would wipe out the profit and everything of the very small ones. That is the mischief he is trying to cure by this proposal, that it should be a percentage of their gross profit:

In any case, the constitutional guideline, really, is in article 19(11) of the 1992 Constitution, which states that —

“No person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in a written law.”

The question is that, is the penalty sufficiently prescribed in the law that we are making? If the answer is “Yes”, then we have passed the constitutional litmus test. But I would want to hear from one or two Hon Members. Otherwise, let me go back and take care of all the other clauses and come back to it. That is also another way.

We shall defer it, then I take all the clauses. This is because there are no other amendments to the rest of the clauses, then we come back to this amendment. The Hon Member for Sekondi also raised the issue of using “refuses” instead of “fails”. But I also know that, in certain legislations, they use the two — “fails” or “refuses”. Then we can come back and interrogate this particular amendment and refine it because the principle is acceptable to both sides of the House.

But how to fine-tune it is the challenge now. So, let me put the Question on all the clauses and then we come back to this one, if it is acceptable to the House.

Mr Osei Kyei-Mensah-Bonsu: Mr Speaker, I guess I would withdraw the one that I proposed — the substitution of —

Mr Speaker: I would want to defer —

Mr Kyei-Mensah-Bonsu: Mr Speaker, I would want to *delete* that one.

Mr Speaker: Very well.

Mr Kyei-Mensah-Bonsu: But Mr Speaker, it is the “shall” — moving the “shall” upwards, that is for clause 4(a). But it is a drafting thing that could be handled by them. But we would come back.

Mr Speaker: All right. Then let me put the Question on all the clauses, then we come back to that one.

[MR SPEAKER]

So, Hon Members, we are deferring the new clause standing in the name of the Hon Member for Suhum, so that we can put the Question on the other clauses where there are no amendments against them, then we come back and deal with it.

Clauses 3 to 8 ordered to stand part of the Bill.

Mr Speaker: Hon Members, we go back to the new clause, so that we take comments and — What I intend doing is that we should take them one by one. So, I would start with clause 4(a).

Mr Kyei-Mensah-Bonsu: Mr Speaker, as I said, it is a minor one. I think we can leave it to the draftpersons — lifting up the word “shall” to line two of clause 4(a).

Mr Speaker: Number. (i)?

Mr Kyei-Mensah-Bonsu: Yes, Mr Speaker, “shall” appears —

Mr Speaker: Is it (i) or (ii)?

Mr Kyei-Mensah-Bonsu: It is (ii) and (iii). Those should be lifted to line 2 of clause 4 (a), to follow after “Communications”.

Mr Speaker: Very well. I so direct. It is a drafting issue — re-arrangement, really.

Mr Kyei-Mensah-Bonsu — *rose* —

Mr Speaker: Your amendment — The “shall” — We are now bringing the “shall” first. That one is a drafting issue, so I have directed the draftsman. It is not really an amendment.

11.40 a.m.

Mr Kyei-Mensah-Bonsu: Mr Speaker, the other one relates to (ii). I am not too sure of what is meant by that construction. Clause 4 (a) provides that Minister, and I guess it is the Minister responsible for Finance in collaboration with the Minister responsible for Communications shall be given physical access.

First of all, I do not know who that construction sits. Then two, it is the physical access —

“The two Ministers shall be given physical access to the physical network nodes.”

Mr Speaker, do they necessarily have to be the persons to do the work? In respect of that construction —

“that the Minister responsible for Finance and the Minister responsible for Communications shall be given physical access to the physical nodes of the service providers’ network . . .”

I have a little worry about that.

Mr Speaker: Hon Member for Suhum, it appears now the amendment is standing in your name. Why even the Ministers? This is a technical matter not —

Mr Opare-Ansah: Mr Speaker, what we could do, is to have their agents instead of the Hon Ministers themselves.

Mr Speaker: I should think so because the National Communications Authority that is virtually in charge, so, why not the National Communications Authority?

Mr Opare-Ansah: Mr Speaker, because of the inter-Ministerial linkages, one part Communications, one part Finance. That is why there is the need for that collaboration. It is a revenue matter and

[MR OPARE-ANSAH]

yet this is a technical industry also. So, we would want to be sure the NCA is sure of what is being done is also — It is their agents, so, the Hon Minister in collaboration with the Hon Minister responsible for Communications and we can start that clause with “or the agents shall be given physical access.”

Mr Speaker: If you know the name of the agent, why do you not just mention the agency?

Mr Avedzi: Mr Speaker, I think that the purpose of this amendment actually, is about revenue. Once it is about revenue, it is the Hon Minister for Finance who is responsible. The Minister for Finance, in collaboration with the Minister for Communications. In my view, it does not mean that they will have physical access but their agents. They will definitely use their agents.

If it is a technical issue, they will use their agents to have access to it in order to determine what quantum of revenue is accruing to government.

Mr Speaker: It should be done under the authority of the two Ministers.

Mr Avedzi: Yes. So, I think that this should be alright.

Dr Kunbuor: Mr Speaker, the difficulty was also that, in the case of the Minister for Finance, you could see clearly that the Commissioner General has that power to have physical access to any premises for purposes of tax. But we are not sure whether the Communications Minister has a similar agent. So, we just thought that we could bring it together and give that agency arrangements too to the Minister for Communications to add to the existing agency of the Ministry of Finance to do the —

Mr Speaker: But do we need to repeat “physical”.

Dr Kunbuor: That is drafting.

Mr Opore-Ansah: Mr Speaker, I could give you a virtual access to a physical network by creating some File Transport and Protocol FTP site where I dump the information and then you can access it through the internet.

Mr Speaker: Yes, I agree but it also means whether the access has a technical definition in law, which means, the physical.

Mr Opore-Ansah: Mr Speaker, physical access to this Chamber means that you can walk into the Chamber. It is exactly that sense —

Mr Speaker: But access to the Chamber also means that you can walk to the Chamber. This is because if you use the word “access” to a place, it means the “physical access.” So, we have to find out from the draftsperson whether it excludes physical but for—

Mr Opore-Ansah: Mr Speaker, in the industry, if I say, I want access to your computer, I could be outside Ghana and I will have a virtual access to your computer. I will come to the computer and work on it all right and I have access to it. But that is not the access you want. You want physical access.

Mr Speaker: For the avoidance of doubt, you want to put it beyond doubt.

Mr Opore-Ansah: Mr Speaker, if you look at the original Act, there is already a provision there in section 14 (4) which gives them the power to monitor but they are not getting that physical access. What the operators do, is to collect the information and give it to you and say we have given you access. So, it is very important they get physical access.

Mr Speaker: Hon Minority Leader, I want to put the Question on clause 4 (a).

Mr Kyei-Mensah-Bonsu: Mr Speaker, my worry is conscripting the two Ministers to do that physically. I am not worried about the physical access. I am talking about the two people. Now, I think he has qualified it or they are agents and I think that will be alright.

Mr Speaker: When they even use the Ministers once, there is evidence that they are acting under their authority and that should be enough. Once there is evidence that they are acting on their authority, that is enough.

Hon Members, the clause 4 (a).

Question put and amendment agreed to.

Mr Speaker: Clause 4 (b) — Hon Member for Sekondi.

Oh, sorry. It is because the Hon Member for Sekondi has raised an issue with “fail” and ‘refused’ that is why I called him first.

Dr A. A. Osei: Mr Speaker, I would want to raise another issue with clause 4 (b) —

Mr Speaker: Then let me hear the Hon Member for Sekondi, then I will get back to you. Why do you not use “fail” or “refuses”?

Papa Owusu-Ankomah: I believe it should be “refuses” because “fails” connotes your obligation to do something which you have not done. “Refuses” means something that there is more wilfulness in refusing.

Mr Speaker: But now that the law is there —

11.50 a.m.

Papa Owusu-Ankomah: Yes, it is “refuses”. From the submissions made by the Hon Member for Suhum, I believe that it is the “refuses” that he is talking about and not “failure”. It is “refuses”.

Mr Kyei-Mensah-Bonsu: Mr Speaker, by way of adding to what he has said, I think “refusal” connotes wilful intent not to do that. “Failure” may not necessarily mean that and because we are talking about penalties, I guess we should be careful.

Dr Kunbuor: Mr Speaker, this is a normal criminal situation and there are two senses in which you can imply. Before you can establish that somebody has actually failed, it also implies that a mental situation of some sort which is the *mens rea* which has to be also proved in all crimes generally.

So, there is the general one and then the specific of wilfulness. In all offences, you can roll the two together for emphasis or you can leave it to be implied that you cannot say that the person has actually failed when you can establish the *mens rea*. So, I think this is the context in which it is being done.

Mr Speaker: Hon Member for Suhum, who is moving the amendment for “refuses”?

Papa Owusu-Ankomah: Mr Speaker, well, I believe “refuses” may be most appropriate in this matter. But you can make it “fails” or “refuses”. But I do not think that failure really is something that we are talking about here. It is “refusal”; a refusal to give access — *[Interruption.]* I am sure the Hon Member for Suhum has agreed to my amendment?

[PAPA OWUSU-ANKOMAH]

Mr Speaker, since he has agreed, I beg to move, clause 4 (b), line 1 and *delete* “fails” and *substitute* “refuses”.

Mr Speaker, not “*insert*”. [Laughter.] It is “*delete*” and “*substitute*”.

Mr Speaker: Hon Members, the new clause standing in the name of the Hon Member for Suhum is further amended with regard to the word “fails” being substituted for “refuses”.

Question put and amendment agreed to.

Dr A. A. Osei: Mr Speaker, I —

Mr Speaker: I am not putting the Question on the whole clause. It is only on that line.

Dr A. A. Osei: Mr Speaker, on clause 4 (b) is what —

Mr Speaker: We are only on line 1. My question that I put is only on line 1.

Dr A. A. Osei: Mr Speaker, if you look at clause 4 (b) and (d) together, it appears there is a compulsion on the part of the High Court to take a decision within 30 days.

Mr Speaker: No! We are saying we are —

Dr A. A. Osei: Mr Speaker, I am looking at clause 4 (b), but it has implications for clause 4 (d). In clause 4 (d), after the first 30 days, that is why the fine comes. But clause 4 (d) tells you to go to the High Court within 7 days. If I go to the High Court and the High Court takes 60 days, I would have been penalised, indeed, something that is not right. Or at least, it implies compelling the High Court to take a decision and we need to look at that.

Mr Speaker: Absolutely. I think that is the understanding.

Dr A. A. Osei: Mr Speaker, but do we have the power to compel the High Court?

Mr Speaker: Jurisdiction itself is conferred by statute, so, the law itself, which we are making now, is putting certain obligation on the court. So, the court knows that they have to take certain decisions within a certain period.

Mr Asamoah Ofose: Mr Speaker, I think there should be a further amendment to clause 4 (b), and that is *deleting* “any” and *substituting* it therefore, with “a”. It should be:

“A service provider who refuses...”

And not any service provider. This is because, “service provider” has been defined.

Question put and amendment agreed to.

Prof. George Yaw Gyan-Baffour: Mr Speaker, mine is about this penalty unit. I think there is even a more fundamental reason what the amendment, as it stands now, should stand beside the reason given by the author.

Mr Speaker, there are certain industries where technological changes are very, very rapid, therefore, revenues keep changing and coming in, in heaps and bounds. In such industries, if you give them penalty units, it becomes absolute in a very short period and we may have to come back always to make an amendment.

So, if even in the law, it is penalty units that we use, in certain industries,

[PROF. GYAN-BAFFOUR]

especially with highly technological industry like this, we should not be using those penalty units which become within a week or two — If this industry uses penalty units, we have to come back here in a year’s time to really change it and amend it. I think based on that, we should be selective which industry we are dealing with and not necessarily to put a flat thing on using penalty units.

Papa Owusu-Ankomah: Mr Speaker, in the light of the observations made, I do not intend to move any amendment relating to the penalty. Safe to say that, penalty units are supposed to be perpetual. Indeed, when you say 100 penalty units, it is tied to a certain figure and it appreciates over time when, as it were, there is inflation, *et cetera*. But I understand him; I do not feel too strongly about it.

Mr Robert N. D. Mosore: Mr Speaker, I support the proposal of this amendment and I think that the option is with the service provider to go for a penalty or not. In that, it merely asks the service provider to provide access in the absence of which he may be penalised. So, the option lies with the service provider to go in for a penalty or not.

I think that the percentage as proposed is quite universal in so many areas. In that, it covers, when you increase your gross revenue or when you have a reduction. So, I am inclined to support the percentage as suggested by my Hon Colleague, the Hon Member for Suhum.

Mr Speaker: Hon Members, I will put the Question on clause 4 (b).

Question put and amendment agreed to.

Clause 4 (d) —

Mr Kyei-Mensah-Bonsu: Mr Speaker, since we spoke in clause 4 (a) of a specific Minister, would it not be more —

Mr Speaker: I saw it. It should be consequential then.

Mr Kyei-Mensah-Bonsu: Yes, Mr Speaker; instead of saying “Government and its agents”.

Mr Speaker: Hon Members, do you get the point the Hon Minority Leader is making? We used the two Ministers, so, we are saying it should be consequential. We used “Ministers” there and we are using “Government” in clause 4 (d).

Mr Avedzi: Mr Speaker, so we should change that one to “Ministries of Finance and Communications”?

Mr Speaker, in addition to that instead of —

Mr Speaker: It is really a drafting issue, so, I will give the directive, so that it will capture the Ministers referred to in that section.

Mr Avedzi: Yes. Mr Speaker, clause 4 (d), in addition to that, once we have amended clause 4 (b) —

Mr Speaker: Hon Members, let me ask you this question. We used the word “demonstrate”, how is he going to demonstrate it?

Hon Member for Suhum, you used the word “demonstrate” before a High Court.

12.00 noon.

Mr Opare-Ansah: Precisely, Mr Speaker. If you look at (c), it is talking about a number of things that the equipment should not be able to do. So, if it is the claim of any service provider — Mr Speaker, it would not be a simple matter of proving. These are saying that some equipment will be intrusive into the network; they can listen in to your conversation; they can read your text messages if they are connected there. So, the idea is that, demonstrate to the court that indeed, if that piece of equipment is attached to your network —

Mr Speaker: Then we need to recast the amendment because, in effect, what you are saying is that, if that equipment will have the effect of achieving (c), then the person should petition the High Court.

Mr Opare-Ansah: Mr Speaker, if you look at the last phrase, it is there.

Mr Speaker: It is there.

Mr Opare-Ansah: Yes.

Mr Avedzi: Mr Speaker, in (b), we have to also amend the “any” in line 1.

Mr Speaker: It is consequential. I so direct. Wherever you see “any” starting the paragraph, it should be “a”.

Mr Avedzi: And Mr Speaker, in line 5 “demonstrate”— we should add ‘s’ to read “demonstrates”.

Mr Patrick Yaw Boamah: Mr Speaker, (d) on the same “demonstration”— I think the reasoning behind it is for somebody who objects to it to bring an application before it to a High Court to show why he is objecting to it. So, I think it must be a bit clear as to the objector bringing up an application before a High Court to

demonstrate why he or she objects to. So, the intention is on the provider originating something he or she objects to. That, I believe, is the reason behind this provision.

Mr Speaker: Yes, but is it clear? That is the question — when you are creating an offence, it should be very clear. Is it clear?

Mr Boamah: Yes, Mr Speaker, to some extent.

Mr Speaker: So, should it be to some extent or to —

Mr Boamah: Mr Speaker, I believe —

Mr Speaker: No! We have got the import but the rendition there, I do not know whether we can improve it a bit. Let me give you some time to look at it.

Mr Alban S.K. Bagbin: Mr Speaker, I think we need a draftsperson to clarify the clause because I do not think that the issue is objection to the introduction. I think the issue is, maybe, the provider is claiming that the introduction is going beyond what is permitted by the law —

Mr Speaker: Yes. It is going to offend paragraph (c).

Mr Bagbin: Exactly.

Mr Speaker: Yes.

Mr Bagbin: But when you say “somebody who has an objection to the introduction” that is addressing something different — *[Interruptions]*.

Mr Speaker: So, somebody who does not believe that the introduction will offend paragraph (c) —

12.10 p.m.

Mr Speaker: Hon Bagbin, have you got a rendition?

Mr Bagbin: Not yet. Mr Speaker, I am just working on it, so that I will assist my Friend to redraft it.

Mr Speaker: Very well.

Hon Members, let us move to the Long Title.

The Long Title ordered to stand part of the Bill.

Mr Speaker: Hon Member for Suhum, the Hon Bagbin says he wants to get in consultation with you for us to get a rendition.

Mr Kyei-Mensah-Bonsu: Mr Speaker, once we are waiting for the two to put our heads together, I am just looking at clause 4 (b), that we have agreed to.

Mr Speaker, the Hon Minister for Finance is here with us; this Bill has been introduced and we are looking at monthly payment of taxes. We are saying that, if a person or a service provider defaults, then we should go and look at his audited account for the previous year and by way of penalty, extract 5 per cent of the annual gross revenue.

Mr Speaker, it appears too punitive, not knowing what may occasion a default. There could be genuine reasons for a default but then we will have to know what is the expectation of Government for this rake in. And if you juxtapose that with the annual gross revenue and decide to attack it and say that 5 per cent of this

Mr Bagbin: It is not the introduction that is offending the (c). It is just that the introduction is going beyond what is permitted by the law. So, it is a claim that has to be proved, not “demonstrate” — demonstrating before the court. They are not technical people where you go with your equipment and try to demonstrate before them. But you have to prove your claim. You have to lead evidence before the court, to prove that the introduction of this equipment is going beyond what is permitted by the law.

So, the terms used there is not objection. I think you are claiming that this thing is going beyond— and before court, you prove that claim. So, we need the draftsperson to go and redraft that clause. As it is now, Mr Speaker, I will plead that we stand it down for this redrafting to be done before you put the Question.

Mr Speaker: How soon will that be? This is because as you are very much aware, this Bill has been on the Order Paper for a very long time.

Hon Members, it is being suggested that we redraft the Bill, paragraph (d), so as to defer (d). Hon Member for Suhum, the amendment stands in your name. The principle is accepted by the House.

Mr Opare-Ansah: Mr Speaker, I think I agree with substituting the “proof” for “demonstration”. This is because, proving will certainly include some element of demonstration and then we can leave the rest of it for the draftspersons to clean up— I meant if they want to rearrange it to get the proper sense of what should be captured.

But the idea is for the service provider that claims that this equipment will offend subsection (c) to prove so. That is the whole idea there and to do so, within the stipulated time lines.

[MR KYEI-MENSAH-BONSU]

annual gross revenue should come, just *juxtapose* the two— Mr Speaker, that is the point.

We are talking about failure or refusal; what occasioned it. That is what I am saying. We should be very equitable in this; we cannot say that you have refused to pay, let us say, GH¢1 million but we looked at your annual return and we have seen that last year, your gross revenue was GH¢1 billion, so, pay 5 per cent of your gross revenue for last year. Mr Speaker, in my view, it is outrageous.

Mr Speaker: Hon Minority Leader, you may have a case but I have already put the Question. I have not put the Question on the entire new clause, so, maybe —

Mr Kyei-Mensah-Bonsu: Mr Speaker, I know how you have been very flexible and charitable at Consideration Stage. That is why I am making this application, that if it is found worthy of reconsideration, we could attend to it because the figure involved could be something else.

Dr Kunbuor: Mr Speaker, since I did not move the amendment, all I can say is that, I am more interested in the principle of deterrence. What figure satisfies that deterrence is not really a matter I am interested in. So, if it can be reduced to even one per cent and they think that it is still sufficiently deterrent across board for all the providers, I do not have a problem with it. We only want to give a posture of deterrence, to say, this is the red line and you do not cross it.

As for the rest of the figures, I do not have a problem with it. But the Hon Member who made the amendment should be able to accommodate it and if he is minded to accommodate it, there is no problem.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think in this case, it is the Hon Minister who should be able to advise us on this. The purport of this is really on deterrence; I agree.

Mr Speaker: It is not so much on revenue but deterrence; that is what we are being told in the House.

Mr Kyei-Mensah-Bonsu: So, let us look at that.

Mr Speaker: Hon Minority Chief Whip, then after that, Hon Member for Abuakwa North.

Alhaji Muntaka: Mr Speaker, I thought I heard you say Minority Chief Whip.

Mr Speaker: Majority Chief Whip.

Alhaji Muntaka: Thank you, Mr Speaker.

Mr Speaker, as the Minority Leader rightly mentioned, I would want to draw his attention to deterrence, not about revenue. If we do not put it up enough, it will be simple; I will just refuse and I will go and pay, if it is pittance. And the issue is not about revenue; the issue is that, it should be so punitive enough that you will not want to get there.

Since the issue is not to collect the revenue, if you do not bring it up enough and say, one per cent, and the one per cent to the big companies does not mean anything, they will refuse and always pay. So, I think that we need to keep it at the 5 per cent, so that people will not even dare opt for the penalty.

Thank you, Mr Speaker.

Mr Danquah: Mr Speaker, since you have opened up for reconsideration or for a few comments —

Mr Speaker: Actually, I am opening up, so that the mover of the amendment and the Hon Member for Nadowli/Kaleo will do their work.

Mr Danquah: Mr Speaker, there is a historical background to this and as the mover of the amendment rightly put, when you look into the old law under section 14 (4), the reason the monitoring is not being done, there is a basis for it. That is why they want to make it very punitive, so that no one will deny the revenue agencies or their representatives the access. Hence, the deterrence of that 5 per cent.

What is happening today is that, all they are doing is just the declaration. So, we would want to have a means of monitoring the invoicing table and tracking the invoicing table. Therefore, if we do not make it so punitive or so deterrent, there will be no desire on their part to allow such a thing to be done. So, let us keep it at that level of deterrence, Mr Speaker.

Mr Speaker: Hon Members, do we put the Question today on this issue or we defer it? Today? Very well. If it will take a long time, we will move on to the next Bill, so that whenever they are ready, they can always come back and put the Question on the new subclause.

Dr Kunbuor: Mr Speaker, I will take a cue but I will actually be guided that the matter be taken today because the history of this particular amendment started with urgency and so, at every stage, no matter the —

Mr Speaker: Very well.

Hon Member for Old Tafo.

Dr A. A. Osei: Mr Speaker, on the matter that Hon Alhaji Muntaka just talked about, I am not persuaded by the principle

of deterrence, because they have not told us why 5 per cent is really that punitive. So, I ask, then why do you not make it 50 per cent if that is all you care about? There must be a reason.

Mr Speaker: The reason they have explained is that, they use 5 per cent, so that it will be relative to the size of the company.

Dr A. A. Osei: Mr Speaker, the Communications Service Tax itself is 6 per cent and they are putting 5 per cent. They should tell us that 5 per cent is punitive because of a, b, c, d— not all of us know the annual turnover. So, if it is only deterrence, then make it —

Mr Speaker: Hon Member, I have asked the mover of the amendment to explain all these and he has provided answers to it.

Hon Member for Nadowli/Kaleo, have you got the new rendition?

Mr Bagbin: Mr Speaker, we are proposing a new rendition to read as follows:

“A service provider who has an objection to the introduction of any equipment to a physical node of its network shall within 7 days of receipt of a request from the Minister or its appointed agents shall prove before a High Court the reasons for such an objection.”

But we were trying to amplify the reasons to go into details.

12.20 p.m.

Mr Speaker: You see, in your earlier submission, you made a very important point that it was not about the introduction of the equipment.

Mr Bagbin: Mr Speaker, he has come to explain —

Mr Speaker: You see, you made a very important point that it was not about the introduction but it was because it was going to offend paragraph (c).

Mr Bagbin: Mr Speaker, he has come to explain to me, that is the Hon Member for Suhum (Mr Opere-Ansah), that the experience so far is that the operators are able to tell by the nature of the equipment that one is going to use to attach to the nodes of their network, that it would go beyond what is permitted by the law. The nature of the equipment that —

Mr Speaker: Even before the equipment gets there?

Mr Bagbin: Even before the introduction and so, they have been objecting to the use of those equipment. And so, we are saying that we should not just leave the objection there. Once they apply to introduce the equipment and one is of the view that it would offend clause 6, then within seven days, one should put that before the High Court and prove one's case.

Mr Speaker: Very well. We have got the intention of the amendment on clause (4)(d). So, I would put the Question. If there is any further clarification, I would leave it to the draftsman to do but the intention of the House is very clear.

Mr Bagbin: That is so, Mr Speaker.

Mr Speaker: Very well.

Question put and amendment agreed to.

Mr Speaker: Hon Members, I will now put the Question on the entire new clause.

Question put and amendment agreed to.

New clause as amended ordered to stand part of the Bill.

Dr Akoto Osei: Mr Speaker, you may want to bring the draftsman's attention to clause 4(c), the last but one line.

Mr Speaker: With regard to?

Dr A. A. Osei: "Data," It should be "data" not "date."

Mr Speaker: All right.

Table Office to take note.

Yes, that brings us to the end of the Consideration Stage of the Communications Service Tax (Amendment) Bill, 2013.

Hon Members, we go back to the original Order Paper and item 5 — Minister for Finance.

BILLS — THIRD READING

The Communications Service Tax (Amendment) Bill, 2013 — *Read the Third time and passed* — [Minister for Finance]

Mr Speaker: Hon Members, item 6 on the Order Paper — the First Deputy Speaker to take the Chair.

12.25 p.m. —

[MR FIRST DEPUTY SPEAKER IN THE CHAIR]

Mr First Deputy Speaker: Hon Majority Chief Whip?

Alhaji Muntaka: Mr Speaker, on the main Order Paper, item 6, we would want to continue from where we stopped the last time, which was clause 25, so that those which were left could be looked at.

Mr First Deputy Speaker: All right. Hon Members, we would deal with clause 26.

BILLS — CONSIDERATION STAGE

Ghana Investment Promotion Centre Bill, 2013

[Resumption of debate from 27/6/13]

Clause 26 — Activities reserved for Ghanaians and Ghanaian-owned enterprises.

Mr First Deputy Speaker: Yes, Hon J. B. Danquah — [Pause.] Hon Member, we are dealing with clause 26 and the amendment stands in your name.

Mr Joseph B. A. Danquah: Mr Speaker, there are a lot of proposed amendments to clause 26 in the name of the Chairman, so I think he has to come before I do.

Mr First Deputy Speaker: Yes, Hon Chairman of the Committee?

Alhaji Amadu B. Sorogho: Mr Speaker, I beg to move, clause 26, subclause (1), paragraph (b), line 2, *delete* "more" and *substitute* "less".

The import of that clause is that, if we do not have more than 25, we cannot — But the way it has been captured, the word "less" best describes it. So, we just *delete* "more" and *insert* "less."

Question put and amendment agreed to.

12.30 p.m.

Alhaji Sorogho: Mr Speaker, I beg to move, clause 26, subclause (1), paragraph (d), line 2, *delete* "mobile".

Mr Speaker, the reason is that in these modern times, we can have scratch cards that are landline-based. So, we would want it to affect all communication services and not only — [Interruptions.]

Mr First Deputy Speaker: Hon Members, can we have some quiet in the Chamber? Hon Members, let us have some quiet.

Yes, go ahead.

Alhaji Sorogho: Mr Speaker, what I said was that, there is the possibility that scratch cards may include landlines. So, if we put "mobile" there, we are restricting ourselves. So, just "telecommunications", whether it is landline scratch cards or whether it is mobile or any service that relates to that, it is captured. So, that is also a straightforward amendment.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I am sorry to take us back to clause 26(b); the amendment that was moved by the Chair. Mr Speaker, I am not too sure about the import of the amendment that has been moved by the Chair —

"A person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in the operation of the taxi or car hire service in an enterprise that has a fleet of not less than twenty-five vehicles."

Mr Speaker, what is the import of this? Let the Hon Chairman reconsider the sense in what he has done.

Alhaji Sorogho: Mr Speaker, even though you have already taken the vote on that, I would still want to go back and read the whole portion, so that we can understand it better.

[ALHAJI SOROGHO]

“A person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in the sale of goods or provision of services in the market, petty-trading or hawking or selling of goods in a store at any place.

(b) Shall not invest in the operation of taxi or car hire service in an enterprise that has a fleet of not less than...”

It should be 25 or more. If you do not have 25 or more, you cannot operate. That is the meaning. You must have more than 25 to be able to register and operate. That is what we intend to bring out, so — Now, he says that it is not correct, so, I do not understand him.

Mr First Deputy Speaker: Hon Members, I think the Question has already been put, so, we will proceed.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect, let us take the sentence again —

“A person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in the operation of taxi or car hire service in an enterprise that has a fleet of not less than twenty-five.”

What it means is that the fleet should be more than 25 right? *[Interruption.]* So, what is here means that the fleet is more than 25. You are saying that the person cannot invest in that. Even if the fleet is not less than 25, that is, above 25, he cannot invest. Yes, read it.

Mr Haruna Iddrisu: Mr Speaker, with respect, whatever it is that the Hon Minority Leader has, you put the Question to it and it was agreed to. He may respect our procedures and come back to it.

Alhaji Muntaka: Mr Speaker, we can go this way and then clear the ambiguity. Mr Speaker, if you are going flexibility at the Consideration Stage, we can say, take off the “not” and then keep the “more”; so that it would give us—

“The operation of taxi or car hire service in an enterprise that has a fleet of more than 25 vehicles . . .”

It would give us the same.

Mr First Deputy Speaker: Hon Members, we have already put the Question but I would suggest that the Hon Minority Leader would have to confer with the Chairman and his team to see if we have to come back to it subsequently after your discussions.

Mr Kyei-Mensah-Bonsu: Mr Speaker, with respect, I guess we can close this. You see, if you introduce “less”, the word “not” should not be there; because that is where you cannot go. You cannot say that the — *[Interruption]* — yes. That is what it means. You are saying that you cannot invest in an enterprise that has a pool of cars of less than 25; you cannot come. So, what we have done is wrong.

Mr First Deputy Speaker: Hon Members, that is why I am directing that, let us move forward; but then, we will still leave a window open. The Hon Minority Leader will sort it out with the Hon Chairman and his team and then if it becomes necessary for us to come back to it, we would do so; so, we can make some progress.

Mr Joe Baidoe-Ansah: Mr Speaker, now that you are asking that they meet over it, I would want to introduce something.

I believe that it is better to put monetary value on that rather than number of vehicles. This is because Mr Speaker, if you have someone bringing in, maybe, 10 Rolls-Royces, the value would be more than 25 cars and we are talking of car rental here.

So, maybe, we should be looking at putting monetary value than talking about fleet. If we talk about “Tico” vehicle, 25 of them mean nothing. So, maybe, the direction we are going is not the way we should be going. We should be looking at putting monetary value just like we did in investment.

Mr First Deputy Speaker: Point well taken but I believe that you can discuss it further with the Chairman of the Committee and his team and let us see how we can make some progress.

Prof. Gyan-Baffour: Mr Speaker, I just was trying to clarify the situation that — the Hon Minority Leader, if you look at it carefully, there is a “not” up there and a “not” down here. So, it makes it a plus. It makes it such that we can do that. But to avoid any semantic problem, I think what he is proposing will be a better one without the “not” and “not”; yes — “less than” and not “not” and “not”.

Papa Owusu-Ankomah: Mr Speaker, I thought the amendment was that —

“A person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in the operation of taxi or car hire service in an enterprise that has a fleet of less . . .”

I thought that was the amendment he moved — *[Interruption]* — It should be less; it should be less. I am sorry; then I was operating under a mistake. I mean, “not more” is “less” — *[Laughter.]*

Alhaji Sorogho: Mr Speaker, I am happy that we all understand where we want to go and where we want to go is that, we do not want foreigners to come and bring one taxi, two taxis and say they are operating. So, we would meet and do the right thing. I think the “not” should be off, so that “not less than twenty-five” — *[Interruption]* — “less than twenty-five” —

Mr First Deputy Speaker: Is that the sense of the House? Fine. Then in that case, I would put the Question again.

Question put and amendment agreed to.

Mr First Deputy Speaker: Now, can we move on to the next one, Hon Chairman of the Committee?

Alhaji Sorogho: Mr Speaker, I beg to move — *[Interruption.]*

Dr A. A. Osei — *rose* —

Mr First Deputy Speaker: Yes, Hon Akoto Osei —

Dr A. A. Osei: Mr Speaker, I think there is an amendment before the one he wants to move now — subclause (1), xiv — he should do that before we go on.

12.40 p.m.

Alhaji Sorogho: Mr Speaker, I beg to move, clause 26, subclause (1) *add* the following new paragraphs:

(e) production of exercise books and other basic stationery; and

[ALHAJI SOROGHO]

(g) internal distribution and retail of finished pharmaceutical products.”

Mr Speaker, the amendment would have to go through another amendment.

Mr First Deputy Speaker: Let us deal with them one after the other. Let us deal with paragraph (e) first.

Alhaji Sorogho: Then Mr Speaker, I beg to move, clause 26, subclause (1), *add* the following new paragraphs:

“(e) production of exercise books and other basic stationery.”

Alhaji Muntaka: Mr Speaker, I oppose this proposed amendment. I have discussed my reasons with the Hon Chairman and the Hon Ranking Member. We already have foreigners who have established factories for the production of exercise books. If we pass this proposed amendment, are we saying that they will have to let go their factories?

If I do not know at all, I know Vista 2000 that is producing exercise books and they have invested in this country for a very long period of time. And there is another one called Fine Print. Mr Speaker, when we do that and we are talking about investment promotion — we need to be a bit careful.

It is true that we want to protect some areas for our people, especially retailing. But to talk about production and having in mind others that are already in the system, I think the Hon Chairman and the Committee needs to look at this proposed amendment. I do not think it is proper.

Mr First Deputy Speaker: Yes, Hon Chairman, how do you respond to the issue that he has raised?

Alhaji Sorogho: Mr Speaker, the Committee met and we came out with this. But I think the Hon Majority Chief Whip met us this morning — my Hon Ranking Member and myself — and put this across. Mr Speaker, if it is the wish of the House, I do not have any problem. But the point that others were making was that, we cannot make a law for it to take retroactive effect. So, for that matter, those who are already in existence will not be affected by this law.

Because of the “Repeals and Savings”, it is also saying that after three years, when this law comes into force, one would have to take steps to close his business if one falls into it. So, in effect, it is definitely going to affect it. That is where the problem is. But I do not have any problem if we take it out so long as it does not affect any Ghanaian negatively.

Ms Hannah Tetteh: Mr Speaker, I do appreciate the concern raised by the Hon Majority Chief Whip but I beg to differ. I really do not think that this is a big deal.

Mr Speaker, the point is this; yes, there may be companies that have invested in this sector. The important thing is to make sure that in this Bill, before it is finally passed, existing investments are protected. So that it is quite clearly stated that indeed — and this is not meant to affect people who have already taken the investment decision based on representations we have made in previous legislations.

But when you look at the technology involved in the printing of exercising books, essentially, people are importing paper, they are getting machines to fold the papers to particular sizes, put covers on them and then sell them to our kids and students as exercise books. It is not sophisticated rocket science. And it is not a business that is too high in terms of the

[MS TETTEH]

capital required for investment, for people who have small businesses to begin to start this way to develop businesses for themselves.

So, I take on board the point entirely that we do not want to create the impression that we are going backwards to disenfranchise people and we must protect against that in the legislation.

But I think that for businesses that are so simple and so easy and in terms of investment, do not require that much capital investment; there should be space created for the Ghanaian small entrepreneur to also create businesses and jobs.

Prof. Gyan-Baffour: Mr Speaker, I think I share the concern of the Hon Minister for Foreign Affairs and Regional Integration. I agree with her perfectly.

Of course, the Hon Majority Chief Whip actually consulted this morning, but we could not finish with the discussion. So, I have not given him my position.

My position is that, yes, we have to find a way to protect those who are already in it. Initially, people were saying that if you pass a law, it has no retroactive effect and therefore, it protects them but I think it does not. So, we have to be clever and put it in here to protect them. That is number one.

Number two — I share the same view that those industries where the technologies are simple, we should allow as much as possible our people to get in there. Protectionism has its own advantages and disadvantages. But where the technology is very, very low, we have to protect our people to get in there.

So, Mr Speaker, I think that, yes, we have to pass it based on this, but again, it has some protection for those who are already in operation.

Mr H. Iddrisu: Mr Speaker, in principle, we need to support our own Ghanaian businesses and in particular, when it comes to production of exercise books and other basic stationery.

But Mr Speaker, in looking at it, let me indulge you and refer you to clause 43(5), just to guide us. When we get there, we would have to fine-tune it to protect this particular insertion that we are bringing.

Mr Speaker, clause 43 is on “Repeals and Savings”. Mr Speaker, let me just read 43 (5) —

“A joint venture or an enterprise which on the date of coming into force of this Act has been registered under the Ghana Investment Promotion Centre Act, 1994 (Act 478) and which intends to continue to operate shall within three years after the commencement of this Act comply with the participation by citizens and minimum capital requirements under this Act or cease operations after the expiry of the three years.”

So, in principle, production of exercise books and stationery can be supported. But it means that when we get clause 43, we must fine-tune it to protect the kind of additions that we are making. Other than that, we would be saying that if we do not open it up for Ghanaian investment, you must fold up; your business must come to terminal end. I do not think that that will be an investment promotion drive. Just for guidance.

12.50 p.m.

Dr A. A. Osei: Mr Speaker, in principle, I do not have a problem except that if the Hon Chairman can define what “basic stationery” is. It is not in the interpretation; I have no idea what basic stationery is.

Alhaji Sorogho: Mr Speaker, I think we would define what “basic stationery” is. From here, I would even liaise with him and then we will all come together and see how we can get there. But we would define “basic stationery” so that it takes care of your concerns.

Mr First Deputy Speaker: So, do I have the sense of the House that paragraph (e) as originally presented would have to be *deleted* and then as the Hon Minister has indicated, we later fine-tune clause 43, so that it takes care of the concerns raised by Hon Members?

Dr Kwabena Donkor: Mr Speaker, in taking clause 43, I would want some clarification. How does this new law affect petroleum Agreements signed? How does it affect mining operations which come under the Mining Act, *et cetera*, recognising that for the first time —

Mr First Deputy Speaker: Hon Member, can you hold your breath? When we get there, the issue would be addressed.

Alhaji Sorogho: Mr Speaker, I beg to move, clause 26, subclause (1), *add* the following new paragraphs:

“(g) retail of finished pharmaceutical products”

Mr Speaker, the reason is that, if we are not able to stop foreigners from importing finished pharmaceutical products, it will be difficult for us to say

that he cannot distribute. Here, when we talk of distribution, it is moving the items from, for example, their warehouse in Accra into a warehouse in Kumasi — a distribution from one warehouse to another. But to the end user, which we call the retail, we are saying that no foreigner can enter there.

It should be the preserve of Ghanaians. So, that is the amendment that we are moving at.

Mr First Deputy Speaker: Yes, Hon Members, any comments?

Nii Kwartei Daniel Titus-Glover: Mr Speaker, how do we monitor from one warehouse to another?

Mr First Deputy Speaker: That is the reason for the amendment.

Nii Kwartei Titus-Glover: Yes, Mr Speaker. But the point is that our own people — I heard the beautiful submission made by the Hon Minister for Foreign Affairs and Regional Integration.

Clause 26 in itself — exclusively for our own Ghanaian people. Mr Speaker, it is about capacity, whether the Ghanaian has the capacity to do that importation, the warehousing, the distribution or not. That is the angle that we want to come from. Why should Ghanaians struggle? Businesses that are meant for our own people — That was the challenge that we had a few months ago, where the Chinese and the Indians and all these people were struggling with our people.

But the question is, does the Ghanaian have that capacity? And my answer is, yes, they do. So, why? Why do we deny our people?

Mr First Deputy Speaker: Hon Member, it looks like you are supporting the argument.

Nii Kwartei Titus-Glover: Mr Speaker, I am supporting it, but the point is that the opening up for the foreigners is my challenge. The distribution from the warehouse — who is going to monitor it? Ghanaian businesses have been denied that opportunity.

Mr First Deputy Speaker: All right. Hon Chairman, can you respond?

Alhaji Sorogho: Mr Speaker, he is the Hon Deputy Ranking Member of the Committee and we have been working together. But I think that initially, he would bear with me that the issue had to do with the importation of finished pharmaceutical products. That one, it came out clearly that there were so many laws, both international law, WHO, WTO, and so many, even though there are contrary views. So, the Committee — *[Interruption.]* No! He has an amendment that he is proposing — you are bringing that back? So, I would prefer that he holds on.

Mr Danquah: *On a point of order.*

Mr Speaker, my Hon Friend and Chairman said “WHO law”. There is nothing called “WHO law”.

Mr H. Iddrisu: Mr Speaker, in construing or reading clause 26 as we were guided, it would read that —

“A person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in the retail of finished pharmaceutical products.”

That is what the Hon Chairman is proposing. It has our support.

Mr Speaker, we have gone through — *[Interruption.]* That is what the Hon Chairman proposed. Yes, he did. He is moving the internal distribution, like the example he gave, that from the warehouse, there is movement of the products which are still part of the distribution process. But what Government intends to do with

this amendment is to reserve the retail of finished pharmaceutical products for only Ghanaians or Ghanaian enterprises.

Mr Speaker, if you would permit me to respond to the Hon Deputy Ranking Member for the Committee on Trade and Industry, who, in his argument, brought in the word “importation”. We went through winnowing and the original provision was that we should say that —

“Importation, internal distribution and retail of finished pharmaceutical products must be exclusively reserved for Ghanaians.”

Our argument, which remains same is that, under our WTO protocols, you cannot restrict the importation of drugs only to citizens of your country. And we were guided by other former Hon Ministers for Health, that for instance, if a Global Fund or the World Health Organisation, for any reason, was supporting Government in the procurement of drugs, you would not satisfy the requirements if you so provided that only your citizens could bring in that particular drug. And we think that as critical as drugs are, you cannot at this point —

Mr Speaker, for the guidance of our Hon Colleague, there is clause 26(2) which says that —

“The Minister in consultation with the Board may by legislative instrument amend the list of enterprises reserved for citizens and enterprises wholly owned by citizens.”

So, going into the future, the Board, in consultation with the Hon Minister, can expand the list. So, we think that we should support the Hon Chairman’s amendment accordingly.

I thank you.

Mr Emmanuel K. Agyarko: Mr Speaker, respectfully, point of information.

[MRAGYARKO]

The Hon Minister for Trade and Industry speaks about Gates Foundation giving money to this country. Indeed — *[Interruption.]* Global Fund. Indeed, Mr Speaker, for your information, Global Fund is virtually supported by Gates Foundation.

But let me use ‘Global Fund’. If Global Fund gives money to this country, it is a government procurement and it has nothing to do with private persons. It is a government procurement and therefore, the reference that the Hon Minister made is not well situated in the context of what he said.

He is talking about limiting imports to Ghanaians. Mr Speaker, I think that an amendment is coming and therefore, it might be hasty to do it now. But just for information, if Global Fund gives money to this country, it comes directly to Government and that importation is done by the procurement department of the Ministry of Health.

It is only for information.

Dr Kunbuor: Mr Speaker, I guess that we need to clarify the issue of Global Fund. At least, having been a Board member of Global Fund, I do understand.

They vary the preconditions after every session when the allocations are done. And one of the major issues that cut across all the arrangements countries have with them is that, in the particular case of pharmaceutical products, the company must be WHO pre-qualified.

I am yet to be updated, whether in the pharmaceutical industry in Ghana there is a WHO pre-qualified company. There is a difference between being an agent for a WHO pre-qualified company and being pre-qualified. In fact, as at the time I was

in the Ministry, there was only one pharmaceutical company in Algeria, in the whole of Africa, that was WHO pre-qualified.

So, the context in which we are looking at it is that, if similar sources of fund, it does not have to be Global Fund— If you structure funds like that in the future, then you are literally going to prevent the importation if it is reserved solely for Ghanaians. This is the argument that has been — *[Interruption.]*

That is why I am saying that beyond the WTO arrangements, you must be very careful about even your protectionist policies. They can end up being counter productive, and that is why that opening clause that allows this to be expanded in the future is a leeway for us to meet our international obligations and still be able to get the inflows.

The second thing, I am sure the Hon Member who is well versed in that area can attest to. You all know the track record of fake drugs between national and global pharmaceutical companies in terms of ratio. If I remember, I did see one report, I am sure, at that time, the Hon Member had done — and increasingly, it was those downstream which were more involved in these.

It is like the mona therapy and generic drugs. All these arguments have gone. So, to protect your population from this insidious situation, will require that let us not begin to apply the brakes in the manner in which we want to apply it.

1.00 p.m.

Ms Tetteh: Mr Speaker, I rise to support the amendment as proposed by the Chairman and my reason being, I am aware of some of the backgrounds to this particular amendment. There were issues with some pharmaceutical companies in Ghana indicating that they had previously

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been agents for larger pharmaceutical companies that were producers of particular products. They had developed the market for them; they had been able to expand the acceptance of those products and then they had subsequently gone into agreement with other distributors essentially taking advantage of the network they had done.

Therefore, the rationale as I understand it for this amendment, is to ensure that when you have a Ghanaian business within this country that has spent time and efforts in developing a certain segment of market share for a particular product, then in that case, it should not be the case that once that has been done, then they should be able to take it out from their purview and give it to somebody else to now take over the distribution of that product.

This is because, essentially, it is not just a matter of taking the product and selling it. It is also convincing customers to accept that this is a product they want to work with.

But Mr Speaker, we should not forget that the whole process of distribution of products of any manufacturer from the start of delivery from “X” factory to the final consumer, is a process in which the person who is manufacturing the products, is interested. This is because ultimately, it would affect the acceptability or otherwise of its product.

So, therefore, to say that when it comes to the importation of products, they should not be in a position to determine who imports the product to prevent the kind of distinction that my Hon Colleague was referring to, where sometimes drugs are adulterated and faked and that they are not in the position to monitor the

process of the distribution of the product, will be unfair, and indeed, would be counter productive. This is because you might find that, in retaliation to that not only do we have a situation where other manufacturing companies outside of Ghana, may be Economic Community of West African States (ECOWAS) begin to take retaliatory measures against our Ghanaian companies that are in the process of beginning to build their manufacturing capacity.

This is because we do have businesses in Ghana that are building their manufacturing capacity working towards World Health Organisation (WHO) pre-qualification, indeed, have their markets for their products within ECOWAS and therefore, would be affected negatively if something like this was to start.

Then you also have a situation where you might find yourself, or some of our businesses might find themselves in a situation where simply to avoid all of this that we have elaborated and debated on and passed, they can set up some part of the manufacturing process here, which then would entitle them to distribute their own products. After all, they are not bringing in finished products.

So, let us not pretend that in passing an amendment that says that we are giving the importation, distribution and retailing to Ghanaians, we are creating a situation where people who have invested in the development of a product and have manufactured a product have no choice but to deal with Ghanaians. I think we should take a more expansive view, therefore, to limit, by the way this amendment does and to say that indeed, it should be exclusively for Ghanaians to retail the products.

What we are saying is that, when it gets to the market, it can only get to the

[MS TETTEH]

market through a Ghanaian entrepreneur. However, we are not going to interfere with the process in such a way that ultimately, it could be to our disadvantage.

It is for that reason that I rise to support the amendment.

Mr First Deputy Speaker: Hon Members, if I get the sense of this House, we are saying that foreign companies are not banned from importing, but as soon as it gets to Ghana, when the question of retail comes up, it should be restricted to Ghanaians? Do you get it? I think this is the sense of it.

Mr Emmanuel K. Agyarko: Mr Speaker, I thank you for the opportunity. I would not support this amendment. But like I said, I would reserve my comments later. But I am a little worried about information before this House.

I would want to state very clearly that we must make a very clear distinction between — I do respect the position of the former Minister for Health, but I would want to state very clearly, that if GAVI Alliance gives money for vaccines, we necessarily must go to a WHO approved facility for it. There is no facility like this in Ghana, probably; in Africa, in Tunisia or Morocco; there may be one but not in for vaccines. That one is a government import; it is the processes consummated by the Procurement Department of the Ministry of Health.

I think we must make a clear distinction between this one and what the Ghanaian businessman wants to do. The Ghanaian businessman has the right to — in India, they call them Schedule M. So, long as the factory has passed the Indian Regulatory Schedule, any Ghanaian businessman can go there and procure.

Mr Speaker, I really think that we should not confuse the issues. At the moment, the information before this House that is leading this business of — let us not limit the import. It is confusing and it is not like that.

Mr Speaker, GAVI Alliance gives us money. Global Fund gives us money. It is Global Fund to Government business and they must go to a WHO approved facility and buy a WHO — In fact, apart from the facility the product must even be approved.

So, if this is the basis for wanting to take out the import, Mr Speaker, in reality, that is not the case and I would humbly and respectfully add that I have been on top of this. For seven years, I was Chief Executive of the Foods and Drugs Board, so, I would respectfully say that, I speak from a position of knowledge. Mr Speaker, we must make the distinction very clear.

Mr First Deputy Speaker: It is because of your experience that we are listening to you. But my question is, to what extent, does that affect what we are dealing with now? Do you get my point? To what extent? You have said that later in the process, you have some points to raise.

I believe that we will just bid our time. When it gets to that point, you will make those points clear. But in the meantime, we are only talking about foreigners being allowed to import but not to get involved in retail.

Dr Kunbuor: Mr Speaker, I certainly do respect the Hon Member's years of knowledge in this matter. But the pharmaceutical aspect of it is a completely different arrangement. This is because he says Global Fund gives money to Ghana; what does giving money to Ghana mean? It is structured under an initiative whether

[DR KUNBUOR]

GAVI, Global Fund or not and this is based on an understanding. It is not that they just get up and say; Ghana, come and take money and go and buy Malaria drugs."

The second point that he has to take note of, is, he should look at the percentage, the ratio between annual Government of Ghana (GoG) allocation for importation of pharmaceuticals as a ratio of what you get from these agencies. Your appropriation annually to buy pharmaceutical products is almost negligible. So, over 70 per cent of your pharmaceutical products come through these various arrangements that you have had and it is not just a simple choice.

That is a different arrangement from a private person who decides that he is bringing in his pharmaceutical products. There is a difference between the two. You do not just go to Global Fund and you do not send anything to Global Fund, but because they like your name or face or country, they say, "Take money". You do a country report, and the country report must satisfy the requirements of Global Fund.

They must come and carry out the nature of the particular pharmaceutical product you need in relation to Malaria, Tuberculosis and HIV. It is not just pharmaceutical and that is why I am indicating that, let us be very careful about this issue.

I am all out in leaving the entire retail trade, hundred per cent to Ghanaians. And if the importer knows that he cannot retail, we have not done anything to short-change our people.

1.10 p.m.

Mr First Deputy Speaker: I think this issue was for the Hon Member to give us some information which he has done. So, subsequently, when the other issues come up, we will listen to his contribution.

Dr Prempeh: Mr Speaker, if the sense of the House is to take "importation" out, that is for the House to decide. I was looking forward to hearing the arguments for those who are saying we should take "importation" out.

Mr Speaker, the Hon Leader of the House is perfectly correct, likewise my Hon Friend who is the former Chief Executive Officer of the Food and Drugs Authority. Mr Speaker, why? When we say import and we say restrict the import to a Ghanaian, if Ghana Government is going to import from GAVI or World Health Organisation (WHO) approved, that is not the issue.

Mr Speaker, I would say that is not the issue, even the Ghanaian, who is going to import, would not import from Ghana, he is going outside to import. Mr Speaker, whether it is Ghana Government through its protocols or WHO or individuals, that is not the issue. It is a Ghana citizen or Ghana Government.

So, if the House wants to take away "importation" — but the arguments so far proffered for taking out "importation" do not exist. This is because whether Ghana Government or individual citizens bring in finished pharmaceutical products into the country, if we say import, Ghana Government can import, it is Ghanaian and ordinary Ghanaians can import. The essence of it is to prevent a foreigner, Mr Speaker, and that is the key thing.

I would give you three examples of industries. Tata products, like the Hon Minister for Foreign Affairs and Regional Integration said, was developed and accepted by a Ghanaian company. Now, the Indians have brought their own into it to sell Tata products. Mr Speaker, Jaguar — they are coming.

[DRPREMPEH]

Mr Speaker, Hon Hackman Owusu-Agyemang, former Member of Parliament for New Juaben North, he developed Ghanaian taste for pampers, what has happened?

They have taken it and given it to an Indian to come and sell in this country. That was the essence of what we are talking about.

Mr Speaker, a lot of Ghanaian pharmaceutical companies which have developed the product in this country, registered it through the Food and Drugs Authority, are now coming themselves after the market has matured. That is the issue. If the sense of the House is to take out “importation”, let us take it out. I do not have a problem. But the arguments advanced in the *Hansard* do not exist.

Mr Kyei-Mensah-Bonsu: Mr Speaker, in respect of clause 26, we are talking about a person who is not a citizen and what do we mean by a “citizen”? I think that it is rather “citizen” that must be defined. We have rather “Ghanaian” that has been defined to mean:

“Ghanaian means a citizen of Ghana or company, partnership or association or body (whether corporate or unincorporated) the majority capital or financial interest of which is owned by citizens of Ghana and includes the State and a statutory corporation.”

I think it should rather be the other way round. We are talking about who a “citizen” is. So, the interpretation rather should be who a “citizen” is and not who a “Ghanaian” is. *[Interruption.]*

This is because clause 26 says these things could be done by a citizen. What do we mean by a “citizen”? That is what I am saying that we rather should interpret “citizen”.

But having said that, Mr Speaker, I have a little worry about the clause 26(g). This is because the original started like this:

“... internal distribution and retail”

Now, we have *deleted* “internal distribution and ...” We are talking about retail; is it the internal retail that we are talking about or any retail at all? That is the thing that we should concern ourselves with.

Then Mr Speaker, the other thing is why emphasise on finished pharmaceutical products? This is because, Mr Speaker, you could have the importation of, for instance, amoxicillin. A person decides not to bring the finished product, he just brings the chemical, the power, and the capsule, then it is not a finished product. So, semi-finished could be done. *[Interruption.]*

The point I am making is that, in that case, the fellow is not exempted. So, he could do the retail in a semi-finished product. *[Interruption.]* Yes, that is what you are saying. Why do you say, no? This is because he can then do that.

Mr First Deputy Speaker: Hon Chairman, I think it is a point worth considering because we are now describing the product as finished and therefore, these regulations would apply. But if it is semi-finished, what happens?

Alhaji Sorogho: Mr Speaker, if it is semi-finished, it is still a raw material. It is coming and you will add value. Whatever the value is, you would still have to add value for it to become finished. That one, it is in Ghana. But we are talking of finished pharmaceutical products that are imported from outside Ghana. These are two different things. If we say that then we cannot even do anything.

[ALHAJISOROGHO]

Mr Speaker, DANGOTE Cement, they import the raw cement power and when they come here, they put it into bags and they call it raw materials. Somebody brings the actual cement in a bag, that is finished cement. So, these are two different issues.

Mr Speaker, I understand the import of his contribution. But anything which is not finished, is not finished. Something that goes straight to the end user where he can use it without adding value, is what we are talking about. It is a clear thing.

Mr H. Iddrisu: Mr Speaker, I believe we have heard various arguments including the one which has just been raised by the Hon Minority Leader. We would have extreme difficulty defining “citizen” under this particular Act. It is a matter that the Constitution itself has dealt with. But the idea of this provision as the Hon Member himself has recognised is to reserve certain businesses for Ghanaians as a way of promoting indigenous Ghanaian business growth and Ghanaian contribution to the development of our economy.

Mr Speaker, today, as we speak, there exist in Ghana manufacturing companies, foreign owned, locally owned, some joint ventures. Some of them are engaged in the manufacture of finished pharmaceutical products. All that the Hon Majority Leader said in support of the Chairman’s argument, which we have heard is that, reserve the retail of finished pharmaceutical products for Ghanaians.

Let it be done only by Ghanaians, so that even if foreigners import drugs into this country, the retailing of that business must be the exclusive reserve of Ghanaians.

Mr Speaker, many of the companies that already exist in Ghana and we are supporting even our own manufacturing company — *[Interruption]* — We have Danadams; we have Ernest Pharmaceutical, we have M&G Pharmaceutical Company — many of them intend tomorrow to export their products. We must avoid action that would invite retaliatory measures that we are told that you cannot also send your product to another foreign country unless citizens of that country brought it in.

Some day, in the foreseeable future, clause 26 provides that the Minister in consultation with the Board can expand the list. We can work up to the future but for now, let us have a consensus on reserving just retail of finished pharmaceutical products for Ghanaians, not raw materials in the form of unfinished products.

1.20 p.m.

Ms Tetteh: Mr Speaker, I just wanted to make the point that I am not aware that there is any pharmaceutical company that is manufacturing in Ghana, that essentially develops the raw materials for the manufacturing of the pharmaceutical products here in Ghana.

They import semi-processed products and then they go through the process of it as if it were blending, packaging *et cetera*. So, you have a situation where — there is one company that I know they were close to it but as at the time I was leaving office as Minister for Trade and Industry, I was not aware they have done so.

Indeed, when you look across the whole manufacturing spectrum, apart from agricultural products that are grown in Ghana and may be wood products that also are products of Ghana, because of our forest resources, there is very little

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manufacturing that takes place without some form of unfinished products being imported into the country undergoing further processing and then packaging and then sold in our markets.

So, when we cross into the area of unfinished products, when you start talking about semi processed products and we do not begin to create a ban as it were or a limitation that only applies to Ghanaians, we may be going — even in the pharmaceutical sector into dangerous territory. Therefore, Mr Speaker, I think that the point that Hon Members want to protect, indeed, Ghanaians who have developed businesses, should be able to benefit from those businesses. I agree with him entirely.

This is because it is not fair for somebody to invest in establishing a market for his products and to have that taken away from them. But the defect that we want to cure, we should not go in to over kill and then create a problem for other Ghanaian businesses in future.

Mr Speaker, that is the point that I am trying to make.

Mr First Deputy Speaker: Let us defer to the Second Deputy Speaker, after that we can proceed.

Mr Joe Ghartey: Mr Speaker, two quick contributions.

The Minority Leader said citizenship should be defined rather than — I think the Minister for Trade and Industry has told us that “citizenship” is in the Constitution. But there is also a reason why it was “Ghanaian” which was defined. Because the principle of company law is that a company takes the nationality of the country it is incorporated in.

So, it has been an integral part of foreign direct investments — the laws relating to foreign direct investments that the view of incorporation is lifted and the company which is operating under a law on foreign direct investment, what a Ghanaian means is defined. And so, when you even look at the history of our previous laws dealing with investment, you would see that we have come to a position where now the majority capital and financial interests must be owned by Ghanaians.

It used to be the case that even minority ownership by Ghanaians may be possible for the company to be defined as Ghanaian. So, it is important that this provision is here and it is explained in this way rather than the other way round. I also hear quite a number of Hon Members, including the Minister for Trade and Industry buttressing their arguments by relying on clause 26 (2), which seems to give us some leeway because we are told that the Minister, by Legislative Instrument (L.I.), can amend the list of enterprises reserved for citizens.

I have a little difficulty and maybe at the Second Consideration Stage, we shall bring it forward, being that, I find it difficult to see how they can, by an L.I., amend an Act of Parliament. So, perhaps, as we are looking at it, we should not seek refuge there because in reality, that will not eventually offer us any refuge in the way that it is couched presently.

In spite of that Mr Speaker, I support the amendment as it is captured.

Prof. Gyan-Baffour: Mr Speaker, I am the Ranking Member of this Committee, but I have been persuaded by arguments that are going round in the House. I was particularly persuaded by the former Minister for Trade and Industry; she looks like a Trade Minister even now that

[PROF. GYAN-BAFFOUR]

she is in the Foreign Ministry; so people refer to her as the Trade and Industry Minister. But the Foreign Ministry— when it comes to clause 26 (e), production of exercise books, there is clause 43 that actually allows those who are already in operation to continually continue *ad infinitum* and that we should amend it to ensure that those investments in those areas are not really affected by that.

If that is true and that we can do that in this law, then I do not see any reason we should not actually put importation here, so that we actually allow it. And those who are already in importation and are foreigners, can continue *ad infinitum*. But when we met the Ghanaian side of the equation, their concern is not about those who are already in but the influx, the people who are rather coming in right now.

So, if that is the case, then let us make it a law, reserving it to Ghanaians but making sure that those who have already invested in it are not affected by that law. If that can be done, I think I would go in for the importation as well as the distribution.

Thank you, Mr Speaker.

Mr First Deputy Speaker: Hon Members, I think this has been the line of argument all along. I do not think we need to go any further because we are saying that there is a provision being made for Ghanaians to deal with retail. We are not shutting the door to foreigners from importing. Then there is this other clause which will protect those already in the business before the commencement of this law.

So, I think we have taken care of all these concerns raised. I think we should make some progress. Can we therefore, put the Question? The rendition as presented by the Chairman of the Committee, that is we are dealing with item (g) — item (g).

Question put and amendment agreed to.

1.30 p.m.

Mr Papa Owusu-Ankomah: Mr Speaker, I am sorry if I am taking you back. But I notice that we have (e) and (g). I do not know whether you have already introduced some amendments on it.

Dr A. A. Osei: No! We have not; it is a new amendment.

Mr First Deputy Speaker: Thank you for drawing our attention. I think the Table Office should take note and effect the correction. I hear it is a typographical error.

Alhaji Sorogho: Mr Speaker, the next amendment does not stand in my name; it stands in the name of Hon Mensah Woyome.

Mr Mensah K. Woyome: Mr Speaker, I beg to move, clause 26, subclause (1), *add* the following new paragraph:

“(c) freight forwarding and clearing”

Mr First Deputy Speaker: Hon Member, in order to make the following more understandable, can you read the full rendition if it should be allowed?

Mr Woyome: Unfortunately, I do not have the full rendition. Yes, Mr Speaker, that “a person who is not a citizen or an enterprise which is not wholly owned by citizens shall not invest or participate in freight forwarding and clearing.”

Papa Owusu-Ankomah: Mr Speaker, I am sorry to — it is not exactly a point of order. But I know that we have another amendment standing in the name of Hon Kofi Brako on freight forwarding and customs house agency. I am wondering whether we cannot try and reconcile the

[PAPA OWUSU-ANKOMAH]

two. If you look at clause 26 (g) on page 8 (2), we have “procurement and internal retail and distribution of finished pharmaceutical products” by Hon J. B. Danquah. I am sure he is abandoning it or something — *[Interruptions.]* No, no, I am saying that we have already dealt with clause 26 (g), “internal distribution and retail of finished pharmaceutical products”.

So, assuming the House accepts it, does mean that this is also going to be another head, “Procurement and internal retail and distribution of finished pharmaceutical products”? I am just suggesting that where some of these amendments seem to be close together, we try and see if we cannot reconcile them before we come to the floor of the House, instead of going through this whole process that we would be repeating ourselves on unnecessary issues.

Mr Woyome: Mr Speaker, actually, I have had discussions with my Colleague, Hon Kofi Brako and we are flowing in the same line and we want to probably move this jointly under the circumstances, so that we would want to *add* as he has written “freight forwarding and customs house agency”.

Mr First Deputy Speaker: Hon J. B. Danquah, is that correct? Who is the mover of the other one? Is that correct that you want to move it jointly?

Mr Brako: Yes, Mr Speaker, that is correct.

Mr First Deputy Speaker: That will save us time. So, now, go ahead and give your reasons for those amendments.

Alhaji Bashir Fuseini Alhassan: —
rose —

Mr First Deputy Speaker: Are you up on a point of order?

Alhaji B. F. Alhassan: Yes. Mr Speaker, there are two amendments proposed. And they are materially different. One says, “freight forwarding and clearing”; the other one says, “freight forwarding and customs house agency”. One must be withdrawn. He has not withdrawn it, he should withdraw it. Mr Speaker, if they intend to move them together, they must withdraw one because they are different. Which one are they withdrawing?

Mr First Deputy Speaker: He has abandoned his in preference for one by his Colleague on the other side.

Alhaji B. F. Alhassan: Mr Speaker, sorry, I did not hear him say he has abandoned it.

Dr Kunbuor: Mr Speaker, it is because of the nature of the proceedings. He was actually in the process of moving his amendment when the Hon Member for Sekondi raised an issue that this could be consolidated in a way.

So, he had actually not finished moving the amendment. If he has to actually abandon the amendment, it must be said so expressly. —*[Interruption]* —

I am also here and I am saying that I would want the Hon Member to withdraw his amendment expressly and we can proceed, because we are dealing with official records.

Mr First Deputy Speaker: Very well, I thought I heard him do so but for the avoidance of doubt, Hon Member, will you please, go ahead and withdraw it?

Mr Woyome: Mr Speaker, I withdraw my proposal that we *add* “freight forwarding and clearing” and in support of “freight forwarding and customs house agency” as moved by Hon Kofi Brako.

Mr First Deputy Speaker: Hon Brako, can you now have the floor to move your proposed amendment?

Mr Brako: Mr Speaker, I beg to move, clause 26, subclause (1), *add* the following new paragraph:

“(e) freight forwarding and customs house agency”.

Mr Speaker, I do this based upon the fact that, customs house agency has already been reserved for Ghanaian citizens by a Legislative Instrument (L.I.) 1178 of 1978. Mr Speaker, the activities under clause 26 are purely reserved for citizens of Ghana. I am therefore, introducing this amendment to deepen the status of GIPC as a one-stop shop.

Mr Speaker, I am doing this because currently, a lot of foreigners are now venturing into this industry. GIPC as I see, this Bill is a Bill of one-stop shop by introducing this particular amendment into it. My hope and my desire are that if any individual or a foreigner decides to invest in this country, his attention would be called to the fact that customs house agency and freight forwarding are reserved for Ghanaian citizens.

Alhaji Sorogho: Mr Speaker, I rise to beg that he withdraws and drops the amendment. Mr Speaker, already, I have had extensive discussions with him this morning. And Mr Speaker, SMCD — *[Interruptions.]* Oh, please, please, please.

Mr First Deputy Speaker: Hon Chairman, if you oppose his amendment, just make your point. At the end of the day, whether he will withdraw it or not, will be up to him.

Alhaji Sorogho: I am making my point.

Mr Speaker, SMCD 188— There is already a law that bans what he is saying; it has already been taken care of in the law. This morning, when we met; he said that he wanted it to be re-emphasised in

the GIPC Bill and I asked why? “Already, he said it was not being enforced and I said, the mere fact that it goes with the GIPC, does not mean that it would be enforced. So, there is a problem of enforcement and so, we must find ways and means of enforcing it and not to make another law. Yes, there is a law.

Mr First Deputy Speaker: Hon Chairman, can you read out the rendition in SMCD and then can you be sure that, that one has not been repealed? We have to be sure that it has not been repealed and that it is still in force. But you read out what it says.

Alhaji Sorogho: Mr Speaker, the arrangements are as follows:

“Be it enacted by the Supreme Military Council as follows:

- (i) Customs house agency to be licensed. No person shall engage in the business of customs house agency unless that person has been granted a licence by the Controller of Customs and Excise or an officer authorised in that behalf in accordance with regulations made under this Decree”.

I think Hon Papa Owusu-Ankomah is very much aware of this law. He came and we had the discussion and he said, yes, the law is there; it is true but he wanted it to be re-emphasised in the other law and I did not see why we should do that.

Mr First Deputy Speaker: But Hon Chairman, if I heard you right — *[Interruptions.]* Please, order, order, order!

If I heard you right, it says; you cannot engage in it until you are licensed but it does not restrict it to Ghanaian citizens; that is it.

1.40 p.m.

Dr A. A. Osei: Mr Speaker, with respect to the Chairman, we have to be very careful. The Chairman should not assume the authority of barring Members from making an amendment. He is going to refer to an L.I. we want it in an Act. That is what the Hon Member is seeking to do but as the Chairman, I have talked to him all day.

He is an Hon Member and he does not kowtow to the whims of the Chairman. He has the right to speak for himself and you are talking about a Legislative Instrument. We want it as part of this Act. What he read was the license.

Mr First Deputy Speaker: All right. Hon Member, point well made.

Hon Minister for Trade and Industry, let us hear you. *[Interruptions.]*

Hon Members, please, address the Chair.

Mr H. Iddrisu: Mr Speaker, my attention was drawn to this proposed amendment by our Hon Colleague and Hon Woyome on this side. I facilitated a meeting between the GIPC and the Ghana Revenue Authority.

The principle is good but customs agents are under the monitoring supervision of the Ghana Revenue Authority. To put them under the GIPC, will be our difficulty; it will mean that you are now saying that — *[Pause.]*

The Ghana Revenue Authority (GRA) says that they issue the licence and that their attention had not been drawn to the fact that this particular provision of the law was not being enforced and that once it has been brought to their attention, they would be proactive in doing it.

But we do not have a problem reserving the principle exclusively for Ghanaians except that on the advice of GRA, they think it is their responsibility to do it.

Papa Owusu-Ankomah: Mr Speaker, if the Minister for Trade and Industry does not have any problem with it, then I believe we should support the amendment. Ghana Investment Promotion Centre (GIPC) is not an enforcement agency. But if there was a lot of rumpus about foreigners doing business in Ghana contrary to the GIPC law, it was the Ministry of Trade and Industry that was being pressurised to ensure that this thing was not done.

However, if GRA — We are dealing with Communications Service Tax and so forth, GRA is the agency responsible for collecting the tax, *et cetera*. but it is not the agency responsible for licensing.

When this amendment is introduced into this law, it would then make it clear so that even when one wants to register a company, that is the customs house agent for freight forwarding, it is clear on the face of the law that foreigners or non-Ghanaians are not involved; simple. But to say that because they have to be licensed, they would have to be registered before they are licensed; the fact that one registers does not mean that one can be licensed to operate.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I think we should be certain whether the Decree that the Chairman quoted from, has not been repealed. Mr Speaker, clearly it has been repealed — *[Interruption]* — It is not there. The amendment to the Customs Act, 1993, what he quoted, is not there.

This is the current one that he spoke about — *[Interruption]* — He did not quote PNDCL; he quoted SMC Decree 188. That is what he quoted — *[Interruption]* — Do not pretend, Mr Chairman; that is what you quoted to this House — *[Interruption.]*

Mr First Deputy Speaker: Hon Minority Leader, please, address the Chair.

Mr Kyei-Mensah-Bonsu: Mr Speaker, that is what we should concern ourselves with.

In any event, if we are consolidating this into this new Act, what is wrong with that? There is nothing wrong with it. So, if we agree to the principle as the Minister himself has agreed to, let it find expression here and I guess we can move on.

Mr Joe Ghartey: Mr Speaker, what is the purpose of this Bill? Among other things, this Bill clearly seeks to specify the areas of law reserved for Ghanaians. Mr Speaker, one of the characteristics of a good investment Act is that it creates certainty. If I am a foreigner seeking to invest in Ghana, I look at one Act and then I know what I can do and what I cannot do. Indeed, there are other areas that are in other laws which are restricted to Ghanaians, for example, fishing.

When you look at the Fishing Act for trawlers and so on, it is restricted to Ghanaians. And so, in my view, not only this amendment — I support this amendment; but any other law and at the Second Consideration Stage, we would be seeking to consolidate our law relating to investment, so that if I am a foreigner coming to invest in Ghana, there is certainty.

Just now, if a foreigner instructs a lawyer that he wants to invest in Ghana, his nature of business — Is this L.I. which several of us were not even aware of, we may find the situation where we incorporate at the companies registry and when one gets to the GIPC, they themselves may know or may not know. And in the course of doing business, one is then told that there is an L.I. that stops them from doing that.

In any event, Mr Speaker, if the GIPC Act which is a superior law sets out the areas that are restricted for Ghanaians, then what is the effect of this L.I. if we do not elevate it and *insert* it into the new Act?

So, Mr Speaker, I think that this question about whether GRA is the responsible agency for regulating customs or not, is neither here nor there. There are several businesses, as the Hon Member for Sekondi said, if one comes into the communications sector, you would be regulated by the National Communications Authority (NCA). There are several sectors that one would be regulated by other authorities. This Act is not a regulation Act.

So, Mr Speaker, I thoroughly support the proposed amendment. It brings clarity; it is good for the investor; it is good for our investment situation and I think we should all not hesitate to vote for it — *[Hear! Hear!]*

Dr Kunbuor: Mr Speaker, I find myself heavily constrained to join this debate because of the way the issues are going.

It is, in my view, for me, very interesting that in a highly liberalised economy, a number of the essential ingredients of economic liberalism and even neo-liberalism is being crucified at this particular point and I am happy. The only thing I am worried about is that, we should make sure that we do not sterilise particular economic enclaves.

It is a good thing to protect an area of the industry for citizens but we must be sure that, that particular area would indeed, be taken up and the entire space would be occupied and it would perform. If it is the mere fact of simply sterilising it and it remains there, it is bound to create distortions in other related sectors of the economy. That is why I think that we should look at it in a holistic manner.

[DR KUNBUOR]

If we think that freight forwarding is an isolated individual activity and does not affect our entire investment climate and we want to reserve it for Ghanaians, fine. But if we see the location of this activity and how it relates to other areas that are not restricted solely for Ghanaians, we are bound to have a problem. And the clarity that the Hon Second Deputy Speaker talked about is precisely what is important.

We must be sure that by simply reserving this area, we have not further disturbed and created unclarity in relation to other auxiliary business activities related to this. This is, in my view, the worry because if I see the particular sector that we are talking about, it has a lot of ramifications for other activities in terms of investment. That is why I am getting worried about it.

We should also not conduct the debate to let it look like we seek to protect Ghanaian interests but it looks like what we are actually doing, is running away from competition — *[Interruption]* — This is because we have not said that Ghanaians cannot import; we have not said that. So, both Ghanaians and foreigners can import. What we are saying is that, foreigners should be prevented from importing. So, where is the protection?

This is because if every person is allowed to import, it really means, at the end of the day — Or one is involved in freight forwarding — I am looking at it as a generic argument. It would mean that everybody can get into that activity whether foreigner or non-foreigner.

So, I would want us to look at that level. It is an issue of competition and we should also know that we are governed by a lot of international competition

regimes. This is, in my view, the worry — *[Interruption]* — Well, the social democrats should be the ones who should be interested.

Mr First Deputy Speaker: All right.

Hon Members, Hon Markin and then after that we come to the Hon Minister for Trade and Industries.

Several Hon Members — *rose* —

Mr First Deputy Speaker: We have very little time left now but I want to feel the sense of the House before we make any decision.

1.50 p.m.

Nii Kwartei Titus-Glover: Mr Speaker, having listened to the Hon Majority Leader, I am very confident and sure that the freight forwarders and the customs house agents are not afraid of competition. Globalization and its political allies, does not mean that our own people must be restricted and not protected.

Mr Speaker, I hold in my hands, the eligibility criteria of the United States of America of who becomes a customs broker and I beg to quote, with your permission:

- “1. He must be a United States citizen of at least 21 years old
2. He must not be a current Federal Government employee.
3. He must possess a good moral character.”

Now, when you go to India, Mr Speaker, the applicant must be a citizen — *[Interruption]* — Registration of Customs House Agent in India.

Dr Prempeh — *rose* —

Nii Kwartei Titus-Glover: We are here in this country, Mr Speaker, the clause 26 — Whatever has been adduced in this plenary — how do we protect our own? And we are saying that there is the need for us to have the preservation for the Ghanaian agent. So, what are we talking about?

Dr Prempeh: Mr Speaker, *on a point of order.*

I am surprised my Hon Colleague quotes from India so profusely and adds the United States of America to buttress his point. What about the Legislative Instrument (L.I. of 1978)? Why does he not quote it? Since 1978 — he should say that one and stop America and India.

Nii Kwartei Titus-Glover: I was coming to that. The L.I. 1178 of 1978, clause 4 and with your permission, I beg to quote:

“Subject to regulations 2 and 5 of these Regulations, no licence — the underlying word “no license”.]

shall be granted to any persons unless he is —

1. A citizen of Ghana;
2. Not less than 21 years of age.
3. A good character and business integrity certified by any association of custom house agents”.

So, Mr Speaker, that is not exactly what we are doing. So, I would appeal to the Hon Chairman that he should allow us to make an input and cleverly listen to the Hon Second Deputy Speaker. We want to lift it from the L.I. into an Act of Parliament, so that anyone who picks this document, would understand that this is a preserve for the Ghanaian people.

Thank you very much for the opportunity, Mr Speaker — *[Hear! Hear!]*

Mr First Deputy Speaker: Hon Members, as much as possible, if a point has been raised by one Hon Member or the other, let us not repeat it. As I said, we have very little time.

So, I will direct that we sit beyond the stipulated time, but then for only 15 minutes outside of the stipulated time because no arrangements have been made, I am informed.

Alhaji Muntaka: Mr Speaker, I oppose this amendment. Mr Speaker, my reasons for opposing this amendment are that —

1. It is already in an existing L.I;
2. Mr Speaker, the impression that it may create — an impression that we the Parliament of this country are more or less, not in favour of foreigners participating.

Mr Speaker, Ghana is a leading country in Africa that is championing integration. We talk about integration of West Africa; we talk about integration of Africa. And I would want us to be careful because we have signed so many treaties in line with these. We already have it in a Regulation, and Mr Speaker, as you may know, it is much easier to make changes in a Regulation than when it is in an Act.

Mr Speaker, I would want to beg my Hon Colleagues who are proposing the amendment, that while this amendment is in an existing Regulation, let us leave it at that level. Let us not try to put it in an Act because we may have it more difficult, if it is in an Act, to change it than if it is in a Regulation.

So, Mr Speaker, I oppose this amendment.

Alhaji B. F. Alhassan: Mr Speaker, the amendment must be opposed. It must be opposed because if we open the floodgates for such amendments, then

[ALHAJI B. F. ALHASSAN]

the list of businesses that are already protected and reserved for Ghanaians in other legislations would be affected here. For instance, small scale mining is the exclusive preserve of Ghanaians — *[Interruption]* — It is. Small scale mining is the exclusive preserve of Ghanaians by law — *[Interruption.]*

Mr First Deputy Speaker: Order! Order!

Now, Hon Member, please, address the Chair; yes, go ahead.

Alhaji B. F. Alhassan: And there are many such businesses that are exclusively preserved for Ghanaians under the parent legislation of those businesses. So, Mr Speaker, I hear about this being under Legislative Instrument. But Mr Speaker, the Legislative Instrument does not have a life of its own; it is founded on a parent law. And that law is SMC Decree 188, in particular, section 7.

Mr Speaker, why should we not include this? Look at clause 26. Mr Speaker, clause 26 is sub-titled “Entry, admission and protection of investment”.

So, it is creating entry barriers for businesses or other nationals into these businesses. Also, it limits the admission of other businesses — *[Interruption.]*

Mr Speaker, let us look at the draftpersons, within their contemplation, what they were looking for —

- (a) Sale of good and or provision of services in a market. *[Interruption.]*

But we have to look at the historical antecedents. What was the law anticipating? The law anticipates the involvement of a great number of Ghanaians and Ghana has the respon-

sibility to provide employment for its citizens. And so, if a great number of Ghanaians would enter into a business and that business can be invaded by foreigners, it ought to be protected. That was the intendment of the law.

Mr Speaker, two — The operation of taxis — *[Interruption]* — The operation of taxis, a great number of Ghanaians are involved in it.

Three — The operation of a beauty salon — Mr Speaker, it cannot be within the contemplation of anybody than the operation of a beauty salon can be open to the encroachment of other persons.

Mr Speaker, the fifth one, by the inclusion and the ingenuity of my Hon Brother, the Hon Minister for Trade and Industry, when he was the Hon Minister for Communications, he insisted that the printing of mobile phone cards must be done locally by Ghanaians to create employment.

Mr Speaker, how many people are in freight forwarding services in this country? *[Interruption.]* Yes. So, the evidence must be here for us to know which particular kinds of people are we protecting.

My problem is that if we open the floodgates — Mr Speaker, if we open the floodgates of restricting the involvement, we would be creating a restricted corridor for people and creating wreck-seeking — What is happening now is symbolic of wreck-seeking. People who have businesses are trying to protect those businesses and that should not be entertained in this house.

Mr George Aboagye: Mr Speaker, we have here in the parent Act, two issues — Registration and also the SMC Decree Licensing. Now, what I see is that for

[MR ABOAGYE]

some of us, Registration is the issue, to be registered with GIPC. And then also there is a standing Regulation that requires that the clearing agents be licensed by the Ghana Revenue Authority (GRA).

Now the issue, as far as I am concerned, is that Maersk and the big players are not necessarily the ones that are doing the clearing — *[Interruption]* — It is the Ghanaian —

2.00 p.m.

Mr First Deputy Speaker: Hon Members, please, let us listen to him, so that we could also contribute meaningfully. Please, let us have some order.

It is the Ghanaian operators at the ports who provide this service. Now, the concern being expressed here is that there are Chinese and other foreigners who bring in their own clearing agents to do the clearing for their goods as well.

Now, there is also the issue of retaliation. We have Ghanaians in Germany, Nigeria and other places who are in the same businesses in those countries. Now, are we ready to experience this kind of retaliation should we close this door to foreigners? So, these are issues we should consider in all this.

As far as I am concerned, we could apply the Regulation to the licensing, and added to this Act, we can make a Regulation that will specify who qualifies to operate in this area and leave it open for investment promotion purposes. This is because if we put this sort of information or material in the Act, it could be counter-productive. This is my opinion.

Mr Speaker, thank you.

Mr Dominic B.A. Nitiwul: Mr Speaker, it was the same reaction I had with regard to both the Hon Minister and my Friend, the former Chief Executive. Mr Speaker, they admit, in one breath that it is in the parent Act, then they argue again that if we put it here, it will lead to a problem. What is their argument?

Mr First Deputy Speaker: Hon Member, they are saying that it is in a Legislative Instrument (L.I.).

Mr Nitiwul: No! He argues that the L.I. is driven from the parent Act and that parent Act has not been repealed. And they argue that if we transfer it to the encompassing law, which has to do with investment, then it is bad. What is their argument then? Mr Speaker, is it about putting it here that is their problem or it is about the Act itself that limits it to Ghanaians that is their problem? Has the Act been repealed? No! So, what are they arguing about?

Mr Speaker, it is repetitive. Let us put it in there and let everybody who looks at the Act know that if one is a foreigner, this is what one can do and this is what one cannot do. It is as simple as that. The Act has not been repealed. Otherwise, they should bring that Act and let us repeal it if they are against the fact that it should be opened to foreigners.

In any case, which Ghanaian in China is allowed to do freight forwarding? Which Ghanaian? Let us be factual with ourselves.

Prof . Gyan-Baffour: Mr Speaker, I think the mood of the House is that we really need to think through this clause very, very well. So, I would suggest that maybe, we defer it until tomorrow.

Mr Speaker, the main rationale why I am saying that, is, it looks like we are using the law to actually come out with the policy on investment rather than using

[PROF. GYAN-BAFFOUR]

the investment to drive the law. As we stand here, we do not even — It is not very clear what this Memorandum is, in terms of policy. That is why the Hon Second Deputy Speaker said that maybe, we needed to look at what the object is. This is because what is the Government's policy on investment of Ghanaians as it relates to foreigners? We do not know it here. What is the Government's policy? — [Interruption.] This is the law and not the policy.

So, the Hon Minister for Trade and Industry, before we come tomorrow, he should be able to articulate to the House, what the policy of Government is regarding investment and that will guide our thinking in what we have to do here. This is because somebody gets up and says, bring this one, another gets up and says, let us *add* this.

What is the rationale? Is it because we have lower technology involvement there that Ghanaians can easily do? Or is it because we want to just create some protection? What is the rationale?

That rationale should be articulated by the Hon Minister himself to guide the thinking of the House. So, I think tomorrow, he has to come here and give us some guidelines that will enable us work on this Bill. Otherwise, we would talk and talk and there will be no consistency in what we say.

Mr H. Iddrisu: Mr Speaker, I am utterly surprised the Hon Ranking Member would make a statement to the effect that the Memorandum accompanying this Bill does not provide clarity on the policy direction for the review of Act 478, it does. And I may refer him to the first three or four paragraphs of the Act. Under Act 478, certain businesses, particularly domestic small scale businesses were reserved as a

way of our own people contributing to the alleviation of poverty and contributing to the economic development of our country in that vein.

Mr Speaker, this Bill does not seek to come for — What I would put in a polite way — “A takeover of businesses” exclusively reserved for Ghanaians. Not at all. That is not the intention. This Bill is intended to position the Ghana Investment Promotion Centre as the Centre responsible for encouraging and promoting investment in our country.

I emphasise at the Second Reading Stage that in this respect, we are talking about Foreign Direct Investment and Domestic Investment. Therefore, we should work in a way that stimulates the investment.

Mr Speaker, on the issue before hand, I initially indicated that to the extent that it was to create businesses for Ghanaians, I had no objection. Mr Speaker, but may I refer you to Customs House Agents Licensing Decree 1978 (SMCD 188). Mr Speaker, in the definition column, I refer you to “business of custom” — And I am providing basis to strongly oppose the addition and inclusion of what my Hon Colleague suggested. It says:

“Custom business means the preparation, signing and presenting of documents with respect to the imports and exports of goods under this Decree.”

Now, section 26 says that “a person who is not a Ghanaian shall not invest in or participate in ...” - For instance — And I urge the Hon Ranking Member to observe this — The GcNet operation is a custom related business — Single window. Destination inspection — Single window. They are all custom related. Now, one cannot say that a person cannot

[MR H. IDDRISU]

invest in that infrastructure because tomorrow, we would need an investment to improve the single window infrastructure and other issues. That is why I would remain opposed to it and probably, seek further clarification from higher authority on it. But policy wise, custom- related business, one cannot say that only Ghanaians can be engaged in that particular issue.

Mr Kyei-Mensah-Bonsu: Mr Speaker, I have a point of information. I think the amendment being proposed does not relate to the “business of custom” which is what he is interpreting. Mr Speaker, they are talking about “custom house agency” and let the Hon Minister advert his mind to it.

That one, the limitation has been provided and it means any person to whom a licence has been granted under this Decree to transact business of custom on behalf of another person. That exactly is their destination. What he read is not what he seeks.

Mr First Deputy Speaker: Hon Members, I would like to give some direction. In the ensuing debate that has been generated, I would direct that this matter be deferred. The Committee should do some winnowing and then we get back to the Chamber and we look at the way forward.

This is because I think that it has generated a lot of debate; we need to look at the details of issues and the Hon

Minister himself has indicated that he needs to confer and get back to us. So, that is the direction of the Chair.

Mr H. Iddrisu: Mr Speaker, I am compelled just to respond to the Hon Minority Leader, so that next time he would listen to himself. Mr Speaker, I am going to his definition:

“Custom House Agent means any person to whom a licence has been granted under this Decree to transact business of custom”.

Therefore, my referral to the definition is as relevant yesterday as it will be relevant tomorrow — Transact business of custom. And I am saying that the business of custom goes beyond freight forwarders and custom agents. It goes to affect other important institutions.

But I would agree that we defer this and make progress, so that we do further consultation.

Mr First Deputy Speaker: Hon Members, I do not want to protract this debate.

Hon Members, this brings us to the end of Consideration Stage for today.

The House stands adjourned till tomorrow at 10.00 o'clock in the forenoon.

Thank you.

ADJOURNMENT

The House was adjourned at 2:11 p.m. till Wednesday, 10th July, 2013 at 10.00 a.m.