

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 4th May, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:-

Mr. Stephen Mukangu.

PAPERS LAID

The following Papers were laid on the Table of the House:-

(i) Annual Reports and Accounts of Higher Education Loans Board for the year ended 30th June, 1993 and the certificate thereon by the Auditor-General (Corporations).

(ii) Annual Report and Accounts of Higher Education Loans Board for the year ended 30th June, 1994 and the certificate thereon by the Auditor-General (Corporations).

(iii) Annual Report and Accounts of Higher Education Loans Board for the year ended 30th June, 1995 and the certificate thereon by the Auditor-General (Corporations).

(iv) Annual Report and Accounts of Moi University for the year ended 30th June, 1995 and the certificate thereon by the Auditor-General (Corporations).

(v) Annual Report and Accounts of University of Nairobi for the year ended 30th June, 1997 and the certificate thereon by the Auditor-General (Corporations).

(vi) Annual Report and Accounts of Kenyatta University for the year ended 30th June, 1992 and the certificate thereon by the Auditor-General (Corporations).

(vii) Annual Report and Accounts of Kenyatta

University for the year ended 30th June, 1994 and the certificate thereon by the Auditor-General (Corporations).

*(By The Assistant Minister for Education
and Human Resource Development (Mr. Awori)*

NOTICES OF MOTIONS

FUNDING FOR POLITICAL PARTIES

Mr. Raila: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, while recognising the need to institutionalise multi-party democracy in Kenya; considering that viable political parties are critical in that process, and cognisant of the fact that

the Government has accepted the proposal that parliamentary political parties be funded directly by the State from the Consolidated Fund, this House resolves:-

- (a) that annual grants be made to parliamentary parties through the Budget in each financial year;
- (b) that the amount of such funds be the number of parliamentary votes secured by the parties in the preceding General Elections multiplied by Kshs50 each;
- (c) that 30 per cent of the amount be divided equally among all political parties and the remaining 70 per cent be distributed proportionately according to the national voting percentage obtained by the parties in the preceding parliamentary election; and,
- (d) that the Government, as a matter of urgency, establishes a clear legal framework to ensure transparent, fair and just financing of all political parties.

Mr. Kombe: Mr. Speaker, Sir, I beg to give notice of the following Motions:-

USE OF FOREIGN INVESTORS IN IMPROVING CITY INFRASTRUCTURE

THAT, considering that Nairobi is one of the fastest growing cities in the region with a rapidly growing population and motor vehicle traffic; aware of the many hours and fuel wasted due to long traffic jams during rush periods; noting that the cost of constructing highways and ultra-modern overhead and underground rails and road links are astronomical and unaffordable; this House urges the Government to consider allowing foreign investors to build, operate and transfer strategies to make the construction and maintenance of our road and rail links in the city realistic and affordable.

SCRAPPING OF KENYA SCHOOL OF LAW

THAT, considering that the Kenya School of Law is a creation of a statute of this august House, providing for practical training of student advocates before they are allowed to practice at our courts of law; aware that the entire course work has so far been incorporated in the undergraduate law course syllabi in both the Nairobi and Moi Universities, which remain the only users of the huge facility for less than one quarter of the year with many lecture halls, catering, hostels and office facilities going to waste; noting with concern that the criteria for admitting and examining the students at the school is unfair and targeted at frustrating the majority of graduates from particular foreign universities, this House urges the Government to scrap the institution altogether and provide convenient, fair and cost-effective methods of examining and training advocates joining the Bar.

ORAL ANSWERS TO QUESTIONS

Question No.022

ESTABLISHMENT OF DISTRICT HEADQUARTERS

Mr. Osundwa asked the Minister of State, Office of the President:-

- (a) why the Government has not implemented a resolution by Mumias and Matungu Divisional leaders that the two divisions should remain in Kakamega District instead of being part of the newly created Mumias/Butere District;
- (b) if the Government would consider providing services to residents of the two divisions from Kakamega District; and,
- (c) when the Headquarters of Mumias/Butere District will be established and where.

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

(a) There has never been a resolution by Mumias and Matungu Divisional leaders that the two divisions be reverted back to Kakamega District. As a result, part (b) does not arise.

(c) The Headquarters of Mumias/Butere District has already been established at Butere.

Mr. Osundwa: Mr. Speaker, Sir, I am surprised by the answer given by the Assistant Minister because

when His Excellency the President was soliciting for votes in Western Province, he gave us Mumias/Butere District and instructed that the leaders from Mumias, Matungu, Butere and Khwisero should meet and decide on the siting of the Headquarters. Up to now we have not decided on the siting of the Headquarters. I am surprised when the Assistant Minister tells me that the Headquarters has been established. When was it established?

Mr. Ruto: Mr. Speaker, Sir, on 31st January, 1998, leaders from Mumias, Matungu, Butere, Khwisero and parts of what was formerly Kakamega District resolved that the Headquarters for the new district be at Butere. The Government went ahead and established the Headquarters of Mumias/Butere District at Butere. We have a serving DC there now, a very committed person.

Mr. Osundwa: Mr. Speaker, Sir, I attended the meeting the Assistant Minister is referring to and we never agreed on the siting of the district headquarters. Can he produce the minutes in which all of us agreed that the siting of the headquarters should be in Butere? I have minutes where the leaders of Mumias and Matungu decided to remain in Kakamega District, so, I do not know what he is talking about.

Mr. Ruto: Mr. Speaker, Sir, the meeting in question, was held on 31st January, 1998. I have a copy of the minutes right here with me and the hon. Member was in that meeting. Kenya being a democratic society, when the leaders failed to agree, a vote was taken. Therefore---

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House by stating that the Government established the district headquarters which would mean construction and all that instead of saying that the area was declared the district headquarters when there are no buildings there or anything?

Mr. Speaker: Is that a point of order or semantics? He is perfectly in order! Proceed.

Mr. Ruto: Mr. Speaker, Sir, I have said that the minutes for that particular meeting are right here before the House and the hon. Osundwa was present in that meeting. There was a vote taken by the leaders sitting then and Butere emerged to be the place that the leaders agreed on. After the meeting, it was unanimous that the headquarters be at Butere and the Government went ahead to establish the same at Butere.

Mr. Sifuna: Mr. Speaker, Sir, arising from the Assistant Minister's reply, it seems as if the hon. Member for Mumias has some minutes whereby the people of Matungu and Mumias wanted to remain in Kakamega. Can the Assistant Minister consider the request of those two divisions; Matungu and Mumias, to be administered from Kakamega District instead of being administered from Butere?

Mr. Ruto: The Government cannot consider that request, Mr. Speaker, Sir.

Hon. Members: Why?

Dr. Ochuodho: Mr. Speaker, Sir, I wonder what criteria and procedures the Government follows in establishing new divisions, districts and also Headquarters? I am raising this issue because in Homa Bay, the DDC met and passed new divisions and new locations which have since not been created. But there is a case of Kadibo Division in Nyanza where the DDC Nyando met and resolved that Kadibo remains in Nyando. However, the Provincial Administration still violated that resolution and went ahead and carved Kadibo out of Nyando into Kisumu District. Can the Assistant Minister tell us what procedure is normally followed to create new divisions, new districts and headquarters as well?

Mr. Ruto: Mr. Speaker, Sir, I think the question by the Member is out of the scope of the Question that was asked by hon. Osundwa. It was very specific to Butere/Mumias.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. The question as to what procedure is followed in creating new divisions and districts in general. The same procedure should apply whether it is Homa Bay, Kisumu, Butere/Mumias or in his constituency. Can he tell us the procedure?

Mr. Ruto: Mr. Speaker, Sir, if the Member is interested in the procedure, I think it would be right for him to put a Question in writing and then we shall respond properly and appropriately.

Mr. Osundwa: Mr. Speaker, Sir, I am surprised by the answer given by the Assistant Minister because he is openly telling this House untruth. I have looked at the minutes he is having now and they do not state anywhere, and I challenge him to lay them on the Table here, where we agreed and even voted. I would recommend that stern action be taken against this Assistant Minister for openly telling "lies" in this House.

Mr. Speaker: You do not do that, Mr. Osundwa. Would you withdraw that word?

Mr. Osundwa: I withdraw, Mr. Speaker, Sir.

Mr. Ruto: Mr. Speaker, Sir, I oblige to the request of the Member and I would lay the minutes right here for the Members to peruse.

(Mr. Ruto laid the minutes on the Table)

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. The hon. Osundwa who has had access to the minutes being laid on the Table now, stating categorically that there is no provision in those minutes that there was an agreement about the headquarters of Mumias/Butere District. The Assistant Minister is saying the contrary. Would it be in order, upon verification, for that whoever is misleading the House to be named because the two Members are saying totally opposite things about the same district.

Mr. Speaker: Well, the minutes are the Table. I have not seen them either.
Next Question!

Question No. 008

COST OF ESTABLISHING NEW DISTRICTS

Mr. Sifuna asked the Minister of State, Office of the President:

- (a) how many new districts have been created in the last 10 (ten) years; and,
- (b) how much it cost the Government to establish one complete District in terms of Development and Recurrent expenditure per year.

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

- (a) Twenty eight new districts have been created in the last 10 years.

(b) There is no fixed amount of money for establishing districts in terms of Development or Recurrent Expenditure per year.

Mr. Sifuna: Mr. Speaker, Sir, arising from that funny reply from the Assistant Minister, where he informed this House that there are 28 new districts, and because I asked how much the Government pays per year to establish a new District, can he now tell us how much the Government pays, in terms of Recurrent Expenditure, per year, per District?

Mr. W. Ruto: Mr. Speaker, Sir, let me correct the hon. Member because I did not say that it does not arise. I did say that there is no specific amount of money set aside. It is common knowledge that districts are established and it is a joint responsibility between the Government and the local communities to put structures including buildings and all others that go with the formation of a district headquarters. The Government provides the personnel. For various districts, there are different amounts of money which have been voted for by this House. For example, in Western Province, we have Teso District which in the year 1997/1998 had got Kshs114,929,000 in the Recurrent Expenditure. That amount of money was approved by this House. But money being what it is, in our current state of economy, the total amount of money was not realised. Therefore, the District did not get that much money. In the Development Vote, we allocated Kshs58 million for Teso District while Malindi and Koibatek districts were allocated Kshs26 million and Kshs895,000 respectively. For North Kisii and Nyamira districts, they were allocated Ksh11 million and Kshs16 million respectively while Kuria and Suba districts were allocated Kshs3 million and Ksh26 million respectively. That is for the Recurrent Expenditure Vote.

Mr. Obwocha: Mr. Speaker, Sir, first of all, it is very shocking to learn this kind of distribution of money to these districts. Since we know that the creation of these districts is based on political considerations, could the Assistant Minister tell this House how these 28 districts have been distributed in each Province?

Mr. W. Ruto: Mr. Speaker, Sir, I would also want to set the record straight. First, districts are not created on political considerations. A District like Thika was created because of the request of the local community, so that services are brought closer to the people.

*(A number of hon. Members stood up
in their places)*

The same applies to Maragwa District.

Mr. Speaker: Order! Mr. Gatabaki.

Mr. Gatabaki: Mr. Speaker, Sir, he picked Thika District specifically because he knows that it is in Central Province. Why has Central Province got only one District.

Mr. W. Ruto: Mr. Speaker, Sir, before I continue to explain further, in Central Province, we have two districts. In Western Province we have five districts; Coast Province there is one; Rift Valley there are five; in Nyanza Province there are seven and in Eastern Province there are seven.

Mr. Anyona: Mr. Speaker, Sir, first of all, I would like the Assistant Minister to clarify what he means

by "Kisii North and Nyamira." Are those two districts, or are they one district? Why has he messed up the names?

Mr. Speaker, Sir, the requirement of our Constitution is that the creation of districts is based on an Act of Parliament. But we want to know, so that we do not continue wrangling, as to whether creation of districts are based on politics or not. Can the Assistant Minister tell us the Act of Parliament under which these new districts were created? If there has not been one, can the Government bring a Bill to this House immediately so that we rationalise this matter?

Mr. W. Ruto: Mr. Speaker, Sir, to answer Mr. Anyona's question, Kisii North is what is known as Nyamira. Migori District is different from Kisii North. If it is the desire of this House that hon. Members do take part in the creation of new districts, then hon. Members are welcomed to bring in the necessary legislation to effect that.

Mr. Wamae: Mr. Speaker, Sir, is the Assistant Minister aware that part of the problem of lack of finances for the Government is because of the creation of too many districts? That is the reason why the Government does not have enough resources to run the affairs of the country.

Mr. W. Ruto: Mr. Speaker, Sir, I think that is not true. The creation of some of these districts is actually part of a deliberate Government effort to make sure that, Kenyans do not travel long distances to receive services which otherwise, they would receive from a nearer place.

Mr. Munyasia: Mr. Speaker, Sir, arising from one of the answers to Supplementary Questions put to the Assistant Minister, can he explain to this House what considerations made the difference in the money that each District was given in the said year? Malindi District had only Kshs28 million and Koibatek had about Kshs800 million for that year. Why was there this disparity in the money allocation?

Mr. W. Ruto: Mr. Speaker, Sir, I would want to correct the hon. Member once again, and it is better if he checked his figures accurately. I did say that Koibatek District was allocated Ksh26 million and Malindi District was allocated Kshs895,000. In response to part (b) of his Question, there are many considerations depending on the availability of infrastructure. Many districts do not have buildings and road networks depending on the site of the district headquarters. Those are some of the considerations we take into account when allocating money.

Mr. Speaker: Final Question. Mr. Sifuna

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

Mr. Speaker: What is it, Mr. Anyona?

Mr. Anyona: Mr. Speaker, Sir, I had asked a specific question and the Assistant Minister has avoided to answer. The question is: What law have you established to create these districts? Otherwise, these districts are illegal. If there is no law and they are illegal, can he bring a Bill to the House to rationalise it? Answer that Question!

Mr. W. Ruto: Mr. Speaker, Sir, for an action to be illegal, there must be law. So, if Mr. Anyona is saying that the districts are illegal, then he must be basing his argument on something.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Mr. N. Nyagah? We must get out of this matter now!

Mr. N. Nyagah: Mr. Speaker, Sir, is the Assistant Minister aware that an Act of Parliament was passed, under districts and Provinces Act, which governs how districts must be created by the sanctioning of Parliament?

Mr. W. Ruto: Mr. Speaker, Sir, I wish to request the hon. Member to make me aware of that.

Mr. Sifuna: Mr. Speaker, Sir, arising from the Assistant Minister's reply, is it the priority of the Government to create more districts and yet Kenyans suffer because of poor education, poor health facilities, lack of good roads and lack of clean water? Yet you keep on creating so many useless districts in this country at the expense of Kenyans? Is that a priority in this country or priority should be given to the provision of medical services and other essential facilities?

Mr. W. Ruto: Mr. Speaker, Sir, I am not aware that, there exists useless districts in this country. Since the Government is committed to providing basic services to Kenyans, the districts that have, so far, been created have helped to facilitate the process of providing Kenyans with basic health services, educational facilities and other services. In fact, the new districts have helped to stimulate that exercise.

Question No.017

REPORT ON EXPLORATION OF OIL IN KENYA

Mr. Obwocha asked the Minister for Energy whether he could give a progress report, so far,

made in the exploration of oil in Kenya, the prospects and the amount of money used, so far, in the exercise.

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

Oil exploration in Kenya begun in 1954 when the Government signed an agreement with the Shell Company. Since then, the Government has involved various international companies in oil exploration. Currently, there is only one international firm involved in petroleum exploration in Kenya. To date, 30 wells have been drilled by various companies and the result indicates that the area covered has a potential of oil and therefore further exploration is needed. An area of about 300,000 square kilometres is considered suitable for oil exploration.

The Ministry of Energy and the National Oil Corporation of Kenya (NOCK) conducted initial exploration activities to promote areas regarded as high potential areas for international oil companies to carry out further detailed exploration. We do not have a record for the amount of monies spent on oil exploration between 1954 and 1983. However, US\$169 million has been spent on oil and gas explorations between 1984 to date.

Mr. Obwocha: Mr. Speaker, Sir, you will appreciate that US\$169 million which is equivalent to Kshs10 billion having been spent on a project like this is a huge sum of money. The Assistant Minister has said that one international firm is currently engaged in the petroleum exploration. Could he tell this House which firm it is and which area this 300,000 square kilometres where you are exploring for oil is found in Kenya?

Mr. Manga: The name of the company is the Tornado Resources of Canada. The area that covers the 300,000 square kilometres is in the offshore of Lamu, the Rift Valley around lake Turkana and many other areas in the Rift Valley.

Mr. Raila: Mr. Speaker, Sir, oil is so precious that if the potential the Assistant Minister is alleging before this House was true, we could not be having one company prospecting oil but several companies scrambling for its exploration in Kenya. The Assistant Minister has said that the Ministry of Energy and the NOCK carried out preliminary explorations. I want to put to him that the Ministry of Energy and the NOCK do not have the technical capacity or the equipment to carry out any kind of preliminary exploration of oil in this country.

Mr. Manga: Mr. Speaker, Sir, first of all, I want to clarify that one company is currently engaged in this exercise. But many years back, there have been many companies which have been doing this. Some have not been very successful but it is important for us to have the exploration continued. I want also to clarify that since 1984, our licensing of these explorations was changed to production contract. Here the companies that want to carry out the exploration bring their money for the purposes of exploration. They do not receive money from the Government. The agreement is; if oil is struck, then they will get a percentage on the money which they spent on profitable oil and the Government will take a share in this one.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading this House by not telling us the actual truth; that the only reason why exploration is not done according to properly recorded standards is because the person involved in the ownership and control of oil in this country is none other than hon. Nicholas Biwott?

Mr. Manga: Mr. Speaker, Sir, I am not aware of that. But in any case, hon. Biwott is a Kenyan anyway.

Mr. Speaker: Order, hon. Members! I think we would rather be a little more serious than that, Mr. Gatabaki! I think I must warn the House. When you stand on a point of order, just make it a point of order! I think I am getting a little bit uncomfortable with Members who rise on a point of order just to express an opinion. That is not how it should be.

Mr. Mwiraria: Mr. Speaker, Sir, could the Assistant Minister confirm that oil was struck in block No.10 and capped so that we dispel any rumours?

Mr. Manga: I do not want to confirm that. But I can confirm that oil was struck but it was not found to be commercially viable and more exploration is required on that one.

Mr. M. A. Galgallo: Mr. Speaker, Sir, after the preliminary exploration was carried out, the Minister for Energy announced in this House that oil had been struck in Northern Kenya. Can the Assistant Minister confirm that there is oil which has been struck in Northern Kenya but the Government does not want to exploit it because it fears for the security of the State because there was this "victimisation" of the people of Northern Kenya because of their secessionist intentions?

Mr. Manga: Mr. Speaker, Sir, I am not aware of that, but I am aware of the fact that the oil that was struck was found not to be commercially viable and that is why more exploration is required to be able to sustain the quantity of that one.

Mr. Obwocha: Mr. Speaker, Sir, I would like the Assistant Minister to tell this House why the contract initially awarded to Shell Company to carry out the exploration, was changed and awarded to a Canadian firm?

Why did they drop Shell Company?

Mr. Manga: Mr. Speaker, Sir, the Ministry of Energy, together with NOCK had identified many blocks. There could be even ten companies investigating. It is open to those companies who want to come and do exploration. The Shell Company was not very successful. So, they had to pack up!

Mr. Speaker: Next Question!

Mr. N. Nyagah: Mr. Speaker, Sir, before I ask this Question, I would like to say that we seem to be moving away from the normal traditions of this House,; where Questions are given to Members so that they can get the advantage on what to ask. This is the second time that I am asking this Question. Can we have a ruling from the Chair so that the Ministers are---

Mr. Speaker: But Questions are given to Members--- I thought the Questions originate from the hon. Members!

Mr. N. Nyagah: I am sorry! It is the answers! We do not seem to be getting the answers. This is the second time I am asking a Question without an answer coming forth.

Mr. Speaker: You are entitled to get your answer in advance!

Question No.025

SUPPLY OF DUSTBINS BY CITY COUNCIL

Mr. N. Nyagah asked the Minister for Local Authorities:-

- (a) why it is pre-condition for applicants for hawking and street trading licences to pay for dustbin charges before approval, yet the City Council of Nairobi does not provide them;
- (b) why the same charge is being levied on residents of Nairobi, yet the dustbins are never provided; and,
- (c) whether the Minister could consider scrapping the provision all together or ensure supplies commence immediately to avoid littering in the city.

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

(a) It is not correct that it is a pre-condition [**The Assistant Minister for Local Authorities**] for applicants for hawking and street trading licences to pay for dustbin charges before approval is granted. Only successful applicants are required to pay the charge after the approval has already been granted.

(b) It is true that City residents are required to pay dustbin charges on monthly basis through their water bills. The revenue generated from these charges is supposed to assist the City Council to finance the cost of refuse collection and street cleansing services. The provision of dustbins is, therefore, intended to facilitate refuse collection, controlling dumping, littering and encourage collection at some source. However, due to high cost of dustbins compared to the nominal charge currently in force, it has not been possible for the City Council to cope with the demand.

(c) The Minister has instructed the City Council to ensure that all revenue collected from dustbins charges is strictly utilised for the purchase of dustbins.

Mr. N. Nyagah: Mr. Speaker, Sir, we need honest answers. Waste management is a major problem in Nairobi. Nairobi generated 800 tonnes of waste 19 years ago, We had 106 vehicles. Today, Nairobi generates 1,569 tonnes of waste and we have only got 18 vehicles. What steps is the Government taking to ensure that this becomes effective? This is because, talking about dustbin charges, we are only talking about Kshs20 a month, which is levied from the people of Nairobi.

Mr. Sasura: Mr. Speaker, Sir, first, it is not true that Kshs20 is levied on dustbins. It is only Kshs10. Secondly, Nairobi City Council is in the process of purchasing garbage collection equipment from France. I was here telling the House how the purchase was going to be done from France.

Mr. Muchiri: Mr. Speaker, Sir, could the Assistant Minister tell this House the reason why the residents of Nairobi are paying dustbin and refuse charges when they are not provided with dustbins? It is not even offering any services!

Mr. Sasura: Mr. Speaker, Sir, the current cost of a dustbin is Kshs1,200. The residents of Nairobi pay only Kshs10 per month. On projection, this gives the City Council a total of Kshs1.5 million only. There is this misconception that the people pay the dustbin charges for the refuse to be collected. But the dustbin charges are intended to facilitate cleaning of the City generally. For example, the City Council is spending Kshs3.5 million to contract the Kenya Refuse Handlers to clean the Central Business District (CBD), while it is getting only Kshs1.5 million from dustbin charges.

Mr. Raila: Mr. Speaker, Sir, the Assistant Minister is avoiding to answer a very fundamental question. He is probably aware that what caused the American Revolution was taxation without services. The question which is being asked here is: Why is the City Council collecting money from the residents without providing the services? The dustbins are not there! If they are there, they are not being emptied! That is the reason why the City is littered all over. All the hon. Members in this House are aware of this because they live in Nairobi. Why is the City Council being allowed to collect money without providing services to the residents of the City?

Mr. Sasura: Mr. Speaker, Sir, I said earlier that the money the City Council collects cannot cope with the refuse collection with the current population. In this connection, the City Council is reviewing the waste tariff charges and it might be the solution. If the services are to be given as intended, the charges will be raised.

Mr. Angwenyi: Mr. Speaker, Sir, could the Assistant Minister tell this House what the money collected by the City Council is used for, if they do not have the dustbins and they do not collect the refuse? However little it is, what is it used for?

Mr. Sasura: Mr. Speaker, Sir, it is not true that we are not having dustbins in the city. The City Council is purchasing an average of 2,000 dustbins every year.

Mr. N. Nyagah: Mr. Speaker, Sir, only 20 per cent of waste is collected in Nairobi. A report was done by Japanese International Co-operation Agency (JICA), which has never been acted upon. Is it not true that the reason why the City Council is unable to collect garbage in Nairobi is because 80 per cent of the revenue generated goes towards paying a staff of 18,000 people? Therefore, whatever they collect goes to pay salaries and other services can never be provided until that high staff is trimmed, and the services of waste management are privatised.

Mr. Sasura: Mr. Speaker, Sir, it is not true that all the money is used to pay the salaries. However, with specific reference to hon. Nyagah's Question, the Minister has instructed City Hall to use the money which is paid for dustbins to purchase dustbins.

Question No.002

GRAVELLING OF ROAD E728

Mr. Kitonga asked the Minister for Public Works and Housing:

(a) whether he could explain why Road E728 from Mutitu DO's Office through Kaliku-Endau was last graded in

1969 yet it is a classified road; and,

(b) whether he could explain further why funds are not allocated for this road and what became of the gravelling project of 1983.

Mr. Speaker: Mr. Kitonga, I have a request that I do defer your Question.

Mr. Kitonga: I would like to make a remark with regard to that one, if I could be allowed. I understand that there is a conspiracy from the Government side that my Questions will never be answered until I defect. Since, I do not intend to do so haki ya Mungu tena, does that mean that I will stay in this Parliament as a political dwarf?

An hon. Member: Sema haki ya Mungu!

(Laughter)

Mr. Speaker: Order! May I assure you hon. Kitonga that if such a conspiracy exists, it will be shot down by the Chair. Your Question will definitely be heard on Thursday.

(Question deferred)

Question No.051

DEATH OF MR. NDUNG'U MBIRU

Mr. Gitonga asked the Minister for Home Affairs, National Heritage, Culture and Social Services:-

- (a) whether he is aware that Mr. Paul Ndung'u Mbiru of Kijabe was arrested by the police on 18th August, 1998 and died at Kamiti Maximum Prison on 20th December, 1998; and,
(b) if the answer to "a" above is in the affirmative, whether he would tell the house the circumstances that led to his death.

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The deceased prisoner KAM/939/998R called Ndung'u Mbiru fell sick while in prison. He was attended by a Government doctor who recommended for the admission to prison hospital on 6th December, 1998. The deceased continued with treatment until 20th December, 1998 when he passed away. After the death, post-mortem was carried out by the Government pathologist who gave the result of death to be gastroenteritis. With the above results, the nature of the death was treated as natural.

Mr. Gitonga: Mr. Speaker, Sir, Mr. Mbiru was taken to court at Kikuyu on 26th November, 1998. During that time when he was taken to that court, he complained to the magistrate that he was sick and he needed to be attended to by a doctor. As you can see from the answer, Mr. Mbiru was not attended to by a doctor until on the 6th December. Furthermore, when Mr. Mbiru died, his parents were not informed about his death. It was not until the 24th December when the parents decided to go and visit their son because he was already sick that they were told that he had died on 20th December. Since I do not really understand very clearly what he means by gastroenteritis, would the Assistant Minister table the report of the postmortem so that we can look at it and see what was the cause of the death or else we shall take his answer as a contempt of this House. You put it in a simple language that we can all understand.

Mr. Marrimoi: Mr. Speaker, Sir, gastroenteritis is a medical term. The deceased was attended to by a doctor. He was suffering from malaria and diarrhoea. It is not true that we did not inform his parents. They were informed of his death and they buried him.

Dr. Kulundu: Thank you very much, Mr. Speaker, Sir. The term "gastroenteritis" means diarrhoea in simple language. It is not a name of a specific disease. It could be cholera, typhoid or anything else. It is a symptom. Can the Assistant Minister tell us what specific diarrhoeal disease killed that inmate? Let us not hide behind medical terminologies.

Mr. Marrimoi: Mr. Speaker, Sir, I am not a doctor. But what I know is that Mr. Mbiru died of diarrhoea.

Dr. Kulundu: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that this gastroenteritis was diagnosed after the postmortem when, in fact, you do not need a postmortem to establish whether a patient died of diarrhoea or not? Surely, it is common sense. Is it not so? Is it in order for him to mislead this House that you need a postmortem to establish that a patient died of diarrhoea when, in fact, that should have been diagnosed long before the patient is dead?

Mr. Marrimoi: Mr. Speaker, Sir, I did mention that a postmortem was done by a Government pathologist by the name of Dr. Muiruri.

Mr. Anyona: Mr. Speaker, Sir, in the first place, the Assistant Minister is misleading the House by saying that the inmate was taken to a prison hospital. There is no prison hospital in Kamiti Maximum Prison. I have been there and I know there is none. When an inmate is sick, he is taken to Kenyatta National Hospital. So, he is misleading the House. Secondly, the requirement of the law is that if an inmate dies in prison as opposed to a hospital, then a magistrate is informed so that an Inquest file is opened to establish the true cause of the death of that inmate. Has this been done?

Mr. Marrimoi: Mr. Speaker, Sir, the hon. Member is aware that an hospital is run by doctors. That is why we have Dr. Muiruri at Kamiti Maximum Prison. Secondly, an Inquest was instituted and the file is still open.

Mr. Gitonga: Mr. Speaker, Sir, this is a very interesting answer from the Assistant Minister because the prisoner complained--- By the way, he was never convicted. He was still in remand at Kamiti prison. When he complained that he was sick, it took weeks before he was taken to a doctor. When he died, his parents were not informed. Right now, his cousin who was also arrested about the same time, Mr. Benjamin Mwangi Kamau, is also in Kamiti and he has not been convicted. He is sick and his parents fear that he may also die. Could the Assistant Minister table the postmortem report for us to look at it? Can he also tell us the number of that inquest file?

Mr. Marrimoi: Mr. Speaker, Sir, the case is not before the court because it is still under investigation. We do not have the file number because it is still with the police, waiting for that inquest to start.

Mr. Gitonga: Mr. Speaker, Sir, there is also information that those two individuals were beaten by police officers before they were taken to Kamiti prison. The cause of that death could also have been attributed to torture by the police. Can the Assistant Minister confirm to this House that an inquest will be instituted under a magistrate to establish the cause of this death?

Mr. Marrimoi: Mr. Speaker, Sir, as I said earlier, the inquest is pending.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it in order for his Excellency the President to appoint Cabinet Ministers who are completely irrelevant and who cannot even answer Questions in this House? Is it in order for his Excellency the President to appoint Assistant Ministers like this one?

Mr. Speaker: Mr. Gatabaki, you know I am not consulted!

(Laughter)

QUESTIONS BY PRIVATE NOTICE

RESUMPTION OF PASSENGER TRAIN SERVICE

Mr. Donde: Mr. Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Why has the passenger train between Kisumu and Butere operated by Kenya Railways Corporation been discontinued since early this year?

(b) Could the Minister take appropriate urgent measures to ensure this vital service is resumed soon?

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

(a) Kenya Railways Corporation operates a daily passenger train service between Kisumu and Butere. But these services were temporarily suspended on 15th March 1999 due to the shortage of reliable locomotives which could be used to give the quality of service demanded by the Kenya Railways customers in this region. Kenya Railways Corporation uses class 62 locomotives on this route which were purchased from Germany in 1997. Although they have given good service so far, they now require major rehabilitation to make them sufficiently reliable for passengers' services.

(b) The Kenya Government has identified suitable funding from the German Government to support the rehabilitation of 12 of these locomotives and discussions between the two governments are already at a very advanced stage. The passenger train service between Kisumu and Butere will resume once the rehabilitation of these locomotives is completed.

My Ministry is facilitating an early realisation of the rehabilitation project to the required locomotives and we will ensure that the services are resumed as soon as the project is completed.

Mr. Donde: Mr. Speaker, Sir, I did not expect any meaningful answer from the Assistant Minister, but all the same it is very unfortunate to learn from him that the Kenya Railways Corporation (KR) has to wait until 12 passenger locomotives become so ineffective without the Corporation thinking about rehabilitating any of them. The KR offers a very important service to the described members of the community, who use it as a means of communication. Could I hear from the Assistant Minister when he expects the passenger train services to Butere to resume? I would like to get a specific reply on the time frame. He should not tell this House that the passenger train will resume very soon. Could I know when he is expecting the passenger train services to resume?

Mr. Sankori: Mr. Speaker, Sir, as I said earlier on, the Government is negotiating with the donors to repair those locomotives. I can assure the hon. Member that as soon as the locomotives are repaired that route will be given the first priority.

Mr. Kombo: Thank you, Mr. Speaker, Sir. It is not just the Kisumu/Butere line that is not operational. In fact, even the Nairobi/Malaba line is not operational. Is the Assistant Minister going to tell us that, that line is not operational for the same reason? If that is the case, is he negotiating for the purchase of enough coaches to cater for all the lines that are not operational?

Mr. Sankori: Mr. Speaker, Sir, we will consider each line on the basis of its own merit.

Mr. Otula: Mr. Speaker, Sir, could the Assistant Minister tell this House what had happened to the money which had been generated by the Corporation that has made it not to repair the passenger trains, and has thus forced the Government to negotiate for funds outside this country?

Mr. Sankori: Mr. Speaker, Sir, it is common knowledge that there is nothing wrong with the Government in trying to get assistance from the donors. There is a budget always for every section, and I would like to assure the hon. Member that the KR has its own teething problems. Definitely, as I said earlier on, once the

locomotives are repaired they will be put on that line.

CHOLERA OUTBREAK IN WAJIR DISTRICT

(Mr. Keynan) to ask the Minister for Health:-

(a) Is the Minister aware that there is an outbreak of Cholera at Arbajan and Giriftu Trading Centres of Wajir District?

(b) If the answer to "a" above is in the affirmative, what has the Ministry done to contain the situation?

Mr. Speaker: Time is up and, therefore, I would like to defer Question No.2 by Private Notice by Mr. Keynan.

(Question deferred)

POINTS OF ORDER

IMMUNITIES AND PRIVILEGES OF PARLIAMENT

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I rise on a point of order to seek the guidance and the considered ruling of the Chair on some important matters of practice and procedure of this House with respect to two specific issues which I will mention. I think as our democratic state increases we would like to make sure that we do not erode the authority, integrity and supremacy of Parliament. This is because at the centre of our national life is Parliament, which is the representative of the people.

Therefore, I would like to raise issues concerning the immunities and privileges of Parliament, which are intended to protect its integrity in the way it conducts itself, the committees of the House conduct themselves and in which the hon. Members conduct themselves *visa vis* the various immunities and privileges accorded by our laws. I want to raise this issue in the context of two issues: There has been a general tendency these days that committees of Parliament go out there and get involved in what appears to be a procedure that might contradict the procedures of Parliament. This is because these committees are required to operate exactly in accordance with the rules of the House. I would like to mention a specific case of the Committee on Corruption, which was set up by this House. This Committee, as part of its proceedings went to Limuru and held a seminar there. I wrote to you on 8th January, 1999 and raised that specific case as a general example of what is going on. I will not go further than that because you have the write up and I will table a copy of the letter here to assist you.

Secondly, there has also been a tendency for seminars and workshops organised by various organisations in which hon. Members of Parliament are involved to discuss Bills, Sessional Papers and matters which are sometimes before the House. I was wondering that as we enjoy this expansion of freedom, we are not likely to risk eroding the authority and integrity of Parliament through those practices? In this particular case, I would also like to give a specific example of the Tea (Amendment) Bill of 1999, which is before a committee of the House and Sessional Paper No.2 of 1999 that is also before the House. In fact, debate is supposed to ensue on this Sessional Paper soon after this. We have been invited by some organisations as hon. Members of Parliament to go and participate in a workshop. I am giving these examples so that we do these things knowing that we are not breaching our rules and procedures. I was just wondering whether in view of the specific provisions of the following Standing Orders, which in one way or the other creates room for ventilation of these issues without necessarily compromising the rules; we will not be acting in breach of the privileges of Parliament.

Mr. Speaker, Sir, you should guide us so that when these things happen in future, we will know so that when going there we will not look over our shoulders. I specifically want to refer to Standing Order No.31(1)(a)(iii), which provides that members of the public are free to petition this Parliament. If they petitioned Parliament that would be in accordance with our own rules. That means that, that is how they can interact with Parliament. I would also like to refer to Standing Order No.71 which is about anticipation of debate. I know that, that rule refers to hon. Members when they are debating in this House, but could one anticipate debate outside the House? I am quoting these Standing Orders so that they can help you in guiding us.

I would like to refer to Standing Order No.101(a), which talks about the committal of the Bill to a committee of the House. In this particular case the Tea (Amendment) Bill has already been committed to a committee of the House. I also want to refer to Standing Order No.51(4)(b), which is a requirement that when you have a Sessional Paper like the one before the House Departmental Committee, which in this case is Committee "A" should have the opportunity to contribute the policy formulation of that Paper. In this particular case, I understand that the Paper is already before that Committee as we discuss it here and as it is discussed out there. I

would also like to refer to Standing Order No.160, which is about the procedure of the Select Committee of the House in respect to the committee which I have written to you about. Standing Order No. 161 is about premature publication of evidence especially when an hon. Member goes and discuss in an open forum as opposed to the committee of the House.

Finally, I would like to refer to the provision of Section 24 of the National Assembly Powers and Privileges Act. This Act states that any form of influence on a Member to oppose or support a Bill, a Sessional Paper or any matter before the House is in fact, a breach of privilege and a criminal offence. In which case as we go to participate in this process we could very easily contravene the provisions of the law. I do wish to lay both the letter I wrote to you and this particular letter of invitation so that you can help us on this issue.

Thank you, Mr. Speaker, Sir.

(Mr. Anyona laid the letters on the Table)

Mr. Speaker: Order! Order, hon. Members. I think hon. Anyona has raised quite substantial issues and it would be very unfair for me at this particular time, to try to respond. I think the best I can do is promise the House that I will look at his complaint and look at the rules and communicate. But may it also be on record that, I do support participation of the public through our Committees in the formulation of laws.

(Applause)

That is why we changed our Standing Orders to allow Bills to be committed to relevant Departmental Committees and members of the public are free and are indeed, invited to make presentations to Members of Parliament. I think the only hitch there now, as the practice of the House, is how do members of the public, for example know Committee X is meeting on day Y to consider a particular Bill. I think we have to look at that, so that we do encourage members of the public to participate in making laws that will affect them. I think it is a good thing. But, and this is a big "but", this is without prejudice to what I will have to think about and write. But we shall never also allow Parliament to move from this Parliament and go elsewhere. This is Parliament. If anybody would like to make presentations to Parliament, let them do it to Parliament, either through its Committees or even by written memorandum. But that will have to await what I will say about what he has raised. For now, please, let us strengthen Parliament the way we know it.

(Applause)

Yes, Mr. Anyona? Sorry. Either Mr. Raila or you, one of you, anyway.

(Laughter)

Mr. Murungi: On a point of order, Mr. Speaker, Sir?

Mr. Speaker: Sorry, Mr. Kiraitu, you cannot cut him short.

NON-COVERAGE OF OPPOSITION MPs BY KBC

Mr. Munyao: Thank you, Mr. Speaker, Sir. I have risen on a serious point of order which, through you, I would request the Minister for Information and Broadcasting to tell this House how this oversight came about.

Mr. Speaker, Sir, on Friday, 30th April, we left here for a funeral of one of our late Members of Parliament, hon. Silas Ita. His Excellency the President was there as well as you, Mr. Speaker, Sir. Hon. Biwott, hon. Nyagah and several other Members were also there. On the Opposition side, Hon. Kibaki led our group which included hon. Members Njenga Karume, Norman Nyagah, Matere Keriri, Peter Njeru Ndwiiga, Joshua Toro and several other Members of Parliament.

Mr. Speaker, Sir, the order of speeches was that, you spoke first, followed by the Leader of the Official Opposition, the area people and then, the President. At 7.00 p.m. on my way back, I listened to KBC: "Kenya Bila Chakula" and they reported what the President said; that hon. Biwott and hon. Nyagah were there and all the others. I listened to the whole thing, but there was total blackout on the part of the Opposition. That is oppression by the media. Even on 7.00 p.m. and 9.00 p.m. television news, nothing at all came out about the Opposition Members. Yet, after all, this hon. Member was a DP

Member. This is oppression of the highest order by the media in this country.

Mr. Speaker: So, what are you saying now?

Mr. Munyao: Mr. Speaker, Sir, will this Minister stand and apologise? The Leader of the Official Opposition was there and he gave a very laudable speech but there was nothing about it at all over the radio and the television. In fact, at one time, the television cameramen were focusing on me but I never appeared on television.

(Laughter)

Mr. Speaker: What do you want now?

Mr. Munyao: I want the Minister to apologise and tell this country that we were all there.

Hon. Members: Ministerial Statement!

Mr. Munyao: I also want a Ministerial Statement on the same.

Hon. Members: Answer. Amka. Where is Nyagah? Amka uende. He is another blackout.

Mr. Speaker: Mr. Raila?

EMBEZZLEMENT OF FUNDS BY ELECTORAL COMMISSION

Mr. Raila: Mr. Speaker, Sir, I rise to seek the indulgence of the Chair over a matter which I consider to be of national importance. Last week, while contributing to the debate on the Supplementary Estimates, I did state that the Electoral Commission of Kenya is in the habit of embezzling public funds. Two days later, the Chairman of the Electoral Commission of Kenya purported to answer me by denying the contents of my statement here, and offered to the public certain misleading figures regarding the expenditures of the Commission. He did go further to say that, the accounts of the Electoral Commission of Kenya are regularly audited by the Controller and Auditor-General.

Mr. Speaker, Sir, the Controller and Auditor-General is a department of the Executive. The Electoral Commission of Kenya is a very important institution in a multi-party democracy. This is because the Electoral Commission acts as a referee in the competition for political power among political parties. It is, therefore, very important that the credibility of the Electoral Commission of Kenya be beyond reproach.

Mr. Speaker: What is it you want?

Mr. Raila: Mr. Speaker, Sir, I am suggesting that the information that I have and which some other Members may also have, be made available through the Departmental Committee on Administration of Justice and Legal Affairs, which should then investigate this matter and bring a report to this House.

Thank you.

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

Mr. Speaker: What is it, Mr. Kiraitu?

Mr. Murungi: Thank you, Mr. Speaker, Sir. I rise on a point of order to seek clarification on the point of order raised by hon. Anyona.

Mr. Speaker: So, whom are you seeking clarification from? I have not made any ruling yet. Do you want him to clarify?

Mr. Murungi: Mr. Speaker, Sir, there are certain facts I want to bring out which might assist the House.

Mr. Speaker: Why do you not give them to me?

Mr. Murungi: Mr. Speaker, Sir, the point I want to raise is that this weekend, we are organising a seminar at Kericho Tea Hotel to discuss both the liberalisation and restructuring of the Tea Industry, Sessional Paper No.2 of 1999 and also, the proposed Tea Bill. The whole purpose of this seminar was to get Members of Parliament to interact with the key players in the Tea Industry and we had invited the Minister to come and give the key-note address to this seminar. Since we did not get from you when you are likely to give your communication from the Chair, we wanted to know whether this will be done before the seminar takes place and whether to proceed with the seminar or not.

First of all you are bringing the Chair into matters that it is not aware of. Whoever has organised that seminar never sought my authority. They have only used the name of Parliament. I do not know under whose authority they did this. I suppose I speak for the House and I do not think anybody else does speak for the House. To that extent I am not responsible for holding seminars. You can hold your seminar if you please, but for heavens sake keep the name of Parliament out of it. You can invite hon. Members as individuals but do not say this is intended to strengthen Parliament. You can go ahead. I have no problem. Invite me if you please but in my private

capacity. That is the only thing I can say. If anybody wants to do anything for Parliament it must be done through Parliament and that is through the Speaker. That way I hold responsibility for it. It will be a 'Parliament' issue because it will have come through Parliament. I do not know about this other one, honestly. Next order.

MINISTERIAL STATEMENT

CLARIFICATION: FARMING IN MWEA

The Minister for Agriculture (Mr. Mudavadi): Thank you Mr. Speaker, Sir. This has got nothing to do with the issue under discussion. We will have to await your ruling on the matter. I just want to make a statement on the issue regarding Mwea where I did make a comment that I would dig deeper into the controversies that seem to have been looming when there were some discussions going on between the Ministry of Agriculture and representatives of the Mwea Multi Purpose Co-operative Society. I wish to state that we have made it very categorical that the District Commissioner was not in order when he said he had banned farming in Mwea. I have held discussions with the Provincial Commissioner and this position has been corrected. The farmers can continue to prepare the land. I hope with that clarification, that matter can be put to rest.

The only thing, however is that as the farmers do prepare their land we would stress that it is important that they do not damage the canals because those canals are both for their benefits now and in future. That must be strongly enforced by the farmers themselves to ensure that the infrastructure that is in place is not destroyed because it will be to their disadvantage.

The Minister for Transport and Communications (Mr. ole Ntimama): On a point of order, Mr. Speaker, Sir. In view of the clarification by the hon. Minister over a malicious decree that was issued by this man, Mr. Andasaba, would he consider recommending to the relevant Ministry that this kind of person who is seriously a dunderhead be relieved of his duties in the public interest?

MOTION

ADOPTION OF SESSIONAL PAPER NO.2 OF 1999: LIBERALISATION AND RESTRUCTURING OF TEA INDUSTRY

THAT this House adopts Sessional Paper No.2 of 1999 on the liberalisation and restructuring of the tea industry laid on the Table of the House on 8th April, 1999.

The Minister for Agriculture (Mr. Mudavadi): I wish at this point to move that this House adopts Sessional Paper No.2 of 1999 on the liberalisation and restructuring of the tea industry laid on the table of the House on 8th April, 1999.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

As I would like to state from the very outset that the tea industry has become our prime foreign exchange earner in this country. It is the number one leading foreign exchange earner after having surpassed coffee, the horticultural products and many of the other exports that are generated from this country. The tea industry today is the major employer with over two million people involved directly or indirectly in tea activities. This is from the production level all the way through to the manufacturing processing and marketing.

If one also follows the history of the tea, one will notice that there has been a lot of phenomenal growth of tea from the time that it was introduced in this country in 1903 in Kiambu when there were only a few tea plants and the major growth that has arisen after the KTDA was put in place. Today the country has over 113000 hectares of land under tea. The total amount of tea produced is close to 264 metric tonnes annually. One can clearly see that this is an industry that requires a lot of attention and concerted efforts from all the stakeholders in order to try and make it run as smoothly as possible. In 1997 this industry earned close to Kshs20 billion. This is a lot of money and we have also seen that as a result of this major expansion, the large volume of resources and the number of people involved, there has been increasing political pressure and economic concern over the management and running of the tea industry. Currently, the key players within tea industry are the KTDA, Tea

Board of Kenya, the Ministry of Agriculture and indeed, the farmers themselves.

Historically, we have seen a vertically integrated system where the KTDA which was set up in 1964 has been handling the production, processing and even the marketing of the tea produce. But clearly, what seems to be emerging particularly in the last few years is that the operations of this particular organisation, the KTDA and indeed, even the other bodies within the tea industry need to be looked at afresh and be streamlined in order to make it more efficient and also to ensure that the farmer will earn more revenue out of tea production. One will definitely see that with the volume of figures that we are talking about, there is genuine concern from the farmers that this institutions must be looked at afresh. There have been extreme positions that call for total removal or eradication of some of these institutions but I think with time and with the debate that I am initiating we are hoping that we can deliberate and be able to give a sober critic of all these institutions and develop a formula that would be more acceptable to the farmers and also at the same time ensure the welfare and growth of the tea industry.

There have been a lot of complaints that the key institution particularly the KTDA has in a number of respects not given the farmer, particularly the small scale farmer adequate reward. There have been allegations that the operational costs of the KTDA have been too high and, therefore, need to be checked. There have been allegations that the procurement system established within the KTDA under its current arrangement may not have been transparent enough to allow the farmers to get a clearer picture of the cost implications of what they procure and require for the production. These are fundamental questions and they have been a source of heated debate from time to time. I think this will be a good opportunity for us to review this particular position and formulate a policy direction that will help the tea industry. I would also like say that in conjunction with this Sessional Paper there is indeed already a proposed amendment Bill to the Tea Act which is before the relevant departmental committee of this House. I hope that when we deliberate on the Sessional Paper, we as Members of this House and also with the views that we may solicit from the public, we shall be able to incorporate where appropriate within this proposed amendment so that at the end of the day, what eventually comes up as an amendment to the Tea Act will be an Act that has taken into account adequately the concerns and views within this tea industry.

Mr. Deputy Speaker, Sir, I would also just want to reiterate that this Sessional Paper does highlight that, today we have 83 tea factories in the country and out of these, 45 are for small scale tea farmers and these are the ones that fall under the umbrella of KTDA. So, most likely there will be more focus on the issue related to the 45 tea factories, but if there are comments and ideas that people would like to put across with regard to the other factories, they are free to do so.

Mr. Deputy Speaker, Sir, privatisation has become a major policy the Government would like to adopt. I think in this context, I would like us to look at the farmers, whether they are small scale or estate farmers, knowing that they, themselves, are also part and parcel of the private sector. This is a fundamental issue. We must recognise the farming community as the key component of our private sector. This is because at times the debate moves on and people talk of the private sector as if it is something divorced from that farmer, yet in actual fact, that farmer is also part and parcel of the private sector.

Mr. Deputy Speaker, Sir, if I may just give a synopsis of this Paper, on the basis of chapter-by-chapter very quickly without really having to bore hon. Members because they can read for themselves the details: Of course chapter one gives the historical background that I have just given. Chapter two highlights an overview of the tea industry which I have touched upon in terms of production statistics and the earnings that do arise from that industry. Chapter three enumerates the major objective being pursued in the tea industry which tries to make it the best organised globally. I would like to say that, in spite of the problems that KTDA may have, it has, in terms of the international sphere, carved out a niche for itself as a very important vehicle for marketing of Kenya tea. In fact, it is a flagship when one looks at Kenya tea as a whole; KTDA ranks very highly and it has been commended in international fora within the tea circles as one of the institutions that have done a very good job in the development of small scale tea farmers. It is an example that is quoted time and again.

Chapters four and nine highlight the reform initiatives which have already been undertaken in the tea industry. Some of these include, for instance, the exemption of the KTDA from the State Corporations Act, Cap 406 and the divesture of the KTDA from the tea factory companies. What is happening in this particular context is that, disengagement is taking place so that the factory companies are going to become solid entities unto themselves and they will no longer be under the umbrella of KTDA. This is what is being proposed as one of the major milestones in ensuring that power devolves from the centre and it is pushed and channelled out to the individual factory companies throughout the country and also the 45 tea factories that I am talking about.

It is also our intention to revoke the KTDA order so that it is no longer an authority. It shall then evolve into a management agency through which farmers, particularly, small scale farmers, can either continue to seek management services if they so wish, depending on the factory in question. They can opt to seek a different

manager to manage their respective factories. That again is an important issue that needs to be clarified and which is coming out very clearly within this Sessional Paper.

Chapters five, six and seven focus on the envisaged role and functions of the Tea Board of Kenya, its membership and of course the staff. The objective here is to make sure that the Kenya Tea Board becomes the regulator in the tea industry.

Mr. Deputy Speaker, Sir, as things stand now, there is some serious conflict of interest between the KTDA and the Tea Board of Kenya on some of their functions. It is important that through this Sessional Paper and the amendments that will come through the Bill, we can define very clearly the role of these institutions, and at the same time be very specific that we want the Tea Board of Kenya, especially if one was to look at the membership that is being proposed--- We want to make sure that the chairman of the Tea Board of Kenya shall be a farmer in the tea industry. We want to be able to reduce the presence of Government representation in the Tea Board of Kenya. We want to make sure that even the chairman who shall be appointed by the Minister shall be one who has been elected by the directors of that Tea Board of Kenya. This should be the one who has come through the system from the small scale holders farmers and also part of the plantation farmers. You will note also from the Sessional Paper that we are giving leverage in terms of numerical numbers to the small scale farmers in this envisaged tea board.

Chapter Eight gives an overview of the small scale tea sub-sector and KTDA since 1994. Currently, as I said, there are over 113,000 hectares under tea and this involves over 312,000 small scale tea farmers.

Chapter 10 contains issues on the privatisation and the transfer of ownership of KTDA to small scale tea farmers. I think this is an area that I would urge hon. Members to focus on very critically because it involves the description and process that shall ensue in order to transfer shares from the centre to the small scale farmers and how those farmers can then own the agency that shall now take over or come into place after the authority is out of the way.

Mr. Deputy Speaker, Sir, in a nutshell, we would like this agency to be owned by the farmers through their individual factories. Through those individual factories, the farmers will then have the authority to appoint, nominate or elect the directors that shall be sitting on the new Kenya Tea Development Agency, once the revocation order is in place.

Mr. Deputy Speaker, Sir, I would also like to take this opportunity to make some clarification, which hon. Members may find useful as they look at this particular aspect. This is the progress, so far, on the share allotment system. First, I would like to state that all the boards of directors of the 45 factories have met and approved the share allotment system which recognises the contribution made by the individual tea growers in the development of the companies. The companies have also approved the listing prospectus and the revived memorandum and articles of association, save for Gitambo Tea Factory Company, which is still in the process of trying to sort that out. The share registers are ready with all the requisite details including the number of shares allotted to individual growers based on green leave delivered over a period of eight years. We say eight years because this is when there are very clear records on how the tea was being delivered and the accounts are also audited up to that time. The share register listing prospectuses will be inspected at specific inspection centres. This would be made public, and by the concerned tea growers as required. I would like to state that the final listing prospects are then expected to be looked at afresh with any suggestions that may have been made by any individual boards of directors. Once these arrangements are complete, the only thing that will be pending is for the formal approval of the shareholders of this particular transfer through their AGMs. I think this has to be made very clear because, when you are transferring those shares, there will definitely be a process, and we would like to urge the farmers and the directors to ensure that they get proper legal advice to explain to the individual farmers in their respective areas so that nobody is cheated on this particular issue.

Mr. Deputy Speaker, Sir, Chapter 11 deals with some aspects of employment of extension staff and some of the other technical assistants that may be required in the respective tea industries. I would like to state that extension service is a very vital component of ensuring that our production is enhanced. The fact of the matter is that, in many sub-sectors of agriculture today, the extension services have not been very encouraging. There are definitely problems in that area. However, I want to come out here and say that, if we intend to increase the yields of either small scale holders or even large scale holders, we cannot afford to do away with proper and well trained extension staff.

Mr. Deputy Speaker, Sir, the statistics we have or some of the analysis we have, is that today, if one was to look at the production percentages in terms of whether there is growth from the small scale holder *vis-a-vis* the estate farmers, in some quarters, it is being estimated that the efficiency level of the small scale farmer has now come close to just about 60 percent of the large scale estate farmer. And, some of the issues that are coming out, is that clearly, the farmers in certain areas do not have good extension advise. So that, for instance, when it is time

to apply fertiliser, they may get the fertiliser, but they prefer to divert it to other causes. We have also seen that there may be a situation where the farmers are not being advised appropriately on proper husbandry aspects. We have also seen amongst others, that this particular service, where it has not been forthcoming, there is a clear decline in production levels. So, I would like to make these comments and appeal to the hon. Members that while analyzing and looking at this particular aspect, it is not just the numbers of people who will be employed, I think there should also be a lot of emphasis on the quality and clear definition of the roles that these extension officers must play in order to help the farmer increase his yield.

Mr. Deputy Speaker, Sir, Chapter 12 briefly touches on the leaf bases. Here we are talking of particularly the management of areas like Cherangany and Olenguruone. These are areas where there are leaf bases but there is no corresponding factory directly to deal with that. We are stating here that the KTDA will continue to manage those specific leaf bases so that we can assist those farmers until the factories in those respective areas, or at least, a factory that can serve some of those areas, have been put in place.

Mr. Deputy Speaker, Sir, Chapter 13 is also very critical and important for hon. Members to note, because it talks of the financing of construction of new factories and even the expansion of some of the existing ones. Traditionally, hon. Members will recall that over the years, the Government has been guaranteeing public enterprises when it comes to certain expansions. But what has been happening is that, this has become extremely difficult, because ultimately, where some of these institutions have not performed, those loans have landed squarely on the saddle of the Central Government, and in effect, to the taxpayer. So, it would be important to take note that the new lending requirements from institutions which have supported the tea industry for years, such as CDC, European Investment Bank, some of our own local banking institutions and so forth, now will be demanding either debentures or the mortgaging of some of those individual factories that will be put in place. Therefore, it will mean that one will have to be very, very sure and get to a very clear analysis of the financial prospects of any individual factory before we commit farmers in a given area in that particular regard.

I would also want to state that, in this Chapter, we also state that we want to come out more aggressively in encouraging joint ventures between an investor, whether he is a more able farmer or a manufacturer with farmers in a given area, so that they can also be part and parcel of this particular new strategy in the financing of tea factories.

Mr Deputy Speaker, Sir, there are, however, some eight factories that are being planned in different parts of the country which may be the first ones in terms of trying to put this new financing mechanism in place. Just for purposes of this House, the factories are: Gachege which is proposed in Thika, Ruchu in Maragwa, Gacharage in Maragwa, Nginda in Embu, Weru in Meru South, Kionyo in Meru Central, Chemamul in Kericho, Gianchore in Kisii and Kianyoge in Kisii Central. These are some of the factories that are in the pipeline, where there are some advanced plans towards the establishment of those particular institutions.

Mr. Deputy Speaker, Sir, Chapter 14 also comes out clearly. It is very closely linked to Chapter 13, in the sense that it is elaborating on the existing loans and guarantees that the Government has provided for external finances, that were taken up by KTDA. As at 31st December, 1997, the amount that was due was about Kshs1 billion. Now, this new arrangement that is coming into place will not affect these external obligations of Kshs1 billion. I think it is important that hon. Members are very clear on this. And, where indeed, a factory has benefitted from this particular resource, and it is still outstanding, the arrangement is that, KTDA will continue to work with that particular factory until its obligations to the extent to which it is apportioned can be left out. This has got two-fold reasons; it does not create any instability on the people who lent the money to KTDA, and therefore, they will not panic and imagine that the privatization process is going to destabilise the financial arrangements that were in place. It is important that, that is taken into account, so that whatever we are doing is a smooth transition which does not also rock the financiers. Because, it is indeed, some of these financiers that we hope will be involved in the financing of some of these other factories.

So, whatever arrangements that we have with them in the past, and to which we are still obligated, it is important that we fulfil those obligations in a manner that is correct. I am sure, hon. Michuki, hon. Kibaki, hon. Mwiraria and hon. Matu Wamae and other hon. Members who have been involved in one way or the other will when it comes to committing yourself financially, analyze how you shall be able to fulfil your obligations based on an arrangement. It would be very awkward for us to land into a situation where, because we are divesting or we are involved in this particular thing to the respective farmers, we then disrupt the arrangements that are in place; and yet we hope the same institutions are going to come forward to help us in the financing of some of these other eight factories that I have talked about. So, that is a particularly important aspect that I hope hon. Members will analyze and take into account.

Mr. Deputy Speaker, Sir, Chapter 15 deals with the tax implications. As I speak now, this to a certain extent, has already been overtaken by events. Because in the Finance Bill of 1998, KTDA which had previously

been exempted from corporate tax was brought into the bracket and that means that the privilege that farmers used to enjoy in the past by not being taxed under the umbrella of KTDA is no-longer existent.

In my Sessional Paper, you will find that the comment then was that we wished that this would not have arisen. However, as I have highlighted, this has now been overtaken by events, and it would mean that KTDA will have to be subject to the corporate tax of 32.5 per cent of its profits. This, naturally, will end up eating into---

Mr. Michuki: On a point of order, Mr.

Deputy Speaker, Sir. According to this Sessional Paper, the KTDA that now exists will be transformed into an agency known as the Kenya Tea Development Agency, which will have the same initials. So, if the Minister means the agency, could he, please, refer to it as the "agency"?

Mr. Deputy Speaker: Mr. Michuki, are you being confused by the reference to the KTDA?

Mr. Michuki: Mr. Deputy Speaker, Sir, I am being confused, because the KTDA is going to be transformed into an agency, which will retain the same initials as those of the KTDA.

Mr. Deputy Speaker: So, you want the Minister to make a distinction between the old KTDA and the new one?

Mr. Michuki: Yes.

Mr. Deputy Speaker: Mr. Minister, will you make the difference clear? One is an authority, while the other is an agency.

The Minister of Agriculture: Thank, you very much, Mr. Deputy Speaker, Sir. I would like to apologise to hon. Members. However, I have taken the hon. Member's comment in good stride, so that, at any one time, I can try to distinguish one from the other in whatever I talk about.

Now, on the tax implications, I was about to say that even the Kenya Tea Development Authority, as currently constituted under the Finance Bill of 1998, is now subject to the corporation tax. So, this will simply be carried forward, so that when it becomes an agency upon the revocation of the KTDA order, the agency will continue to be subject to the corporation tax.

Mr. Deputy Speaker, Sir, Chapters 16, 17 and 19 largely talk about the growing of tea, its manufacture and marketing, respectively. They contain policy positions, or proposals, in terms of regulation of the Tea Board and how the board will, hopefully, guide the tea industry. I think one of the things which should be made very clear here is that, currently, marketing of Kenyan tea is done through the Mombasa auction.

For the benefit of those who may not know, I would like to state that the Mombasa auction has become one of the most important tea auctions in the world. It is a very important service being offered within Kenya. Those who have followed the history of tea will remember that London used to be the base for tea auctions. However, the growth of the tea industry in Kenya has made it possible for that auction system to shift from London to Mombasa. Today, there is no more auction of tea which takes place in London. So, we would say that this is a major credit to our farmers and all the stakeholders in the tea industry.

However, issues may arise, and hon. Members may want to highlight some of them. For instance, maybe, we need to be a little more aggressive in our marketing of tea. Although we have retained our traditional partners such as Pakistan, we have not explored appropriate new markets such as America, and others. At the same time, we have maintained an arrangement where we just put forward generic tea.

Mr. Deputy Speaker, Sir, there is a lot of potential if some of our tea producers could enter into brand tea, so that they market Kenyan tea with a particular brand with a view to attaining higher profits for our farmers. We should not confine ourselves to the traditional generic aspect, where our tea is just used for blending. These are areas one would like to look into. In those areas, I did also highlight the structure that one may want to look at, because tea has largely been marketed through brokers.

This is something I would also like to spend a minute on, because tea broking and its aspects may be taken for granted. They may be few now. In the Sessional Paper I did indicate that currently, there are about 11 tea brokers who handle our tea throughout the Republic. There has been clamour by various sectors to have more brokers. There is no harm with that kind of demand; it is perfectly in order. However, I would like to caution farmers and the respective factory companies to bear in mind that the process of identifying new brokers is not just a simple retail transaction. They will have to identify brokers who can syndicate for them at the international market because our tea is largely for export. They should be companies which can understand very clearly the operations of commodities, how they operate, and how they can capture the best price for individual farmers.

There is no point in waking up one morning and appointing Mr. X the tea broker, if Mr. X has not had any experience in the tea sector. He can very easily mislead you if you are not careful. So, this is something which I thought that, as hon. Members debate this Motion, they should also bear in mind. Tea farmers now have the opportunity to identify brokers for themselves, but I would like to request them to identify experienced people who

can do the job for them well. I do not advocate a scenario where there can be only 11 tea brokers. We can have more than 11 brokers, but farmers should make sure that they make the correct choices of their brokers.

I have noticed that hon. Ngenye Kariuki is shaking his head. I am sure that he is doing so in approval. I am only urging him to advise farmers in his constituency to identify good brokers who will give them value for money. We have also indicated very clearly the fees earned by tea brokers. We have indicated that the fee has not been reviewed for a long time, and it may be due for review. So, we have brought the Sessional Paper to this House to be debated and commented on by hon. Members, so that we can improve some of the policy positions.

Mr. Deputy Speaker, Sir, Chapter 18, largely, dwells on the question of cess, which is a very topical subject. As I speak now, very many local authorities are engaged in disputes with various farmers, be they coffee, tea, horticultural, *et cetera*. There is a problem because, currently, the Gazette notice that has been put in force by the Minister for Local Authorities gives a lot of leverage to local authorities at the expense of the farmers. The farmers are now bitter, and are not releasing their funds for road maintenance. They want the Kenya Gazette notice repealed, and another one that will recognise the role of the farmers to be put in place. They want a Kenya Gazette notice that will recognise the role of the farmers, and which will give them more say in the management of cess money rather than giving it to local authorities as per the current design. So, this is also something which I would like hon. Members to focus on and update themselves with the contents of the legal notice that was issued by the Minister for Local Authorities, which has generated a lot of controversy on the management of cess money from virtually all our agricultural produce.

It is my view that, that particular Kenya Gazette notice needs to be amended, so that farmers could have more of their own on those committees and reduce the representation of local authorities to just one or two members. The farmers should have a greater say in determining how their resources should be used. So, I hope that the Minister for Local Authorities, whom I have talked to, and who was also somewhere else when it came out clearly that unless we amend that law, farmers will not release the cess money to local authorities will consider repealing this particular Kenya Gazette notice. So, instead of keeping a situation that is not helping us, let that Gazette Notice be repealed or amended appropriately.

Mr. Deputy Speaker, Sir, Chapter 20 dwells on the other institutions and organisations related to the tea industry. Here we talk of Tea Research Foundation, the Nyayo Tea Zones Development Corporation and the East African Tea Traders Association. Here we are giving some background information to allow Members to know which are the other players in the tea industry and to try and elaborate on the role that they play. This is particularly important and also when we come to the question of the Nyayo Tea Zones, we are proposing in this Sessional Paper that really, why do we not have the Nyayo Tea Zones either ensuring that these are leased to the respective factories near them; the zones that are there or leased to farmers in a format that can be acceptable, and then the produce that is earned; whatever the lease arrangement is, Nyayo Tea Zones can be paid and the farmers can also earn something from this produce.

Mr. Deputy Speaker, Sir, it is indeed, a buffer zone in some of the forest areas, but we also know that the biggest buffer against forest encroachment is eradication of poverty and not necessarily planting trees around those particular forests. So, I would like to say that if we have to play a more effective role in ensuring that our forests are not destroyed, I would suggest that there be greater integration with these Nyayo Tea Zones and the farmers so that they can feel much more comfortable and in the process help us in ensuring that forests are not being destroyed.

The other aspect is Chapter 21 which deals with the training and human resource development in the tea industry. I do not need to emphasise on this. I think this is very clear to everybody; that no matter what we do, we have to always up-date ourselves and make sure that we have our farmers benefiting from any technological advances and any improved husbandry technics that may be coming through. We also indicate the institutions that have been involved in the question of tea farmer training and technical-know-how development. So, I would like to urge the Members again to look at it and I hope with this, they will also look at the questions like the Kagochi Tea Training Centre in a different light. This is indeed, a farmers' institution over the years. It is not a new institution, but it is an institution that has been there for many years; definitely close to 20 years and it has been supporting the tea industry from time to time. So, Members can look at that and if there are any suggestions they would make that would help in the improvement of the management of Kagochi Tea Training Centre, that would also be useful.

Mr. Deputy Speaker, Sir, Chapter 22 just concludes the implementation of the various programmes and the plan of action, and we hope that, with this particular Sessional Paper and the issues that will emanate from it, we shall be able to make the tea industry more efficient.

I would like to underscore once again that we in the Ministry are determined to make sure that farmers can have greater say in the management of their affairs. We would like to hope that as Members make

contributions to this particular sessional Paper, they will give it adequate support and make very specific recommendations on how we can integrate their additional proposals into this policy document, so that we can make our tea industry not just a Kshs20 billion enterprise, but I am sure with time we can be able to double that. There are some basic things that also need to come out because we have seen differential payments of tea farmers at factory level. I think we also need to stress to our farmers that quality will always be important. If we produce good quality tea, we are likely to get better returns. This is why I would like to emphasise this particular issue because on this Floor, we shall definitely hear concerns that, "Why does tea from Kangaita Tea Factory earn more than tea from maybe a Kisii factory and so forth?". Apart from some other aspects which may be specific or peculiar to those factories, perhaps in management and so forth, we must bear in mind that quality is of paramount importance.

The message we are also sending out to KTDA, and I hope Members will send it out very clearly is that - and not only for KTDA, but for any other farmers' organisations - we cannot afford to wait and operate as if this is an institution that secures jobs for individuals in a particular place. The only security that one can have for that job of his, is to make sure that the employer and in this particular case the small-scale tea farmer in the case of KTDA, must be happy. Then one's job is secured. If they are not happy, one has no business being there. This is the principle we want to carry through to all farmers' organisations. It is important that we come forward ourselves and agree to a restructuring plan quickly, rather than waiting for ejection or being forced out of those positions that we may have been taking. This is particularly important and we must bear in mind that there is nobody who can be cheated that easily any more. It is so difficult to say that we can get into a procurement arrangement and get away with it. It is so difficult to say that we can circumvent a tender programme and get away with it. Things are completely different and I would like to join Members of this House in saying that, "Please, let those who are manning these institutions on behalf of our farmers get a very clear message that the old practices cannot hold". We must now change our attitude, deliver and give our farmers more in terms of returns. We must ensure that our operational overheads are much lower because the figures that may come out from some of the Members, when they are talking about the operational cost of an organisation like KTDA, will send shock-waves within members of the public: That, is this really possible that this was the take-away package for this particular management organisation? I do not want to be labour with those figures because I know they are there. Members have them and we have shared them before with a good number of them in the Ministry, and clearly there is need to make sure that we can cut down those over-heads drastically.

We are also sending a message here that we want an investment programme where there are assets to be managed on behalf of farmers. An investment program that will yield results that will yield proper earnings for those farmers so that this business, where people can get involved in investment of public resources; investment that would not give adequate returns to the farmers, should stop forthwith and should also desist once and for all. What is useful to the farmer, they will protect, but if it is the question of us going back into the past and getting into practices that are not supportive, I think we shall not have very many friends out there.

Mr. Deputy Speaker, Sir, I want to reiterate that this is a very important Sessional Paper and it is a policy document. There may not be agreements with all the proposals that are in there, but I would like to appeal to the Members that this is the time to now shift from judging the soul and behaviour of just an individual, but to really addressing the problem of a faulty system. We have to address the faults in the system because tomorrow, if we do not do that, no matter who we put there, they will be tempted to try and play around with that particular system. So, it is important that we look at this Sessional Paper in the context of addressing a reform programme within the tea industry. Even in the process of addressing a reform programme, if changes have to take place at management level, fine.

Mr. Deputy Speaker, Sir, that is normal but I want to stress this so that when the message gets out, what I am pleading for support from the Members and particularly from an approach of saying that we want to change the system and make it better. We do not want delayed payments for tea farmers. We do not want bonuses that cannot be explained adequately to the tea farmers. We want all these things to come out very clearly. We want all these things to be there for the farmers to see and we want farmers to feel that yes; this is our system and let us support it. So, I am pleading to Members of this House that as we deliberate on this Sessional Paper for the next few days or weeks, bear in mind that we are seeking ideas which we want to integrate, incorporate and make sure that they can carry the tea industry forward.

With these remarks, I beg to move.

The Minister for Co-operative Development (Mr. Obure): Thank you very much, Mr. Deputy Speaker, Sir, for giving me the opportunity to second this very important Motion.

Mr. Deputy Speaker, Sir, I want to start by congratulating the Mover, hon. Musalia Mudavadi, the Minister for Agriculture for articulating the main points of this Sessional Paper in a very eloquent, elaborate and

efficient manner. He has demonstrated that, he understands the problems of tea farming and that he has a vision for the tea farmers. This Sessional Paper is well thought-out. It has very clear intentions and objectives. It represents the Government's vision for the development of the tea industry. It is a very successful attempt in my opinion, to chart out the way forward for the tea industry in Kenya; to ensure that it maintains firstly, its top position in the world market. Secondly, to ensure that the tea industry maintains its top position as the chief foreign exchange earner for this country. Thirdly, that the tea industry maintains its position as a sector which provides jobs for many of our people. Fourthly, that it will continue to be a base for the process of industrialisation and that, this particular sector will continue to make a significant contribution towards poverty alleviation.

Mr. Deputy Speaker, Sir, some very useful suggestions have come out in relation to the Tea Board of Kenya (TBK). The Tea Board of Kenya will be given a central and critical role to play in the liberalisation and restructuring of the tea industry. That body will be strengthened, so that it can serve as a regulator for the industry as a whole. We do hope that once it is fully functional in that new capacity, that it will go a long way to providing a conducive environment and creating room for more players and investors in the tea sector. I believe that, this will be a very strong and important organisation in the management of the affairs of the tea industry. It will for example, maintain quality. Kenya tea is very well known for its good and high quality. The Tea Board of Kenya will ensure that, that quality of tea is maintained; that the good image that our tea has acquired world-wide will be maintained. It will ensure for example, that the recent trend where we have seen some greedy traders motivated with the sense of making quick profit are buying green leaves to sell them to multi-national companies - which exploits poor farmers will stop. This is because if we encourage that kind of trend, I believe that the small scale farmer for example, will be worse off and secondly, the overall quality of our tea will go down.

Mr. Deputy Speaker, Sir, the Tea Board of Kenya will play a central role in marketing promotion of tea abroad and I believe that this will be a very significant role to be played by the Tea Board of Kenya. It should be able to do this through advertisements, programmes of promotion and so on behalf of all tea producers in this country. The Tea Board of Kenya should ensure for example, that our market share in world tea sales is increased. We should use tea for example, to be able to improve our balance of payments with certain trading partners.

I will take the case of South Africa which produces goods which are similar to the ones that we produce here. In the last few years, the balance of trade between Kenya and South Africa has grown heavily in favour of South Africa. As a matter of fact, for every shilling worth of products that we export to South Africa, we are importing it to the tune of Kshs20. So, it is one-to-twenty in favour of South Africa which is a terrible situation. I would like to see a situation where for example, we should be able to tell South Africa that we have high quality tea to sell to them and that, instead of South Africa buying tea from Sri Lanka and other places, they should buy our tea so that at least, that imbalance of payment problem can be addressed through that. So, we expect the Tea Board of Kenya to play that role.

Mr. Deputy Speaker, Sir, another important contribution of the Tea Board of Kenya will be research and development. This is an important area of our tea development. It is a very key sector and we believe that, the Tea Board of Kenya should be able to take control of that, for the benefit of the tea industry as a whole. Control of pests and diseases---

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. In the last five years also, the imbalance that the Minister is talking about 1:20 it has been there. With the Tea Board of Kenya functioning very clearly with regard to the promotion of Kenyan tea, I would like to make this position to the Minister; that we do not expect any new thing from the Government also.

Mr. Deputy Speaker: Order! Order, Mr. Gatabaki, why do you not stand and contribute to the Motion, so that you can make those points for the Minister to hear properly? Proceed!

The Minister for Co-operative Development (Mr. Obure): Thank you very much, Mr. Deputy Speaker, Sir, for that protection. The hon. Member for Githunguri has taken too much time concentrating on writing the *Finance* magazine and he has not kept himself in touch with the realities of the rest of the world.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. I am the Secretary-General of the Coffee and Tea Parliamentary Association (COTEPA) and every week in *Finance* magazine in two or three pages and in every one or two pages, there is a statement on coffee or tea. Is it right for the Minister who was appointed recently to the Cabinet, to fail to understand the realities of our side?

Mr. Deputy Speaker: Order! You are here in your right as a Member of this House. So, whether you write *Finance* magazine, the Minister should not be concerned with that. Proceed, Minister!

The Minister for Co-operative Development (Mr. Obure): Thank you Mr. Deputy Speaker, Sir, once again. I will concentrate on my contribution. I view of the great importance of the Tea Board of Kenya, the Minister should ensure that only people with impeccable record of performance are appointed to that board. These

are people who are honest and who have had a proven record of achievements.

Mr. Deputy Speaker, Sir, the Tea Board of Kenya which will play a pivotal role must strive to ensure that, it maintains transparency in all its operations if it is going to be a credible organisation.

Mr. Deputy Speaker, Sir, I want to make some remarks on the small-scale tea sector. This sector has witnessed very rapid growth since Independence. It has played a very significant role in the phenomenal development of the overall growth of the tea sector in our economy. Today, that sector is well known for producing very high quality tea which has enabled this country to play a leading role as a tea exporter in the world. It has also enabled the small-scale rural farmers to earn more income and improve their quality of life.

Mr. Deputy Speaker, Sir, we have seen a lot of criticism recently on the Kenya Tea Development Authority (KTDA), but I want to record my personal appreciation for the efforts which KTDA has made over the years, for the key role they played in guiding this evolution or development in the tea sector. If it were not for the KTDA, I believe that the small-scale indigenous tea farmers in this country would have not been allowed to play the role they have played in tea development. They would have been "swallowed" by multi-national organisations and for that reason, I want express my personal gratitude at the managers of KTDA who were there in those days and those who have been more recently. I believe that they have guided this sector despite the odds and so on.

Mr. Deputy Speaker, Sir, I believe that the small-scale tea sector has now come of age. It is now time to transfer the management of the small-scale tea sector from the KTDA to the farmers themselves. It is my considered opinion that a privatised KTDA, owned and managed by all the small tea farmers would be more responsive to the needs of the small-scale tea farmers. It would understand the problems of the tea farmers more and it would put appropriate remedies in place to address those problems. However, I want to point out that privatisation in itself would pose a lot of challenges. It would not be "a bed of roses" for small-scale farmers even after they have taken over the management of that sector. I expect to see a great deal of problems and challenges posed to farmers themselves, because, first of all, the general body of farmers have not had any experience in the management of tea companies. They have not had any exposure beyond their own areas of residence. They have not been exposed to decision-making of any significance. Therefore, this is going to be a challenge to the farmers, particularly small-scale farmers. This situation would result in instability in the initial period. We expect this sector to be invaded after liberalisation by people who are motivated by greed, people who are motivated by ambitions to live and, therefore, they want entry into this sector using all manner or methods possible available at their disposal. Therefore, that, too, could create problems and it could wreck some of these indigenous tea factory companies.

Mr. Deputy Speaker, Sir, the other problem would be lack of communication between the management of the tea factory companies, their board of directors and the farmers themselves. Many times in my experience, the local tea factory directors are unable to face the farmers to explain what problems they have or what plans they have. They are unable to do so. Therefore, because of that communication breakdown, tea factories tend to run into very serious problems. That is something we should expect and we should find a solution for it. It is, therefore, important, in my opinion, that these tea factory companies should be encouraged to employ professional managers. They should resort to the services of the KTDA as an agency or any other agency that can provide professional management. The time has come when our farmers must be encouraged to rely on professional advice and professional management. They must be able to rely on people who are trained in methods of accounting and management. Methods must be found to sponsor programmes to educate farmers on this new development and new technologies, new ways of production, new extension programmes and so on. We must be able to assist farmers to strengthen communication through barazas and seminars. I think this is important. Above all, I think we should be able to consider stipulating minimum qualifications for directors for the tea factory companies. I do not know whether these qualifications should be based on academic qualifications or certain levels of integrity in society and so on, but we must be able to set some minimum standards and qualifications as to who should become a director, who qualifies to be one and so on. For example, people who are known to have embezzled public funds, people who are known to have incited the communities into destruction, there should be a mechanism to keep them away from involvement in the management of small-scale tea factory organisation. These are some of the problems I envisage after liberalisation of this sector. There are many, many others.

Mr. Deputy Speaker, Sir, we must find a way of assisting small-scale tea farmers to get access to credit, inputs, fertilizers and so on. We must find a way of providing that. We must find a way of assisting the farmers to have good roads, to improve that aspect of their infrastructure because in the area where I come from, Gucha District, at the moment, all the roads are inaccessible at the time when we have plenty of rain and when the crop is high. The result of all this is that the farmer loses his crop. He cannot maximise on the high production expected after the rains. Therefore, the entire system of Government, the Ministry of Agriculture and all of us together must find a mechanism to assist local farmers to improve roads so that they can maximise their yields from tea

production.

I am glad that there is going to be a way of financing the expansion of factories and establishment of new tea factories. This is important because in some areas, some factories are already "saturated". They are already operating a well, even full capacity and expansion is required. A mechanism must be in place to assist farmers to set up new factories and expand the existing organisations.

Mr. Deputy Speaker, Sir, in concluding my remarks, I would say that it is important that this Sessional Paper is supported by all hon. Members because I think it will open the way for greater investment and efficiency in the tea industry. I want to appeal to the Minister for Agriculture, in particular, to continue monitoring progress under the liberalised environment so that, in the event that there are any bottle-necks, he will step in and assist the tea farmers to eliminate them.

Mr. Deputy Speaker, Sir, with these few remarks, I second the Motion.

(Question proposed)

Mr. Deputy Speaker: Mr. Ndwiga.

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Sorry. Mr. Osundwa, are you on a point of order?

Mr. Osundwa: Yes, Mr. Deputy Speaker, Sir. Under Standing Order No. 21(A), I wish to request that the debate on this Sessional Paper be deferred. The reason is that the relevant Departmental Committee has not gone through it. Secondly, we need to consult with the relevant players in the tea industry before we embark on the discussion of this Paper.

(Applause)

Mr. Deputy Speaker: Order, hon. Members! Hon. Osundwa, there is no requirement, under our Standing Order, for Sessional Papers to be referred to the Departmental Committees. That is the first point that I wanted us to get clear. More importantly, a Sessional Paper is a statement of policy by the party in the Government. So, if in your Committee, you have hon. Members from the Opposition, they have no business to try to improve the quality of what your party has produced. So, if this is the best that the party in the Government has produced, let those who do not like it punch it full of holes. But your Committee has no revisionary powers over a Policy Paper. Thirdly, and more important, really, this is a matter that has been on the Table since the 8th of March, 1999. Now, if there was any difficulty about consulting over it, or wanting to do amendments on it, the Chair should have been informed and you will have used the powers to compel the concerned person to provide information to the Committee. As it is, and as we stand here today, this matter has never been brought to the attention of the Chair. So, I find that your question is dilatory and I decline to propose it.

Mr. Ndwiga. Proceed.

(Messrs. Gatabaki and Muihia stood in their places)

Mr. Ndwiga: Mr. Deputy Speaker, Sir, at the outset, I would like to say that the Minister for Agriculture has been very co-operative in matters pertaining to the Sessional Paper. He has availed himself to consult with others.

(Messrs. Gatabaki and Muihia stood up again in their places)

Mr. Deputy Speaker, Sir, I cannot concentrate in this kind of situation.

Mr. Deputy Speaker: Order, Gatabaki and Muihia! What is it hon. Muihia?

Mr. Muihia: Mr. Deputy Speaker, Sir, you have just ruled but Standing Order No. 21(a) talks about adjournment of Motions. It does not say that any notice should be communicated to Mr. Speaker.

Mr. Deputy Speaker: Order, hon. Muihia! If you want to stand on a point of order and you are using these Standing Orders, then get the right one. You are talking about Standing Order No. 21(a). I did not talk about giving notice. I merely said that the Chair finds that Motion moved by hon. Osundwa to be dilatory. Therefore, under Standing Order No. 21(iii), I decline to propose it.

Mr. Muihia: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Proceed, Mr. Ndwiga.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, before the interruption, I was saying that the Minister for Agriculture has in the past shown a lot of co-operation in matters pertaining to the tea sector. When the stakeholders in the tea industry did intimate to the Minister that we required a Sessional Paper, he promised to bring one to the House, and he has done that. The main reason why the stakeholders needed a Sessional Paper was because, at one point in time, the farmer felt completely hopeless because he or she, was being mistreated by the Kenya Tea Development Authority (KTDA) and the other players in the tea industry. But to the disappointment of most of us, having gone through this Sessional Paper, we have now found that, those of us who represent the small-scale tea farmers, there are more problems. In the past, they had a problem with one animal called "KTDA." But now, the same farmers have got to take this Sessional Paper which has given birth to three other "animals" who must now be taken care of by the same farmer. We now have the KTDA, which is still in place. We have the Tea Board of Kenya, and we also have the Tea Research Foundation. The farmer is also inheriting, at the same time, the Government employees who in the past were paid by the Government. I wish to urge hon. Members to look at this Sessional Paper very critically because at the end of the day, the farmer is worse off with it than he was yesterday.

Mr. Deputy Speaker, Sir, I wish now to go through briefly a few paragraphs and I do not wish to take a long time, because we would like as many hon. Members as possible to contribute to this Motion. First and foremost, when KTDA was formed, its objectives were very extremely noble. But come the late 80's, it did appear, and it was very evident, that KTDA was incapable of handling what it had nurtured; KTDA was unable to handle capacity as late as last year. The Minister says that, we will have 80 new factories. But what we have lost, in terms of unprocessed tea in the past, is so enormous and indeed, 80 factories will not salvage the situation. In areas like Embu, where I come from, we do know that one extra tea factory will not alleviate the problems of the excessive tea in that region. The other problem has been the Government neglecting the tea sector. The Government has neglected the infrastructure such that, most of the tea produced by farmers never reached the tea factories because there were no roads. At that point in time, the cess money was being handled by the Government. It was under the chair of the District Commissioner, and the tea farmers have lost so much, in terms of the leaves not getting to the relevant tea factories.

[Mr. Deputy Speaker left the Chair]

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

I now wish to look at a few paragraphs in this Sessional Paper. Starting from No. 2, it is true that the importance of the tea industry cannot be over-emphasised.

Mr. Temporary Deputy Speaker, Sir, the importance of the Tea industry cannot be over emphasised - it is the biggest foreign exchange for this country but the biggest problem is that the Government does not seem to appreciate that this is what is keeping the Government afloat today. The tea industry is the one that is keeping the Government afloat today. This will come out as we move on in the following chapters. In the past, this has been very evident in the neglect of the infrastructure in the tea growing areas. The production of tea and the planted area has expanded quite a lot in the recent past but apart from the Nyayo Tea Zones, it came to a point where the small scale tea farmers neglected to increase the production of tea in this country and that is why we have been crying all along for a farmer-sensitive Sessional Paper which will motivate farmers to start to grow tea afresh. Although this Sessional Paper only mentions the importance of tea, the amount of area planted and what tea has generated over the past years, it fails to say what steps are going to be taken to improve new plantations and to sensitise people in tea growing areas to plant new areas under tea.

Mr. Temporary Deputy Speaker, Sir, whereas it is very clear that 60 per cent of the tea produced in this country is produced by the small-scale tea farmer, you will note that the small-scale tea farmers only have six members on this Board and that is approximately 30 per cent in a Board of 18 members. This is new Board is Government heavy. I do not think we will take this very kindly. We are saying, and the Minister for Agriculture did say that we want to remove the Government out of the management of the tea sector. But what we have done here is that we have six members of the Board from the small-scale tea growers and five members from the small holder tea growers which make the total farmer representation to be 11 and then we will have a balance of eight being Government appointees. These are too many. This is perhaps, what has caused problems in the past and we need to address it accordingly. We have to address the membership of this Board because we want real representation by the actual growers of tea.

Mr. Temporary Deputy Speaker, Sir, I do not want to dwell on the staff of the Tea Board of Kenya. I want to go straight to KTDA. When KTDA was formed, its objectives were very noble, and indeed, to some extent, KTDA did perform its objectives but in recent years---

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Under Standing Order No.21, the Minister has indicated that this is a major policy issue. We are talking about tea which is the greatest foreign exchange earner in this country. The stakeholders in this industry have not gone through the major issues being raised here. There is a seminar already on how---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Gatabaki, what is your point of order?

Mr. Gatabaki: Under Standing Order No.21, can we adjourn the debate until the major stakeholders go through this Sessional Paper?

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Gatabaki, I am emphatically aware that the Chair has made a ruling on this. If you are attempting to get me to reverse the ruling of the Chair, then you will certainly not succeed. Continue, Mr. Ndwiga.

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, I was saying that the membership of the Tea Board of Kenya has got a lot of Government in it. At the same time, this Sessional Paper is telling that the new Tea Board of Kenya will be financed by the farmer and yet, the actual representation in the Tea Board here is the Government; while the Minister acknowledges that tea is the highest foreign earner for this nation? The Tea Board of Kenya was previously financed from the Exchequer and now it is being shifted to the farmer. When the Minister replies, he should tell us why this is so. We believe very strongly that the Government is not fertilising the tree which gives it its fruits. We will be insisting that the farmer should be relieved of some of these expenses. We will also be insisting that while the Permanent Secretary, Ministry of Agriculture and the Director of Agriculture are relevant to the Board, the two members to be appointed to the Board is not relevant. These two members should come from the farmers. I do not seek to reduce to the number on the Board. But it should be representative of the actual players in the market.

Mr. Temporary Deputy Speaker, Sir, I have no quarrel with the member from the Tea-Grade Sector but I have a big quarrel with the member appointed by the Minister to represent the Nyayo Tea Zones Development Corporation. How could the Minister do this? Who is in this Nyayo Tea Zone Corporation? I would have expected the Minister through this Sessional Paper to have said that we are now going to say that we are recommending the scrapping of the Nyayo Tea Zones Corporation. The Nyayo Tea Zone falls under the Office of the President. Indeed, all parastatals channel some money to the Office of the President through their relevant Ministries. This is the haven of corruption. Why should the Nyayo Tea Zones be under the Office of the President? Somebody should answer that one of these days. I do promise this House! This is because you cannot justify a corporation called Nyayo Tea Zones Corporation!

The Minister for Finance (Dr. Masakhalia): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to intimidate the Minister for Finance that there will be war in this House?

The Temporary Deputy Speaker (Mr. Imanyara): Are you feeling threatened?

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, the hon. Minister is my friend. I am sure he will not feel intimidated by what I say. He knows that I deliver what I promise.

Mr. Temporary Deputy Speaker, Sir, I am sure the majority of hon. Members in this House will support me. That you do not need to contaminate this Board with a member from an amorphous organisation called the Nyayo Tea Zones Corporation. We are proposing that instead of such a member, we should have an extra member from the estates. The two members appointed by the Minister come from the small-scale farmers. Let us increase by getting another member from the estates instead of this animal here! I will dwell on the Nyayo Tea Zones Corporation properly when I get to the Chapter that deals with it.

We have no quarrel with the provision that the Board may co-opt person or persons to serve on it for any advice that it may require. I think we should leave that to the Board as long as we rectify the other anomaly.

Mr. Temporary Deputy Speaker, Sir, the Kenya Tea Development Authority (KTDA) as established in 1984 had very noble goals, until it grew to a bigger size. Normally, when you grow a fruit tree, you nurture it. It does look beautiful until it bears fruits. For all these years, there was nothing much to eat at the KTDA. In 1993, we started war in this House with the KTDA. Although things have been happening previously, I would not be responsible for what happened previously. I was not a Member of this House and I had no mandate from the people. But it was very clear that the poor farmers were being robbed cleanly and mercilessly by the KTDA! We saw construction and expansion of factories which were not required at the time. Right now, instead of building new factories, we see expansion of factories at the cost of building new tea factories. That is totally unacceptable to the tea farmers who, incidentally, right from its inception, owned the same organisation. We do

know that there are parts of this country which require a lot of assistance from an organised body. I have in mind areas in Rift-Valley and Western Provinces which grow tea. They require an organisation which can give them guidance on how to expand production of tea in those areas. But we know that over and above that, we as members of COTEPA have said in the past that the KTDA outlived its usefulness once the factories earned their base. Most of the factories established in those early years started to generate enough funds to run those factories.

Therefore, there was enough left to loot. The factories were looted clean!

Mr. Temporary Deputy Speaker, Sir, I do not wish to dwell very much on the old KTDA because we have a new Kenya Tea Development Agency (KTDA) as proposed in this Sessional Paper. What are the functions of this new agency? It says that the new KTDA should be left to do what it knows best. It is true that the flagship of the tea industry, the KTDA is a big name in the world. But that is as far as it goes, and as far as we let it go. We will not let the KTDA mess up with the management of the company/factories. We wish to state categorically that the management of the tea factories will be vested in the farmers. When we say the management, we mean the management. You see, in this Sessional Paper, there is a lot of things which are hidden. They have not come out clean from the Minister. The KTDA says it will offer management services to tea factories. What are these management services when to date, the KTDA has been taken to court? There is still a case pending in court. I will not touch on the case and I will not dwell on the details because the matter is still in court. Right now, there is hue and cry about packaging materials and the contract signed by the KTDA. I, as a person, do not know which is right. Now, if I do not know, how about my farmers? This decision must be made by the farmer throughout this Sessional Paper. There is no place where emphasis have been made that the farmer is the owner of the tea. We have dealt with corporate bodies and other areas. But emphasis that tea belonged to the farmers have not come out in this Sessional Paper. I believe that as we go on, and as many other hon. Members contribute to this debate, we do hope that this will be emphasised.

Mr. Temporary Deputy Speaker, Sir, talking about the management of tea factories, we do hope that once the Bill is passed, tea farmers will not need to be managed by the new KTDA. They will not be harassed in other areas. Quite a number of those factories do not have loans. Therefore, they do not require more nurturing by the KTDA. We also do hope that the procurement will be strictly by factories. You cannot tell me that a farmer is able to buy his piece of land; look for seeds to plant his tea, tend the crop for three years until it is ready for picking, build his own factory, pick his tea which he sleeps with at the buying centres most of the time and eventually, they are told they cannot buy a tyre for a lorry. You cannot give them authority to buy a tyre for a lorry. This is unacceptable! We are saying; and this must come out very clearly and we hope the Minister will take note of it: That procurement will be by the Tea Factories Company. In the past, farmers have been fleeced by fellows who would buy a lorry which we know very well costs Kshs12 million at Kshs26 million. The farmers are asked to pay Kshs26 million!

Now, that tells you why our farmers are still poor. These are farmers who are expected to generate foreign income for the country. This is unacceptable.

Mr. Temporary Deputy Speaker, Sir, the biggest bone of contention which farmers have had with the Kenya Tea Development Authority (KTDA) is the handling of finances. In the tea sector, factories belong to the farmers. The tea also belongs to the farmers. Once that tea has been processed, it is transported to the auction warehouses in Mombasa. The only time when we see KTDA in our activities is when they collect money from the farmers. They decide how much and when a farmer will be paid. This is a farce! You can imagine the situation of the farmers who delivered their green leaves to their factories in July, they have only been paid Kshs3 per kilogram of tea and the second payment will be in October the following year. This is what is happening in the tea sector. In fact, that is why there has been so much money at the disposal of the sharks in this sector. There is so much money doing nothing so they can chip the locker this other side. So, all we are saying is that one of the things that must come out very clearly in this Sessional Paper and the Bill that will be presented before this House, farmers must be paid directly as soon as tea is auctioned. Let the owners of the tea be paid immediately in dollars or in whatever currency their tea was sold. If they have to pay, for example, the KTDA for marketing services, let the KTDA prepare an invoice or let there be pre-agreed rates that the KTDA sold farmers' tea at so much and they deducted this and that. The balance of that money must go to the tea factories immediately so that the farmers can decide how much they want to be paid in every month and how much they would be paid in the second payment. I know that this suggestion will be extremely unpopular in certain areas, but this is the only way to make sure that farmers indeed get what is due to them or what belongs to them. The moment you have billions of shillings stacked up in weird accounts in Nairobi for more than one year, from July up to October when the bonus of the second payment is paid--- This is a period of about 16 months. By that time, farmers have not paid school fees and are taking food on credit from the market. This is totally unacceptable. This cannot be over-emphasised because this is what we have been asking for since 1992. We

want the proceeds of tea, right from the auction, to go straight to tea factories so that decisions are made eventually by farmers.

Mr. Temporary Deputy Speaker, Sir, the other area is transportation of tea from factories to Mombasa warehouses. In fact, this is where the real corruption thrives. You will never see a Kenyan African transporter given a contract to transport tea to Mombasa warehouses. There is none. This does not happen. I know my friend hon. Nassir is unhappy---

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): On a point of order, Mr. Temporary Deputy Speaker, Sir. We have lorries owned by Messrs. Kamau, Waweru and Michuki which transport tea to Mombasa. Are these not Africans?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Nassir, is that a point of order or information?

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): Mr. Temporary Deputy Speaker, Sir, it is a point of information.

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, I will accept his information later on when we take tea together and after I have told him what I must tell him.

The whole essence of setting up a factory, for example, at Vihiga where the Minister for Agriculture comes from, is that we want to create job opportunities in the same area and it is also a measure of wealth in that area. If you have transporters from that area who are able to handle the bulk of this produce, then they should be given the chance to transport tea to Mombasa warehouses so that the economy of that area is sustained. But where you have a Kamau lorry, as hon. Nassir says, which comes from Kilindini to Kianjokoma in Embu, this is one of the reasons why we want management decisions to be made by tea factories.

Mr. Temporary Deputy Speaker, Sir, the other reason why these decisions must be made by the factories is that we have noticed in the past that when we have rains, it takes so long for KTDA sitting in Nairobi to realise that we have more crop than we can handle. If factories are empowered, they will be able to look for alternative ways and means to collect excess tea leaves. That is another reason why we insist that factories must be the sole decision-makers. Yes, it is true that tea factories will own the KTDA. When you talk about the ownership of the KTDA, the actual decisions to run a factory must evolve from the factory itself. The KTDA should only come up with general guidelines and policies. But the management of the tea itself on the ground should be left solely to the farmers because KTDA at Nairobi is very unresponsive to the needs of the factories on the ground. So, I do hope that we will get the support of the Minister and the Ministry on the decision making because in this Paper we do not see farmers as the real owners of tea. We do not see the empowerment of the tea farmer as the person who will make decisions.

Mr. Temporary Deputy Speaker, Sir, I wish now to move on to the structure of the new KTDA.

You will notice on page 12, chapter 10 (34); it says:- "The company will become one of the largest private tea management and trading companies in the world."

The issue of management does not come out clearly in the sense that tea factories have to choose the agency to manage them from among many competitors.

Mr. Temporary Deputy Speaker, Sir, tea factories will decide whether they will be managed by the Kenya Tea Development Authority (KTDA) or another competitive agency. The second paragraph reads:

"The Board of the company will delegate its executive authority to the Chief Executive and the management. In effect, only minor restructuring changes will be needed in the existing structure of the current KTDA. The Personnel Department; the Sales and Marketing Division and the Finance Division will however, require further internal restructuring and strengthening."

We want major restructuring of the KTDA. When we say we want "major" restructuring of the KTDA, we mean that leaf collection, procurement and processing will be left to the factory companies. We only want to have the KTDA at the marketing stage. Even at that stage, we need the KTDA to have a contract with tea factories so that it is agreed on how much money the factories will pay for the services rendered by the KTDA.

On the same page, the last sentence on the last paragraph says:

"Clear distinction will be established regarding the personnel employed by the KTDA and those engaged by the factory companies."

This has been a source of a lot of confusion in the past. This is so because if you have a manager who is employed by the KTDA, and you have a local Board, the manager does feel that he is not responsible to the Board because his employers are actually in Nairobi. This section must be changed to read: "All employees would be factory company employees." Whether you have a manager who was recruited by the KTDA, the moment he goes to the factory he becomes an employee of that factory under the agreement, which companies that want to be managed by the KTDA will raise with the agency.

I would also like to touch on page 13 which says:

"Companies closely associated with the KTDA will include:-

- (i) all the current 45 smallholder factory companies and nay future ones managed by the KTDA Limited;
- (ii) the Majani Insurance Brokers Limited which is a private company wholly owned by the KTDA;
- (iii) the KTDA Farmers's Company Limited whose shares are held directly by smallholder tea farmers. The company owns the "KTDA Plaza" formerly known as Rahmutulla Trust Building and Diamond Trust Building. The two buildings house the KTDA Headquarters."

In part three, I hope that the Minister will tell the farmers--- This is because having gone through this Sessional Paper most of us were shocked to find that the very first investment of the KTDA was not Rahmtulla Building, but it was Chai House, which is not featuring anywhere. What happened to Chai House? We hope that the Minister will tell us what happened to that building because it was the first investment of the KTDA. We do hope that it has not changed hands.

Mr. Temporary Deputy Speaker, Sir, on number 11, the Minister said with regret that the new agency would be subject to taxation. At the same time you will notice that this Paper proposes to have 47 tea officers and 188 technical assistants moved from the Ministry of Agriculture to the tea factory companies. If that will be the case then, what role will this Ministry play? Why do we need the Director of Agriculture and the Permanent Secretary, Ministry of Agriculture in the Board? The farmer, through this Sessional Paper is going to be so impoverished. In fact, the farmer is better of with the KTDA, as it is the case now. If this Paper is going to be implemented then the farmer will flop. This is so because if 47 tea officers will be moved from the Ministry of Agriculture to tea factory companies then it means that all the 45 tea factories will have a tea officer. Chemtut and Cherengan Tea Factories will also have a tea officer each. The farmers can ill afford this. Already out of the two US dollars which is realised after the sale of a kilogramme of black tea, the farmer hardly takes home Kshs13. If you include these other expenses, then he will hardly take home Kshs8. The Minister must look at this area keenly.

Mr. Temporary Deputy Speaker, Sir, employment of tea extension officers has been one of the problems with this Government. It talks to us about cost sharing, but what it actually means by "cost sharing" is "cost shifting." The Minister cannot tell us that the tea officers, who are now under the Ministry will be pushed to the Board from tomorrow and the farmers will take responsibility. This not fair. This is because all of us have a stake in this industry; the Government and the farmers as well. But the Government is refusing to take its responsibility. Extension services should be provided by the Government. That is a responsibility it cannot abdicate. I hope that the Minister will listen to the sentiments of this House that the Government relies on the tea farmer to earn foreign exchange. It must also put its input to the industry by employing 47 tea officers and 188 extension assistants, who will be based at the tea factory companies.

Indeed, the importance of extension services cannot be over-emphasised. This is because income earned from tea, like the Minister said here and I concur with him, really depends on the quality of tea which you produce. Without extension services, it is unlikely that we will get the kind of quality that we will be looking for. Therefore, we hope that the Government will take up its responsibility instead of abdicating it. The Government should not shift the cost to the farmer for heaven's sake, because this is its cost. Already the farmers have enough problems. If you look at the cost of fertilizer you will find that it is not subsidised. Now, the farmer has to pay taxes through this new arrangement. If the Government is going to add more expenses on the farmer, then it will really be unfair.

I will concur that tea officers should serve under the respective factory companies on secondment from the Ministry. So, you delete "from KTDA" to read: "On secondment from the Ministry." There are only 45 employees, surely. All these technical assistants will, however, be directly employed by the tea factory companies. Even these should also come from the Ministry. Indeed, some of us have noted the useful work being done by extension officers and I will stand here to defend the Ministry of Agriculture employees in Embu, right from the district down to the village. I know the Ministry will notice the difference in production of coffee in the coming year. I do hope that, this facility will also be extended to tea. The importance of field extension services cannot be over-emphasized because the farmers want to be told what to do to improve quality.

Mr. Temporary Deputy Speaker, Sir, on the financing of the new tea factory companies, I do not think we have a major problem. But the problem in the past was that most of these factories were over-priced, right from the beginning and that is why it was very difficult for the farmers to repay the loans existing as at that time. We do hope, and I have not seen any safeguards in this paper, to stop factories which would be managed by KTDA from falling into the same problems.

Mr. Temporary Deputy Speaker, Sir, on No.14, I have nothing major to say on the existing loans and

guarantees. I think those should stay as proposed. On No.15, I also do not have much to say. But I think it was not very clear from the Minister as at what time this tax will become effective because KTDA is still an Authority today and I would not know whether this tax is payable this year or after June 2000, when we shall have finished privatisation.

The Minister for Agriculture (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, just to clarify that, the tax became effective from 1st January, 1999. So, really, the Authority is already paying, subject to tax.

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, these are some of the things that we are saying. That, when we say Kenya is an agricultural country, we really must find a way of encouraging the farmer. Since we are not giving them any consideration when it comes to the purchase of inputs, I think areas like tax, the Government can afford some of these things. We do hope that the Minister will take up the case of the farmer and say the farmer is already over-taxed in all spheres that indeed, it is time the Government became farmer-sensitive and scrap some of these taxes. I think Kshs70 million is so little, in fact, it is not even breakfast for my good friend Kamlesh Pattni, compared to what he takes for lunch and supper.

Mr. Temporary Deputy Speaker, Sir, Agricultural Produce Cess on Tea, No.17, I do not think I have much to say on it, except--

QUORUM

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am afraid there is no quorum in the House, yet we are discussing a very important Paper.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, it does appear that we do not have a quorum. Ring the Division Bell!

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): We have a quorum now. You may proceed, Mr. Ndwiga.

Mr. Ndwiga: Mr. Speaker, Sir, I was on paragraph 18 on the Agricultural Produce Cess. We do hope that the Minister will bring in the necessary legislation as soon as possible to clarify the issue of cess. Those of us who come from tea and coffee growing areas have noticed that since the cess went to the farmers organisations there is much difference on the ground where you can actually see that work is being done. There is a lot of work being done already using the cess fund. You will have noticed that to-date some local authorities still claim that produce cess belongs to them. This must be clarified urgently so that the farmers will concentrate on improving their roads. If this had been done in the past most of these roads in the tea and coffee growing areas would have been accessible.

What happened was that when cess was removed from the county councils and taken to the district cess committees it became personal property of the DC's. Any DC who was appointed at that time must have increased it by about 50 kilogrammes. It was big money at the disposal of just one gentleman. Remember the DCs were picking the members of this committee. So, it was actually the DC's fund. Even right now most of the people who are fighting us are the District Commissioners. They would want access to this money. I know of one DC who repaired a section of the road in my constituency, a four kilometre section of the road for four years. Every year he said they were putting tarmac. He used cess money to put a few stones and a few lorries of murrum. When we asked a question here in Parliament we were told at that time that some Kshs30 million had been spent. When we did our own investigations we found that the lorry also belonged to the DC through some weird name. Like hon. Nassir was saying here it had an Embu name written on the board so the man would say: "No, this belongs to the local contractor." This kind of behaviour will only be stopped if we can bring a legislation to say that money will only be spent where it actually belongs; farmers organisation. The co-operative societies are doing a good job handling these funds.

On paragraph 19 I wish to concur with the Minister that even as we discuss liberalisation we need to be extra careful about the area of marketing because if we were to remove a central body like KTDA or the new agency there are several other players in the market who can destabilise the prices of tea in our market. I do not know whether the House knows that recently Brooke Bonds was bought by one company. Therefore, even at the auction there is only one major buyer of tea today. It is necessary that an institution like KTDA be maintained to market our tea. Also in order to market our tea internationally individual factory companies cannot really do that. We need one major player. All we are asking is that there must be a contract between KTDA and the factory

companies and to determine how much it will cost the factory company for marketing services. The proceeds of the tea after auction should go directly to the factory company. That is the only rider that we would want to put here which is missing there. We require that emphasis because I know we are in agreement after holding various discussions that we have had with the Minister and other stakeholders in the market. That point was emphasised a great deal. Since a tea board is now being constituted it should take an active role in promoting Kenyan tea both internationally and locally.

I want to concur with the Minister that we need to value our tea in terms of branding our local tea. Currently, if you go to the United Arab Emirates or even in Europe and you are taking Kenyan tea it is under a brand name of Lipton. Lipton is a major player in our auction in Mombasa and it is capable of destabilising all these factory companies if we did not have major front like KTDA. We want to encourage tea packers. In the past the other authorities had actually made sure that we do not have more tea packers. Essentially KTDA have their own packaging company, KETEPA. They felt that if we have other tea packers then you will be introducing competition against their company. We do hope that the Tea Board will accelerate legislation of more tea packers in this country so that we have more vigorous international and local marketing strategies when people are marketing their own brands. That will add value to our local tea.

Paragraph 21 talks about Tea Research Foundation of Kenya. It is true that the importance of research can also not be over emphasised. Here is another area where the Government in the name of cost sharing is actually cost shifting. We do know, and this has been mentioned by several Members in private discussions that the Minister will see it fit to address the area of the tea farmers financing the Tea Research Foundation. Right now tea and coffee are the only products which finance their own research. All the other agricultural products and crops have their research financed by the Government mainly from dairy farming, cotton farming et cetera. It is unfair that while at the same time you are saying that the farmers will pay tax you are also at the same time saying that you are also going to shift the responsibility of financing the Tea Research Foundation of Kenya from the Government to the farmer. I think this Government should have mercy on the poor farmer. We are talking about a one hectare farmer who we are now asking to help us to pay for research to maintain the Tea Board, KTDA and everything else. If we want to motivate the farmer I do hope that we will find ways and means of having the Exchequer shoulder some of these responsibilities.

Mr. Temporary Deputy Speaker, Sir, on paragraph 22, I did mention about the Nyayo Tea Zones Development Corporation earlier. But this is, perhaps, one of the biggest scandals of this Government. Every year, including the last Supplementary Estimates, you will notice that the Government continues to fund the Nyayo Tea Zones Development Corporation. The farmer who planted his tea at the time when the Nyayo Tea Zones Development Corporation was established, is now being asked to pay tax. But at the same time, we are saying that Nyayo Tea Zones Development Corporation will continue to be funded from the Exchequer. This is not acceptable. Though the Minister has mentioned it in a subtle way here; it is time now that the Nyayo Tea Zones were handed over to the residents of the localities where they were established.

(Applause)

Mr. Temporary Deputy Speaker, Sir, this has been done in certain areas. Like in Nandi District, I am told the tea zones were given to the people out there. Why do they exist in the other areas? This is a burden to Kenyans; in fact, it is a scandal. It is shameful that we still continue to fund an organisation like this. I mentioned earlier that the Nyayo Tea Zones are put under the Office of the President, not even in the Ministry of Agriculture. This is because nobody knows what happens to the income that comes from the Nyayo Tea Zones Development Corporation. The only thing we hear about is that, now Parliament is being asked to provide more funds to run the Nyayo Tea Zones Development Corporation. I hope that the Minister can be more candid, if he wants to improve the quality of tea in the tea zones. The Nyayo Tea Zones are so badly managed that, in fact, they affect the quality of tea. I have in mind a place like Mongania Tea Factory where at one time we had the second best grade of tea in the world before the Nyayo Tea Zones Development Corporation started to mess up with the quality of our tea. The Nyayo Tea Zones Development Corporation should be given to the local people, perhaps, through a co-operative. Modalities should be found to make the Nyayo Tea Zones be run by the people of those areas. Let those zones be given to the landless people of the areas where they were established so that we can increase productivity. In fact, the Government will also benefit because there will be more production and, therefore, more foreign exchange. At the same time, we will be increasing employment opportunities in those areas by ensuring that the landless and the jobless people get parcels of land in the Nyayo Tea Zones Development Corporation.

Mr. Temporary Deputy Speaker, Sir, the Kenya Tea Growers Association which was established by the

State has been there for a long time and we have nothing much to say about it. But I would wish to say something about the Kenya Small Scale Tea Growers Association. This association was formed by the Kenya Tea Development Authority. If you go to the ground, this organisation has no legitimacy. Indeed, the peasant tea farmer out there does not know that there is an association called Kenya Small Scale Tea Growers Association. This association was formed to counter the growth of another organisation called Kenya Union of Small Scale Tea Owners (KUSTO). This was not the right way to do it, but I do believe that small scale tea growers do need an association. I do hope that elections of the directors of this organisation will be held together with those of the factory companies so that small scale farmers can feel that they own this organisation.

Mr. Temporary Deputy Speaker, Sir, I think I have touched on the East African Tea Trade Association and I do not think there much more that I want to say about it. I would only like to say this on tea brokers. As we said in the past and even in this Sessional Paper that KTDA will pick brokers for the tea factories that it is managing. This is wrong. The tea factories themselves must engage in direct negotiation with the brokers. Tea brokers are necessary, but they must not be appointed by any other body except by the tea factories. I wish to urge the inclusion of more brokers, because if you read the list of the directors of these brokers, it is based on who is who in this country. In fact, it is based on who is who in Government. I do not know who especially in the Front Bench is missing except the new Ministers. All the others have something to do with brokerage. I am not saying that there is anything wrong with that, but I am merely saying that we now need to team up with the new Ministers who may have missed in the past, so that they can also get something. On a more serious note, I am saying that brokers must go directly to the factory, whether managed by KTDA or not. Let the owners of the factories know their brokers. The brokers should also go to their meetings and tell them why they are earning, for example, 1.5 percent of the proceeds from those farmers. This must be explained by the brokers.

Mr. Temporary Deputy Speaker, Sir, I have dealt extensively on Paragraph 27 related to tea packers, and we do hope that under liberalization, the Tea Board will encourage more tea packers to add value by branding our tea. I do hope that the sentiments that I have expressed and those that will be expressed by other hon. Members will be taken seriously by the Ministry. Those of us who have looked at the pending Bill hope that the Minister will take heed of the criticisms on the new Bill. I hope that tea being such an important player in the economy of this country, both sides of the House will take this Sessional Paper seriously. I also hope that the Ministry will take note of critique from hon. Members seriously. Because, these are sentiments which come from the tea farmers themselves. If both sides of the House take heed of these sentiments and assume goodwill from the Government, we will, perhaps, have a booming industry.

Thank you.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, thank you for giving me a chance to also contribute to this Motion. Particularly, I would like to make some observations on the provisions of this Sessional Paper.

First, I would like to say that although the principle of change to bring the tea industry into the hands of farmers is enunciated in this Paper, the interpretation of that principle has not been done properly. First of all, I would like to comment that, up to now, within the Government and the Kenya Tea Development Authority (KTDA), there is no indication that the farmer is recognised as the true owner of the tea that is marketed by the KTDA. The farmer is called a "grower", and is said to take his tea to a tea buying centre, where he surrenders it without being paid for it.

So, this Paper ought to have clarified that the farmer - I believe the Bill will reflect this - whether large-scale or small-scale, be recognised as the owner of the tea until up to the point when he is paid for it. There should be a clear indication that everybody else who handles the tea, all the way to the market, is actually an agent. The ownership of tea must remain with the farmers. This will be a very important improvement on this kind of propaganda, which was put into the heads of the farmers in the past. Technically, as it is now, farmers do not own the tea that is marketed by the KTDA. It is technically owned by the KTDA, and this should not have been the case. That is one point I wanted to make.

The other point I would like to make as criticism to this Sessional Paper is on the taxation aspect. If adopted as it is, this Paper will be very much against the farmer. By the time farmers realise the effects of its application, there might be a revolution. Why am I saying so? I am saying so because, first, the Paper proposes that factories be turned into companies under the Companies Act. Once you trade under this Act, you must be prepared to pay 32.5 per cent in corporation tax. This tax does not recognise the cost of production incurred by the farmer because the amount of money spent by farmers per kilogramme of tea produced is not recorded.

Mr. Temporary Deputy Speaker, Sir, all that cost will not have been taken into account by the time the money is taxed in the hands of the KTDA. Therefore, the farmer will suffer in both ways; where the input is not recognised for tax purposes and where a new thing altogether has come in to deprive him of his income. And how do we do this? Looking at this Paper also, Mr. Minister, when you were introducing it you told us that there are

300,000 farmers who have planted 113,000 hectares of tea, this means that on the average each farmer has about one-third of a hectare of if you like, 0.8 of an acre. These are poor farmers. Anybody who is farming that kind of thing is a poor farmer. Therefore, if the whole of this approach in the tea industry is to be linked to what the Government has stated over and over again at Mbagathi, in this House, in barazas and Harambee meetings, that the aim of this Government is to eradicate poverty, and if that is the objective, surely, you cannot tax a farmer who is farming 0.8 acres purely for him to subsist. Therefore, this matter should be re-thought about by the Minister responsible to ensure there is equity. Up to now, the tea income has never been taxed in this country because it is recognised that it is in the hands of poor farmers particularly, the KTDA organised farming.

Sir, therefore, I would request that the Minister re-thinks about this whole thing again. Because the off-shoots of this Paper is going to be so much against the farmer that we must correct it on that score alone.

The Minister for Agriculture (Mr. Mudavadi):

On a point of information, Mr. Temporary Deputy Speaker, Sir. On the aspect of tax, it should be recollected that the tea farmer, like many other farmers, used to pay pre-exemptive tax. This was scraped and therefore, farmers like, if we look at it as an enterprise, will be required under their respective farming enterprises to make income-tax returns like any other farmer. But once the tea factory is a factory company under the company law, they have to be subjected to

that aspect. So, there is no question of introducing a new tax in this particular concept.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, we have seen many people even foreigners being exempted from payments of taxation in this country. A lot of stamp duty money in transactions of various kinds have been made and there must be some reasons for doing that. Can we not find a reason to exempt the farmer from the Corporation Tax, if his farming does not exceed a certain acreage? Otherwise, I can assure you of this, Mr. Minister - and I am not going to agitate against it because it will come and find you as a Minister, I hope - there will be revolution here. People will uproot tea despite what you are saying in the amendment to the Act that anybody who uproots tea will have committed a criminal offence. They will uproot it. They tried to do so with coffee because of the expenses that are not recoverable. So, this thing should go back to the drawing board so that the Cabinet can agree that these farmers will be exempted from taxation. If we look at all the agreements that financed the planting of tea as for the small holder -some of which I negotiated myself - it was accepted by the lending organisation and even the Government that these small farmers will not be taxed. So, you now bring them together under an umbrella of a corporate company so that they pay 2.5 per cent. I regard that as retrogressive and I would urge that the matter is reviewed. Otherwise, this policy is going to be rejected by the farmers.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 5th May, at 9.00 a.m.

The House rose at 6.30 p.m.