

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd December, 1999

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.679

EXPANSION OF ELDORET AIRPORT

Mr. Deputy Speaker: Is Mr. Sungu here? We will come back to this Question. Next Question!

Question No.676

PAYMENT OF SALARIES TO ADULT EDUCATION TEACHERS

Mr. Deputy Speaker: Is Mr. Ojode here? We will come back to that Question later. Next Question!

Question No.664

PAYMENT OF RETIREMENT BENEFITS TO MR. MWANZIA IBURA

Mr. Deputy Speaker: Is Mr. Mwangi here? We will come back to that Question. Next Question!

Question No.578

INSTALLATION OF STD FACILITY AT GETA

Mr. Githiomi asked the Minister for Information, Transport and Communications:-

- (a) when he will install Subscriber Trunk Dialling (STD) facility in Geta Location, Kipipiri Constituency; and,
- (b) when he will provide telephone facilities (telephone booths) in Githiori Shopping Centre in Kipipiri Location.

Mr. Deputy Speaker: Is there anyone from the Ministry of Information, Transport and Communication? We will come back to that Question later. Next Question!

Question No.659

PAYMENT OF MONEY INTO A LONDON ACCOUNT BY KPC

Mr. Deputy Speaker: Mr. Muite is unable to attend, and that Question is deferred to next week, on Wednesday.

(Question deferred)

Mr. Deputy Speaker: The Minister for Water Development is going to be out of the country as of this

afternoon, attending to official business in Arusha. So, Questions; 361, 678 and 379 are all deferred to next week on Wednesday.

Question No.361

WATER SUPPLY TO MAKUENI
DISTRICT HEADQUARTERS

(Question deferred)

Question No.678

SINKING OF BOREHOLES IN KIPINI DIVISION

(Question deferred)

Question No.379

IMPROVEMENT OF WATER SUPPLY
TO MARAFA DIVISION

(Question deferred)

Question No.455

EQUIPPING OF MUKURWE-INI HOSPITAL
THEATRE AND MORTUARY

Mr. Deputy Speaker: Mr. Mutahi is not here? We will come back to that Question later. Next Question.

Question No.564

EXPENDITURE ON RECONSTRUCTION
OF MUSEUM HILL ROAD

Dr. Ochoudho asked the Minister for Local Government:-

- (a) how much money was spent on the reconstruction of the Museum Hill Road, Nairobi, and if he could give a breakdown of the expenditure incurred; and,
- (b) who the contractors were.

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

(a) The total cost for the reconstruction of the Museum Hill Road, Nairobi, was Kshs14,112,288.20 as per the attached breakdown of expenditure.

(b) M/S Krishan Behal and Sons Civil Engineering Contractors of P.O Box 16227, Nairobi, were the contractors for the project.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the Museum Hill Road is only about 100 metres long. We understand that it costs about Kshs5 million to tarmac an average new road. Can the Assistant Minister tell us why this particular road, being only 150, metres cost Kshs14 million?

Mr. Affey: Mr. Deputy Speaker, Sir, the length of this road is not 100 metres as the Member has stated. It is 200 metres long. It was found out that a section of the Museum Hill Road, between Chiromo roundabout and the National Museum of Kenya, was highly deformed as a result of asphalt flow caused by the steep gradient of the road and breakage by the heavy vehicles which ordinarily use this road. Therefore, it was decided, during the construction stage, to change the specifications from asphalt concrete to cement concrete heavy duty interlocking cabral blocks, and overhauling of the drainage and the adjacent pedestrian walkway, so as to overcome the perennial problems that this area suffers.

Mr. Keriri: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what was the original quotation before the specifications were changed and at what stage were they changed?

Mr. Affey: Mr. Deputy Speaker, Sir, this was a major contract which was given to this company, and was meant to rehabilitate 41 roads within the City of Nairobi and selected roads in Pumwani area. Therefore, there was no

specific amount of money meant for this particular section of road. This particular section is a very notorious one because of heavy flow of traffic. Therefore, it was found---

Mr. Keriri: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is trying to evade my question. Now, he says it was part of the major project; if it cost Kshs14 million, there must have been an original cost and a time when the specifications were changed. That is what I am asking. I am not talking about roads in Eastleigh and other places.

Mr. Affey: Mr. Deputy Speaker, Sir, I am saying that at the time when we were trying to find a contractor for it, we wanted a contractor who could do the entire 36 kilometres. Therefore, the amount of money allocated for rehabilitation of roads under this project was Kshs625 million. But this particular section, because of the difficulties involved, had to be done in isolation. Therefore, we asked the contractor to give us a quotation. He gave us a quotation of Kshs14 million for that section.

Mr. Kaindi: Mr. Deputy Speaker, Sir, the Assistant Minister is right when he says that section is notorious. But has he recently visited that area? That section, in spite of spending so much money, is already warping. Who issued the completion certificate and what were its terms? What is going to happen to the contractor? Is he going to be asked to go back and repair that section?

Mr. Affey: Mr. Deputy Speaker, Sir, I agree totally with the hon. Member. If, indeed, shoddy work was done, we will not pay the contractor because we have not paid for that particular section.

Mr. Ndicho: Mr. Deputy Speaker, Sir, we know that for every tarmac road constructed, there is a time limit; three or ten years. Could the Assistant Minister tell this House how long those side-slabs will last because they start to warping? So, for how long will that section remain like that?

Mr. Affey: Mr. Deputy Speaker, Sir, when we started this project, it was our objective to give this section maximum attention. If the hon. Member is complaining that already, there is a problem with that section, we will make sure that it is done properly. For how long it will remain like that, I do not think it is a question that, probably, I could answer because we might experience another *El Nino* phenomenon. So, I cannot say for sure, how long it will remain like that.

Dr. Oburu: Mr. Deputy Speaker, Sir, I would like to know from the Assistant Minister, how much on the average, it costs to construct one kilometre of a new tarmac road, however notorious that section is. What is the average cost?

Mr. Affey: Mr. Deputy Speaker, Sir, I think I might not be in a position to answer that question, because what we want to provide is the best service. Therefore, situations vary. On this particular section, we spent this amount of money, but under normal circumstances, I do not think I am in a position to know.

Mr. Kaptan: Mr. Deputy Speaker, Sir, I wonder why this particular contractor is given all the contracts. I would like to know from the Assistant Minister because he has talked about 41 roads to be rehabilitated in Nairobi. Out of the 41 roads, how many were given to this particular contractor?

Mr. Affey: Mr. Deputy Speaker, Sir, in this case, the contractor was supposed to cover 36 kilometres of those roads. All these roads were given to this particular contractor.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, it is very unfortunate that, while many sections of the roads in Nairobi are worn out completely, the Government wastes money on places where it is not necessary. The issue of the long wall in Kabete and rehabilitation of Kenyatta Avenue is very worrisome. However, could the Assistant Minister deny or confirm that there was single-sourcing in this particular regard, and also that a former Minister did intervene to change the specifications?

Mr. Affey: Mr. Deputy Speaker, Sir, I deny that.

Mr. Keriri: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has only denied. There were two parts of the question; first, could he confirm the tender was awarded on a single-sourcing basis, because he admitted earlier that, this was not the only contractor who tendered for this project? Was it done on a single-sourcing basis? Could he confirm or deny that?

Mr. Affey: Mr. Deputy Speaker, Sir, it was not on single-sourcing basis. Therefore, this particular contractor was---

Dr. Ochuodho: Mr. Deputy Speaker, Sir, if I may seek your indulgence, and considering that this a very serious matter, whereby we have caught the Ministry misappropriating funds, can we request that this matter be referred to the relevant Committee for further investigation?

Mr. Deputy Speaker: No, I do not have to do that. You can do that yourself. But, Mr. Affey, they are asking you to name the other contractors who tendered for this particular road.

Mr. Affey: Mr. Deputy Speaker, Sir, when I was responding to the Question, probably, that was not part of the hon. Member's interest.

Mr. Deputy Speaker: Order! Supplementary questions cannot be part of the main Question; that is why they are called supplementary questions. If you do not have the information, just say you do not have it and you can bring it on Tuesday or Wednesday, next week. Simple!

Mr. Affey: Mr. Deputy Speaker, Sir, I do not have that information right now.

Mr. Deputy Speaker: Can you bring it next week?

Mr. Affey: Mr. Deputy Speaker, Sir, I will bring it next week.

Mr. Deputy Speaker: Very well, Tuesday next week. Next Question, Mr. Sifuna.

Question No.410

COMPLETION OF TAVETA POLICE
STATION INQUEST NO.2/97

If Mr. Sifuna is not there, we shall come back to that Question later. Let us move on to the next Question.

Question No.434

DISAPPEARANCE OF COURT FILES

Mr. Kihara asked the Attorney-General, considering that disappearance of files in courts has become a serious and frustrating impediment to dispensation of justice, if he could explain to the House what he intends to do to deal with the problem.

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

I agree that the disappearance of files in courts has become prevalent and is a serious and frustrating impediment to the dispensation of justice. The following four main steps have been taken, and are being taken, to redress the situation:-

(1) All those found responsible have been, and are being, prosecuted and/or disciplinary action has been, and is being, taken against them. Some have already been convicted and some dismissed from their jobs, and others have cases pending before the courts.

(2) Parties to the cases before the courts are now at liberty to take photocopies of the proceedings on a daily basis and this, coupled with rules on replacement of the court files which have been relaxed, enables a court file to be reconstituted immediately, on application made before the Deputy Registrar of the High Court.

(3) Under the Legal Sector Reform Co-ordinating Committee, a needs assessment study in the court registries of Nairobi and Mombasa, initially, is already under way and that will form the basis for sourcing for funds for the computerisation of the court registries. This will make it more difficult for a file to be lost.

(4) The High Court is to have four divisions. The Commercial Division is already in place and is housed at the Milimani Commercial Court. The Family Division is being created and will be housed at the Main Nairobi Law Courts. The Civil and Criminal divisions will be created as soon as accommodation arrangements at the Income Tax House are finalised. The decentralisation of the registry will ease the congestion and lead to greater accountability. **Mr. Kihara:** Mr. Deputy Speaker, Sir, I thank the Attorney-General for that reply, but could he tell us what sort of culprits have been arrested and prosecuted for the disappearance of files, and their categories? Are they magistrates or clerks?

Mr. Wako: Mr. Deputy Speaker, Sir, they range from clerical officers, higher clerical officers, executive officers grades I and II. I have got a list of the recent cases, if you want to have a look at it.

Mr. Maundu: Mr. Deputy Speaker, Sir, the problem of disappearance of files in the courts is a very frustrating one. The Attorney-General has said that he is going to rectify this situation by making sure that the registry system is computerised. What is the amount of money involved in the computerisation of the system? This is because this is the only way of showing that they are serious in moving towards solving the problem of missing files within the Judiciary. I agree that decentralisation of some of their activities could be one way of solving that problem.

Mr. Wako: Mr. Deputy Speaker, Sir, I know only of the rough estimates, because I had already began computerising the Registrar of Companies registry. The figure must run into millions of shillings, and that is why as I said in my reply, it needs an assessment and a report is being compiled. In fact, it has almost been finalised, and I have already began approaching the donor communities - the United Nations Development Programme, the World Bank and others. Next week, I will be in Mombasa with the donor communities on this very same problem. Once that report is finalised, it will accurately tell us what needs to be done and, then, I will use it to approach the donor communities to give me the funds. They have already positively indicated that they would be willing to fund this particular project, as

they have already funded the Registrar of Companies registry and the process is already under way.

Mr. Kariuki: Mr. Deputy Speaker, Sir, in view of the fact that there are very many accused persons who are suffering in remand homes due to the disappearance of files, could the Attorney-General consider releasing some of those who are accused of petty crimes, because they are languishing, dying and being infected with diseases that they would not otherwise be suffering from?

Mr. Wako: Mr. Deputy Speaker, Sir, it is true that there is really congestion in our prisons and remand homes, and already this House has passed the Community Service Order Act which will shortly be operational. I am sure that the Chief Justice is now in the process of setting up the National Co-ordinating Committee. Once that is put in place, I think they will review very many cases, particularly of those people who have been sentenced to three years or less. In addition, you may never know what His Excellency the President will do during the Jamhuri Day, which is soon coming.

Dr. Oburu: Mr. Deputy Speaker, Sir, the courts, the office of the Commissioner of Lands and the Transport Department are known to be the most corrupt places in terms of disappearance of files. Why is the Attorney General telling us that he is going to source money from the World Bank and other organisations, when this should have been a priority project along time ago? This is because wananchi are not getting justice because of this system of disappearance of files. When he is going to computerise the department instead of telling us that he is still looking for money here and there? We want him to budget and let this House approve money for him.

Mr Wako: Mr. Deputy Speaker, Sir, I would like to advise hon. Members that they ask me this question at this time next year.

Mr. Kihara: Mr. Deputy Speaker, Sir, I think related to the disappearance of files is the fact that it takes a long time for accused persons to get a refund of their cash bonds. Could the Attorney-General tell us why it takes so long to refund the cash bonds?

Mr. Wako: Mr. Deputy Speaker, Sir, I do agree that, that is really a problem because all the money that is paid goes to the district treasuries, and it has become difficult at times to get it from there and refund it. That is a problem that is under discussion between the Judiciary, the Ministry of Finance and Planning and the Office of the President, so that we can find a way in which, at least, that money is not touched at all. It will be easier to refund to the persons who have paid the cash bonds, but it is a problem which is being addressed.

Mr. Deputy Speaker: Mr. Sungu's Question, for the second time!

Mr. Sungu: Mr. Deputy Speaker, Sir, I beg to apologise for having come late.

Question No.679

EXPANSION OF ELDORET AIRPORT

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

- (a) whether he is aware that there is a project meant to expand Eldoret Airport for the sum of Kshs740 million;
- (b) when this project was approved; and,
- (c) whether there are similar plans to expand Kisumu Airport and other airports in Kenya in a similar manner.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

- (a) I am not aware.
- (b) As a result of my answer in part "a," part "b" of the Question does not arise.
- (c) There are plans for expansion of the Kisumu Airport, which will comprise of the expansion of passenger terminal buildings, to include arrival lounges, recarpeting, over-lay of aircraft pavement and rehabilitation of the airfield's lighting. Regarding the Eldoret International Airport, we hope to extend its runway.

Mr. Sungu: Mr. Deputy Speaker, Sir, although the Minister is saying that he is unaware that there is a project to expand the Eldoret International Airport, in fact, he has also said that they are going to extend the runway there. We are aware that this airport was built without parliamentary approval---

Mr. Deputy Speaker: Ask your question!

Mr. Sungu: Mr. Deputy Speaker, Sir, I must put up some sort of background to my question. The Kisumu Airport is the oldest one in this country. In fact, at the time when the flying boats were coming to this country---

Mr. Deputy Speaker: Order! Ask your question!

Mr. Sungu: Mr. Deputy Speaker, Sir, when will the Minister improve the Kisumu Airport to include extension of the runway, so that it can accommodate larger aircraft, because we know that Eldoret International Airport

has been used to the detriment of Kisumu Airport, which has got a large hinterland covering the west of Kenya?

Maj. Madoka: Mr. Deputy Speaker, Sir, as I did say, we have a major plan to expand the Kisumu Airport, and after its expansion, the hon. Member will be quite happy.

Mr. Deputy Speaker: Order, Mr. Minister! The Question asked about Kisumu Airport and other airports.

Maj. Madoka: Mr. Deputy Speaker, Sir, but I did answer that; I did say that we are expanding Kisumu Airport, and we hope to expand the runway at Eldoret International Airport and not at the other airports.

Mr. Magara: Mr. Deputy Speaker, Sir, part "c" of the Question is very particular. There are several airports and airstrips, so, could the Minister also think of improving the airstrips because we are suffering by going to Kisumu because of several potholes on our roads? Could he also think about improving Suneka Airstrip so that we can be at a stage of being on our own and also have an airport there?

Maj. Madoka: Mr. Deputy Speaker, Sir, the issue of airstrips is different and we have not looked into them, but their normal maintenance is normally taken care of.

Mr. Badawy: Mr. Deputy Speaker, Sir, I think that I need to be specific, as far as part "c" of the Question is concerned, with regard to Malindi Airport. I would like to ask the Minister whether plans to expand Malindi Airport are still on, and how far they have gone.

Maj. Madoka: Mr. Deputy Speaker, Sir, plans for Malindi Airport have been shelved for a while.

Mr. Raila: Mr. Deputy Speaker, Sir, the Minister is not being sincere to the House because the kind of expansion that is being done in Kisumu Airport is actually laughable. They are not expanding the passenger terminal; they are only adding some toilets and the kitchen space. They are doing nothing even on the potholes, and they are spending Kshs1.9 million, which is not enough to even recarpet the walkway. Now, there are people who are interested in expanding the Airport on BD basis, but the Government is discouraging them. If the Government is unable to do the expansion, could the Minister tell us whether it is willing to encourage other private developers to expand and develop the airport?

Maj. Madoka: Mr. Deputy Speaker, Sir, first, I was very sincere when I said that we are going to expand the Kisumu Airport in the next financial year, and I think you had better wait and see. It will be a beautiful airport.

Mr. Deputy Speaker: What about the question of the money that will be used to expand it?

Maj. Madoka: Mr. Deputy Speaker, Sir, we will be able to raise the funds.

Mr. Ojode: Mr. Deputy Speaker, Sir, the last time I passed through Eldoret Airport, the runway which the Minister says will be expanded was being used by cattle. There were no aircraft. Could the Minister tell this House how many aircraft land at Eldoret Airport to warrant the expansion of the runway?

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not think it is true that there were cattle there. But the reason why the runway may be extended is because it cannot take certain aircraft. At the moment, we have up to ten aircraft landing at the airport.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, could the Minister tell the House on what basis the Government found it advantageous to spend Kshs3 billion to expand Eldoret Airport, and not Kshs500 million to make Kisumu an international airport?

Maj. Madoka: Mr. Deputy Speaker, Sir, I am not able to answer that question because I have to look at the various factors which were considered then.

Mr. Sungu: Mr. Deputy Speaker, Sir, this is a very important Question, and the Minister should treat it very carefully because we are sitting on a disaster. As the Government expands Eldoret Airport, the Jomo Kenyatta International Airport and Moi International Airport in Mombasa do not even have navigational aids, so that aircraft can land safely. All other airports, for example, Malindi, Masai Mara, Ukunda and Samburu, have been left unattended to, at the expense of Eldoret Airport. What is so special about Eldoret Airport, which, in fact, is an unviable project? The money being spent on Eldoret Airport is taxpayers' money and should be used equitably.

Maj. Madoka: Mr. Deputy Speaker, Sir, the hon. Member is a bit confused because Samburu and the all the rest that he has mentioned are not airports. They are airfields. I would like to inform him that each airport has got its own maintenance funds to ensure that the airports are kept serviceable at all times.

Mr. Deputy Speaker: Next Question!

Mr. Ojode: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.676

PAYMENT OF SALARIES TO ADULT
EDUCATION TEACHERS

Mr. Ojode asked the Minister for Home Affairs, Heritage and Sports:-

- (a) when the Adult Education Teachers in Ndhiwa Constituency will be paid their salaries from December, 1998 to date; and,
- (b) whether he could assure the House that, in future, the salaries of these teachers will be paid to avert unnecessary distress.

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, although this Question has been directed to my Ministry as it appears on the Order Paper, currently, it falls under the docket of the Ministry of Labour and Human Resources. This Question was sent to the Permanent Secretary of the Ministry of Labour and Human Resources on 8th November, 1999, so that they could provide an answer. We have a copy of that correspondence. So, we expect the Question to be answered by that Ministry.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. I have a written answer here, and normally---

Mr. Deputy Speaker: From which Ministry?

Mr. Ojode: Mr. Deputy Speaker, Sir, I just got it in Parliament.

Mr. Deputy Speaker: Who signed it?

Mr. Ojode: Mr. Deputy Speaker, Sir, it has been signed by the Minister for Vocational Training. Since there is collective responsibility in the Cabinet, and we have in the House, Maj. Madoka, the Attorney-General and the rest, could I give this answer to one of them, so that they could read it out? Mr. Sunkuli is, in fact, the Acting Leader of Government Business.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, now that hon. Ojode has mentioned my name, I think, the Chair should make a ruling. Collective responsibility does not abolish the responsibility of each Ministry to answer questions that it knows, because it deals with those particular issues. The Government is not unwilling to answer that Question, but it will be answered by the correct Ministry.

Mr. Deputy Speaker: Hon. Ojode, you should not engage in an argument and end up not getting the answer. In view of the confusion, the best solution would be for this Question to be deferred, so that when it next appears on Tuesday on the Order Paper, the relevant Ministry will be designated to answer it.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to give this written reply to the shadow Minister from the Opposition side to answer?

Mr. Deputy Speaker: Order! Hon. Members, if you look at the Order Paper, we have got serious business before us, and we should not spend our time on frivolous points of order. In fact, there is no Opposition spokesman for that Ministry. If anything, you have your own in your own party.

(Question deferred)

Question No.664

PAYMENT OF RETIREMENT BENEFITS
TO MR. MWANZIA IBURA

Mr. Kamande asked the Minister for Labour:-

- (a) whether he could inform the House why Mr. Mwanzia Ibura, NSSF No.069029016, has not been paid his retirement benefits since he retired in 1983; and,
- (b) when he will be paid his benefits.

Mr. Deputy Speaker: Mr. Kamande, you should realise that this is the second time we are coming to this Question.

Mr. Kamande: Mr. Deputy Speaker, Sir, I apologise for coming late.

The Minister for Labour (Mr. Ngutu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Mr. Mwanzia Ibura, Member No.069029016, could not be paid his withdrawal benefits because he had not attained the age of 50 years, which is in conformity with the NSSF Act, Cap.258. By 1993, he was only 37 years old.

(b) Mr. Mwanzia Ibura is now qualified for withdrawal benefits, but has not submitted his claim. His benefits will definitely be processed immediately he submits the claim.

Mr. P.K. Kamande: Thank you, Mr. Deputy Speaker, Sir. The answer given by the Minister is not correct. Mr. Mwanzia Ibura comes from Makuyu and today he is already 85 years old. However, members of the National Social Security Fund (NSSF) are suffering a lot because after retiring, they are not given their benefits immediately. This old man has been going to the NSSF offices and has been told to produce another identity card. He has been told

that the name he has been using is not his name. When will he be paid his dues?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I have said that he should submit his claim forms and he will be paid immediately after that.

Question No.578

INSTALLATION OF STD FACILITY AT GETA

Mr. Githiomi asked the Minister for Information, Transport and Communications:—

(a) when the Minister will instal Subscriber Trunk Dialling (STD) facility in Geta Location, Kipipiri Constituency; and,

(b) when he will provide telephone facilities (telephone booths) in Githiori Shopping Centre in Kipipiri Location.

The Assistant Minister for Information, Transport and Communications (Mr. Mokku): Mr. Deputy Speaker, Sir, I wish to apologise for coming late.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) Geta status does not qualify for STD facility because the number of the subscribers is not viable or economical for Telkom Kenya to instal an STD.

(b) The telephone facilities (telephone booths) cannot be installed at Githiori Shopping Centre because it is supposed to be served by telephone booths in the nearby Kenya-ini Shopping Centre. Telkom Kenya Ltd has already provided telephone booths facilities at Kenya-ini and Haraka Shopping Centres, which are neighbouring Githiori. The telephone booths at the above centres, which are much bigger than the Githiori, are also not generating enough income to make the investment viable.

Mr. Githiomi: Mr. Deputy Speaker, Sir, on part "a" of the answer, I would like the Assistant Minister to tell us when a shopping centre qualifies economically to facilitate installation of STD by Telkom Kenya. On part "b" of the answer, I would like to tell the Assistant Minister that the Question he has answered is not the Question that I have asked. My Question is very clear, and it asks the Assistant Minister to tell the House when he will provide telephone facilities (telephone booths) in Githiori Shopping Centre, Kipipiri Location. The answer he has given refers to Kinangop Constituency. Can he now answer part "b" of the Question because he has not answered it? He should also tell us when a shopping centre becomes economically viable to allow Telkom Kenya to instal STD facilities.

Mr. Mokku: Mr. Deputy Speaker, Sir, to begin with, he has asked as to when a shopping centre would qualify for STD or telephone facilities. Currently, at Geta, there are 70 lines and out of those 70 lines, only six lines are in use. This means that 64 lines are still unused. That shows that the demand is low at that centre. Secondly, the telephone exchange at Geta Location in Kipipiri is currently a magnetic exchange, with a capacity of 70 lines, which I have just told the hon. Member about. I have not confused things in part "b", and I am referring to Geta in Kipipiri Location.

Mr. Githiomi: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not answered part "b" of my Question. The answers he has given are for Kinangop Constituency and not Kipipiri Constituency. My Question was clear. I wanted the Assistant Minister to tell us when telephone facilities (telephone booths), would be installed in Githioro Shopping Centre in Kipipiri Constituency. If he does not have the answer, can this Question be deferred for him to look for the answers. This time round, he should take the business of this House seriously. It is as if he does not know what Question he is answering.

Mr. Deputy Speaker: Order! Order, that is not a point of order! Mr. Assistant Minister, are you talking about the same Location?

Mr. Mokku: Mr. Deputy Speaker, Sir, I am speaking of Geta in Kipipiri Location. I am saying that we cannot provide a telephone booth because the people there will be using the telephone booth which is already existing in the nearest location, which is two kilometres away from the area he has mentioned.

Mr. Githiomi: Mr. Deputy Speaker, Sir, he is not talking of Geta. He has answered part "b" of the Question and he has said that telephone facilities cannot be installed at Githioni Shopping Centre. There is no shopping centre called Githioni. In any case, this Kenya-ini Shopping Centre he has referred to is in Kinangop Constituency and not in Kipipiri Constituency. I have requested the Chair to defer this Question in case the Assistant Minister does not have the answers, but he insist that he has the answers. He is further misleading the House.

Mr. Mokku: Mr. Deputy Speaker, Sir, I stand by what I had said and I am taking the House business very seriously. For the benefit of the hon. Member and the House at large, I wish to request the Chair to give me a chance to look into my answer to part "b".

Mr. Deputy Speaker: Okay, the question is deferred up to Wednesday, next week.

(Question deferred)

Question No.455

EQUIPPING OF MUKURWE-INI HOSPITAL
THEATRE AND MORTUARY

Mr. Deputy Speaker: Mr. Muhika Mutahi's Question for the second time! He is still not here, and his Question is dropped.

(Question dropped)

Question No.410

COMPLETION OF TAVETA POLICE STATION INQUEST

Mr. Deputy Speaker: Hon. Sifuna is still not there? The Question is dropped.

(Question dropped)

(Mr. Badawy stoop up in his place)

Mr. Deputy Speaker: Hon. Badawy, all Questions directed to the Ministry of Water Development were deferred because the Minister is unavoidably out of the country. So, those Questions have been deferred to Wednesday, next week.

QUESTIONS BY PRIVATE NOTICE

RELEASE OF AKIWUMI COMMISSION REPORT

(Mrs. Mugo) to ask the Minister of State, Office of the President:-

- (a) When will the Government release the report on the tribal clashes by the Akiwumi Commission?
- (b) How much money did the Commission spend?
- (c) How many families have been settled in Rift Valley Province since the Government directive was given early this month?
- (d) What financial and material assistance has the Government given to the displaced families who are being resettled?

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, Mrs. Beth Mugo asked whether this Question could be deferred because she was held up somewhere.

Mr. Deputy Speaker: No, that is not acceptable. This is a Question by Private Notice and it is put on this basis because it is urgent.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, Mrs. Mugo is held up in a conference on matters that pertain to the House. That is why she called to ask whether the Question could be deferred.

Mr. Deputy Speaker: Order! Order, hon. Ndwiga. You cannot smooth-talk me out of this. What you are now asking me to do in the Chamber is really an administrative matter, which you should have brought to my office. Now, there is no parliamentary business outside Parliament unless you have gone to represent Parliament. She is not here, and so the Question is dropped.

(Question dropped)

NON-PAYMENT OF SALARIES TO
MAGUTUANI FARM WORKERS

Col. Kiluta: Mr. Deputy Speaker, Sir I beg to ask the Minister for Labour the following Question by Private Notice.

(a) Is the Minister aware that employees of Magutuani Farm in Ndithini Division have not been paid their salaries for over a year?

(b) Is he further aware that the District Officer, Ndithini Division, is colluding with the farm owners not to pay these workers?

(c) What action is the Minister taking to ensure that the accumulated salaries are paid urgently?

The Minister for Labour (Mr. Ngutu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that employees of Magutuani Farm in Ndithini Division have not been paid their salaries for over a year.

(b) However, I am not aware of any collusion between the District Commissioner, the District Officer and the farm owners not to pay the workers.

(c) The dispute over non-payment of wages to the employees is being addressed by the Machakos District Labour Office. Indeed, on 5th July, 1999, an agreement was reached between the District Labour Office and the farm management to pay the outstanding wages amounting to Kshs1,452,552.30 in six instalments with effect from July, 1999, and clear the claims by December, 1999. It is, however, regretted that the employer failed to honour the agreement. On the other hand, the employees did not notify the Labour Office about the non-compliance with the agreement by the employer.

The Ministry has, therefore, no alternative but to refer the matter to court for legal resolution.

Col. Kiluta: Mr. Deputy Speaker, Sir, I am very surprised that the Minister could stand up here and mislead the House. I went to Machakos this morning and met the Labour Officer, who was not aware of the case! This is one of the reasons that I went there. This issue has been dragging on for three years. When I visited the farm with the District Officer (DO), the owners agreed to pay the workers. This is because they had picked the coffee at that time. But the DO went back on his own and solicited for bribes from the owners. As a result, he was given a tractor, whose registration number is KNU 934, as an incentive.

Now that the Minister has said that the DO did not collude, and he was given a tractor, what action will he take on the DO, first? Secondly, now that they have picked coffee, and we know that they have got over Kshs10 million in the Kenya Planters Co-operative Union (KPCU), what action will the Minister take to ensure that the people are paid? They have suffered a lot and have families to look after!

Mr. Ngutu: Mr. Deputy Speaker, Sir, about his communication with the Labour Office in Machakos, I do not know! As far as we are concerned, we got our information from that source. About the alleged corruption of the DO, who was enticed with a tractor, I am not aware. I would ask the hon. Member to go to the nearest police station and make a statement. That is a very serious allegation.

Mr. Ndilinge: Mr. Deputy Speaker, Sir, the reason why workers, particularly black workers in this country, are not paid their dues by Asians and other whites, is because the labour officers collude with the employers. What Col. Kiluta has alleged here, about a DO who received a tractor as a bribe, is a very serious matter, when this country is fighting corruption! Is the Minister aware that there is need for his Ministry to pursue this issue? I wonder how one can live for a whole year without pay! He should forget about the District Labour Officer!

Mr. Ngutu: Mr. Deputy Speaker, Sir, I have said that the matter is being referred to court. That is where the whole thing will be discussed, analysed by the employers, employees and the trade unions involved in this particular case.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Ministry of Labour was created to help the employees in this country against frustrations by the employers. But what we have seen in the Ministry of Labour is total frustration for Members of Parliament, who have Questions for this Ministry. Since this is a very serious matter, where people have worked for rich people and, at the end of the year, they have not been paid, could the Minister appoint a special team to visit Ndithini and establish the truth, and bring the matter to him for action? The farm is situated next to my constituency and some of my constituents go to work there.

Mr. Ngutu: Mr. Deputy Speaker, Sir, I do not think that is the way the law says we should work. We are following what the laws says. When there is a dispute between two parties---

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to refuse to take up a responsibility that was bestowed upon him, when the area Member of Parliament has told him that the labour officers have been compromised? The Minister is referring the matter to the same people who have been compromised. In such a situation, you should ask for a neutral and independent probe---

Mr. Deputy Speaker: Order! That is not a point of order! That is an argument! Mr. Minister, what is there to investigate is the fact that those people have not been paid! That should now be criminal!

Mr. Ngutu: Yes, Mr. Deputy Speaker, Sir. This is why the matter is being referred to court.

Mr. Deputy Speaker: Thank you!

Mr. Maundu: Mr. Deputy Speaker, Sir, I think the issue here, as the Chair has pointed out to [Mr. Maundu]

the Minister, is the question of salaries and other minor benefits! Those are ordinary workers out there! The Minister has been informed by the hon. Member that the owners of the farm have money from coffee sales. Why can the Minister not take it as part of his responsibility to make sure that, those people are paid now, rather than encouraging them to go to court on a minor dispute?

Mr. Ngutu: Mr. Deputy Speaker, Sir, we cannot force those people to pay. They agreed to pay, but were unable to pay! So, we cannot force them! We do not know whether they have the money or not!

Mr. Maundu: On a point of order, Mr. Deputy Speaker, Sir. The Minister has said that the people refused to pay! Why are they going to court if they refused to pay and they had the money? Why can the Minister not act within the law and order them to pay the workers since there is money? That is what he should do, unless he is compromising with the same people!

An hon. Member: Toothless Minister!

Mr. Ngutu: Mr. Deputy Speaker, Sir, I am not toothless! I do not know whether there is money. You have said that there is money, but you have not told me how much it is. The law is very clear. We have referred the matter to where it belongs. It will be arbitrated fairly, and those people will be given the necessary directions by the court on what to do.

Col. Kiluta: Mr. Deputy Speaker, Sir, you have heard that the Minister is just evading his responsibility here! I am telling him that the DO was given a tractor. I gave him the registration number! What am I supposed to do? Should I go to get the person whom I am asking him to investigate? That is a Government worker who has been compromised. You are supposed to be a responsible Minister! Why can you not investigate---

Mr. Deputy Speaker: Order! Address the Chair!

Col. Kiluta: Secondly, I am telling him---

Mr. Deputy Speaker: Order, Col. Kiluta! Ask your question! Do not give a speech!

Col. Kiluta: Mr. Deputy Speaker, Sir, I told the Minister---

Mr. Deputy Speaker: Ask your question!

Col. Kiluta: I am just coming to the question!

Mr. Deputy Speaker: No! Ask your question or sit down!

Col. Kiluta: Could the Minister, if he has got powers, instruct his people to go to the KPCU, and they will find out that, that company has got over Kshs10 million? He should make sure that those people are paid with this money. The company has got money!

Mr. Ngutu: Mr. Deputy Speaker, Sir, that is the work of the court. When the matter is heard, all the statements from the KPCU will be produced in court, and then, the court will make the necessary orders.

Mr. Deputy Speaker: That is the end of Question Time.

POINTS OF ORDER

STATE OF AFFAIRS AT SANG'ALO INSTITUTE

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement regarding the state of affairs at Sang'alo Institute of Science and Technology. Since the riots of sometime in the middle of last month, during which the Principal was killed, the college remains closed.

In answer to a Question by hon. Wamunyinyi on the 3rd of November, 1999, the Minister had promised to carry out investigations into the grievances of the school community and report to this House. So, I am requesting the Minister to tell us what his findings are; what he will do to redress those grievances and, especially, what he will do about the corrupt and inept board of governors of that particular institution.

Mr. Deputy Speaker: Is the Minister for Vocational Training here? Since he is not here, he will be informed accordingly.

BANDIT ATTACK ON DIFF POLICE POST

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir. I wish to seek a Ministerial Statement from the Office of the President. Yesterday, bandits from Somalia attacked Diff Police Post and stole ammunition from the armoury. I

would like to know the number of Kenya Police and Administration Police officers who were present at the time of the attack; the number of the attackers, and what the Government intends to do to forestall this in future. We talked about insecurity yesterday, and problems in Eastleigh. But when we talk about the border, we are told that in those areas, there is only one or two people. So, I would like the Minister to address this matter urgently, so that the people do not run away from the post.

TRANSFER OF TARDA ASSETS

Mr. Maundu: Mr. Deputy Speaker, Sir, I am seeking a Ministerial Statement from the Ministry of Energy with regard to the assets of Tana and Athi Rivers Development Authority (TARDA). The Kenya Power and Lighting Company is pressurising TARDA to transfer their properties to KenGen, including the Kiambere and Masinga Dam to the detriment of TARDA. This will weaken this agency which is a developmental vehicle for the people within the region. Can the Minister--

Mr. Deputy Speaker: Order, hon. Maundu! On whose authority are you relying on to make that statement?

Mr. Maundu: Mr. Deputy Speaker, Sir, a Board meeting of TARDA objected to this particular proposal and the Managing Director of TARDA is being pressurised as we speak to transfer these properties to KenGen. Can we have a Ministerial Statement to explain what the current status is?

Mr. Deputy Speaker: Well, are you privy to the Board Minutes?

Mr. Maundu: They are not confidential. We can bring them here!

Mr. Deputy Speaker: What I am asking you is whether you were privy to that information? Privy does not have the same meaning as confidential.

Mr. Maundu: This is a matter which is public knowledge! we are having a shortage of power in this country because Masinga and Kiambere dams are being mismanaged!

Mr. Deputy Speaker: Anybody from the Ministry of Energy? I think they will be informed accordingly. Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE BUKURA AGRICULTURAL COLLEGE BILL

(Clause 2 agreed to)

Clause 3

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 3 be amended in subclause (2)(a) by deleting the word "used" and substituting therefore the word "sued".

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 4 be amended in subclause (1)(b) by inserting the words "and any other related field"
immediately after the word "agriculture".

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

(Clauses 5 and 6 agreed to)

Clause 7

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 7 be amended in subclause (5) by deleting the words "three months" and substituting therefor
the words "one month".

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 8 be amended in paragraph (g) by deleting the word "or" appearing immediately after the
word "students" and substituting therefor the word "of".

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

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

THAT, Clause 9 be amended in subclause (1) by inserting at the end thereof the words "in consultation with the Board".

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

(Clauses 10, 11, 12, 13, 14 and 15 agreed to)

Clause 16

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 16 be amended by deleting subclause (2) and replacing it with the following new subclause:-

(2) The Board may place any monies not immediately required for the purposes of the College on deposit with such bank or banks as the Treasury may approve, or in Government securities.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

*(Clauses 17, 18, 19, 20, 21, 22,
23 and 24 agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Bukura Agricultural Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

**REPORT, CONSIDERATION OF REPORT
AND THIRD READING**

THE BUKURA AGRICULTURAL COLLEGE BILL

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Bukura Agricultural College Bill and approved the same with amendments.

The Minister for Agriculture (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Information, Transport and Communications (Mr. Mudavadi): seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to move that the Bukura Agricultural College Bill be now read a Third Time.

The Minister for Information, Transport and Communication (Mr. Mudavadi): seconded.

(Question proposed)

(Question put and agreed to)

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

BILLS

Second Reading

THE TEA (AMENDMENT) BILL

(The Minister for Agriculture on 1.12.99)

(Resumption of Debate interrupted on 1.12.99)

Mr. Deputy Speaker: Hon. Kones was contributing. He is not here and, therefore, Mr. Murathe can continue.

Mr. Murathe: Mr. Deputy Speaker, Sir, thank you very much for this opportunity to contribute on the Tea (Amendment) Bill for the restructuring and liberalisation of the tea industry, restructuring of the Kenya Tea Development Authority (KTDA) and the revocation of the KTDA order.

Mr. Deputy Speaker, Sir, before I proceed, maybe the Minister for Agriculture should give a commitment to this House that the agenda and the corrigenda on the sessional paper as discussed and agreed upon with the Departmental Committee on Agriculture, Lands and Natural Resources will be tabled in this House to form part of the sessional paper on restructuring and liberalisation of the tea industry.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, secondly, as we dwell on the forms that the new KTDA will assume after 31st December, 1999, we want a commitment from the Minister that the former KTDA which will cease to exist in that form and which is converting itself into the Kenya Tea Development Agency will still assume the obligations of the previous KTDA, particularly in relation to the colossal amounts of farmers' monies which were misused and looted by the previous management. There must be a mechanism through which we shall be able to pursue and recover this money. I wish that the Minister confirms here in this House within what time frame he is going to table the audit report of the KTDA as he did with the Coffee Board of Kenya (CBK) because there are reports which the Minister has not discounted, to the effect that over the last 20 years, Kshs30 billion belonging to tea farmers has been looted by the previous management of the KTDA. We would like the probe report on the KTDA, ordered by the Minister, tabled

before this House before we move into recess so that we know what to go and tell our farmers.

Mr. Temporary Deputy Speaker, Sir, the import of this Bill is to abolish Kenya Tea Development Authority (KTDA). It is meant to create the Kenya Tea Development Agency (KTDA); a managing agency which will compete with other managing agencies in the marketing and processing of tea.

Mr. Temporary Deputy Speaker, Sir, the tea farmer will be free after the enactment of this Bill. This is because the clauses that have been agreed to by the Ministry of Agriculture and Rural Development; the definitions that, tea belongs to the tea farmer; right from the planting, processing until it is sold and paid for--- It is very critical! Previously, the KTDA has behaved as if it owned the farmers' tea and as if farmers were just slaves on their own farms, farming tea for the KTDA's top management to squander.

Mr. Temporary Deputy Speaker, Sir, the creation of independent factory companies which will be in charge of managing the process of planting, processing, manufacturing and selling of tea, has now been taken over by the tea farmers themselves. It is important to note that, we shall no longer require tea growers to be licensed by anybody. People will be free to plant or not to plant tea as they wish. Also, in the management of their own factory companies, the tea farmers will be free to elect directors, managers, auditors *etcetera*, of their own choice, to manage their own money.

In this connection, I would also like the Minister to table before this House, the new rules and regulations relating to the elections of the directors of the tea factory companies before 31st December, 1999. This is because, previously, the electoral process in the tea sector has been through the delegate system. People used to meet in the tea buying centres and elect delegates who would then go to the factory and elect other delegates who would then go to the zonal offices to elect directors to the KTDA. We are saying that, in the new rules and regulations, every tea farmer is a shareholder in his factory company. We are also saying that, tea farmers should directly elect their own directors who will then represent them in the new strengthened Tea Board of Kenya.

Mr. Temporary Deputy Speaker, Sir, we hope that the Minister will bring before the relevant Committee of this House, and that he will legislate and gazette, the new rules and regulations pertaining to the elections of the directors of the new factory companies, which will become free on the 1st of January, 2000. The new factory companies will be free to decide whether to retain the Kenya Tea Development Agency, as their managing agent, or to recruit their own managing agent.

Mr. Temporary Speaker, Sir, the most important aspect of this Bill is the strengthening of the regulatory body; the Tea Board of Kenya, by having representation from the small-scale tea sector; being top heavy, six representatives four of them coming from the plantations. It should regulate itself so that the chairmen and the members of that Board elect themselves and the Minister gazettes the members. The issue of the Government appointing four members on behalf of the farmers, is a thing of the past.

In that regard, we know that, the tea sector is one of the most important sectors in this country and the top foreign exchange earner for this country. You will be shocked to find that the factories, like the one in Gatanga, which is having a gross turnover of Kshs1 billion a year, are being managed and run by Form Four school leavers!

Mr. Temporary Deputy Speaker, Sir, Portland Cement Company brings in expatriates from Europe and they have just hit the Kshs1 billion mark turnover this year. We have taken for granted issues of management of the key sectors of our economy. You cannot let your own factory or company, with a gross turnover of about Kshs1 billion, to be run by Form Four school leavers! That is what has been happening and we are hoping that, as the Minister comes up to reply, he shall be able to set certain criteria for the qualifications of the directors to be elected. They should be people who can understand the books, the audit reports and the accounts of these factory companies. This is because thugs have always been taking advantage of the ignorance of our small-scale tea owners.

Mr. Temporary Deputy Speaker, Sir, one other area which cannot be over-emphasised is the total de-linking of the Kenya Small Scale Tea Growers Association. While we agree that there is need for the interested stakeholders in the tea sector to have a body where they can be meeting, as an association, to articulate the interests and policy framework for the industry, this body was deliberately formed by the former management of the KTDA to hoodwink the tea farmer. Every year, they have been taking Kshs500,000 from every tea buying centre and they have been trying to take over even the title deeds of the tea buying centres. They have been using the KTDA facilities. These people are not farmers' representatives but representatives of the KTDA and the KTDA had better wake up and face competition in line with the new liberalisation, which is coming out of this Bill. The days when the KTDA would lord over the peasant farmers are over. However, the process should not be done in a haphazard manner. We must take caution that we do not disrupt this sector. There must be a period within which the handing over process under the new directors, whom we expect, according to the Act and the law, will be in place in January, 2000. We must make sure that there is a process of transparency in the elections of the new directors who will enter into the new management contract, with new management agents, be it the Kenya Tea Development Agencies (KTDA), George Williams or anybody else for that matter.

Mr. Temporary Deputy Speaker, Sir, it is also our hope and intention that, from this process, the proceeds of

sale to the tea farmer will be increased. This is because the farmers will be in charge of their own affairs at the factory company level. The other area which I am sure my Chairman will highlight in the Bill, and which will encourage increased production, is the issue of market diversification from our traditional tea markets and increased returns of the proceeds to the farmer, which should be in terms of the efficiencies that we hope to realise as opposed to the gross efficiencies of the former KTDA.

Mr. Temporary Deputy Speaker, Sir, this Bill is so important, it is our hope that we can get through with it during this Session, so that by the time we go for the Recess, we shall be ready to go directly for an election programme of shareholders and that there will be no delegate systems so that we will have in place those people who will start engaging in this new management contracts.

Due to the nature of the urgency of this business, I do not wish to tackle the details of the Bill, I would only wish to say that, the report has been tabled. We have certain amendments which we have proposed to the Minister and we have seen the amendments on the Order Paper, which we hope to discuss at the appropriate Committee Stage.

Thank you.

Mr. Ndwiga: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond to this Bill. There is not very much to say because we in the Agriculture, Lands and Natural Resources Committee have quite dealt with the nitty-gritty of this Bill. But I would like to add my voice to what has been said by my colleagues earlier that the purpose of this Bill is, first and foremost, to define the ownership of a crop called tea. We have said here in the Bill that tea belongs to the farmer and that the farmer owns the tea right from the farm up-to the market. Until it is paid for, tea belongs to the farmer. That definition is there. With the passage of this Bill and the adoption of Sessional Paper on the Restructuring and Liberalization of the tea industry, we have done away with the Kenya Tea Development Authority (KTDA). That in essence is what has happened and that is what it will mean once we pass this Bill. There will be nothing called the Kenya Tea Development Authority.

At the outset, I would like to thank the Minister for Agriculture for the co-operation the Ministry has shown during Committee deliberations. I would also like to thank the Members of the Agriculture, Lands and Natural Resources Committee for the tireless work and effort that they have put in this Bill. We now expect that the Ministry will forge ahead and act. But we want to be within the timeframe as it is defined in the Sessional Paper. Although in the Sessional Paper, we had said that complete liberalisation will have been achieved by 1st January, 2000; in the Committee we have concurred by consensus that there is nothing magical about the date of 1st January, 2000. We want to see that the process of liberalisation take root from that date. Which therefore means that we expect that all former KTDA factory companies will hold elections to elect new directors by the end of December, 1999. We hope that will be put in place. But I do not know who is going to be in charge of these elections because formerly, the KTDA used to be in charge.

At the moment, we do not have a Tea Board in place. That is the question right now because that must happen. But who is going to be in charge of these elections? I am posing the question, but I am saying that those elections must be done. The Minister is here taking notes! Elections must be done from the factory company level, then we want to forge ahead and elect directors of the new agency; the Kenya Tea Development Agency. At the same time, we also want to elect the members of the Tea Board. We appreciate that all that cannot be done within one month. We are also saying that we are not in a hurry to rush into creating some of these bodies. We need to be meticulous. We do not know what is happening at the KTDA now. On the probe which is going on now, we hope that the Minister will make available the report of the audit of the KTDA as early as next week. Mr. Temporary Deputy Speaker, Sir, I do not want to dwell on what caused the revoking of the exemption of KTDA from the State Corporations Act. However, when the exemption was made, I stood right here where I am standing now to oppose it. So, the Government is responsible for what has happened to the farmer. We opposed it then and we still oppose it even today. We are happy that the Government has now realised, and woken up from its slumber, that the farmer has continuously suffered from some "sharks". All we are saying in this process is that, once we have new directors in the tea factory companies, and we have directors in the Agency and the Tea Board; we hope that the Government will from now henceforth act as a facilitator and monitor the tea sub-sector to make sure that we do not get "new sharks" coming from other areas. But from what we are enacting in this Bill and what we have passed in the Sessional Paper, I am confident that this will not happen. The tea sub-sector will be free of these "wolves".

Mr. Temporary Deputy Speaker, Sir, on the processing of tea, we have right now nine factories which were scheduled to be built. We do not know what is happening. I pose that question to the Minister. Until now, we have not seen any movement. I would like to particularly point out one factory, Kathangariri Tea Factory where farmers now have contributed over Kshs140 million. Why is there no movement? Farmers of Mungania Tea Factory and Rukuriri Tea Factory have contributed Kshs140 million. When will the construction of this factory start? We hope when the Minister replies, he will tell us because we are keen and we want to know.

Mr. Temporary Deputy Speaker, Sir, missing conspicuously from the report of the Minister is the issue of the

Nyayo Tea Zones. We wonder why because now it is under the Ministry of Agriculture. The Nyayo Tea Zones is an annoying nuisance. If you want to improve tea production in this country, you have got to do something about the Nyayo Tea Zones. We have discussed this issue exhaustively with the Minister and our recommendation is very clear. I am happy that it is also the recommendation of the Public Accounts Committee (PAC) that the Nyayo Tea Zones must revert to the local authorities so that they are managed by the people themselves. In other words, we need to see an Act which will scrap the Nyayo Tea Zones so that, that area is subdivided by whichever method which will be determined by this House so that the tea gets to the farmer.

The other area which has not been very clear is the area of licensing. In this country, especially in Nandi and Kericho districts, we have farmers who have in excess of 200 to 400 acres. These farmers have lived at the mercy of the other companies in their neighbourhood. Why can these farmers not also be licensed to have their own small tea factories?

Mr. Temporary Deputy Speaker, Sir, because we want to give more time to other Members to contribute and because the amendments which we proposed are with the Chairman of our Committee; I beg to support.

Mr. Osundwa: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving this opportunity to contribute to this Bill. I rise to support the Bill. In doing so, I would like to, first of all, thank the immediate former Minister for Agriculture, hon. Mudavadi, and the current Minister, hon. Obure, for the bold steps they have taken to carry out some reforms in the tea sub-sector.

Mr. Temporary Deputy Speaker, Sir, we have had a lot of cries from tea farmers countrywide. I am sure that these steps are being taken because of the hue and cry by the farmers. I would like to ask the Government not to wait until blood is shed in this country before it takes action. This habit must stop, especially in the new millennium. That is as far as tea is concerned. Similar problems abound in the coffee and rice sub-sectors. We have had the misfortune of losing two people in Mwea before the Government moved in to quell the situation. Up to now, I am not very sure that, that problem has been solved.

We read Press reports about maize farmers in Uasin Gishu District "crying" about poor maize prices being offered by middlemen. The same is true for the wheat and sugar sub-sectors. I am addressing these issues because I happen to be the Chairman of a very important House Committee - the Agriculture Committee - and I feel duty-bound to point out some of these shortcomings on the side of the Government. I hope that the Government is listening, and that it will address this question. This also touches on farm inputs, and the Government should ensure that farmers get better prices for these commodities because farmers put in a lot of efforts into tending whatever they grow in their farms.

Right now, there is a very important World Trade Organisation (WTO) meeting going on in the USA. I wonder who is holding brief for us in that meeting; all the Ministers are here. The farmers of this country will be lorded over by farmers from those rich nations. You know very well that farming in the developed world is highly mechanised. So, commodities from those countries flood our markets, resulting in very low market demand. Consequently, farmers in this part of the world reap nothing from their produce. Therefore, I would suggest that farming be removed from the agenda of the WTO. The WTO should deal with industrial matters, and not farming activities. At the end of the conference, we will not cope if the prices of maize, sugar, and other commodities, are dictated to us. This is because, we cannot compete with those highly mechanised agricultural sectors of the developed countries.

Mr. Temporary Deputy Speaker, Sir, it is now my pleasure to touch on a few highlights of the report of the Agriculture Committee of this House. First of all, this Bill was referred to the Committee under Standing Order No.51. The Committee had 13 sittings, during which it deliberated on the contents of both the Sessional Paper, which we cleared yesterday, and the Bill before the House. The Minister for Agriculture, accompanied by his Permanent Secretary, the Managing Directors, Tea Board of Kenya, the Kenya Tea Development Authority (KTDA), and other senior officials of the Ministry, attended several sittings of the Committee and discussed in detail, the contents and the implications of the Sessional Paper together with the Bill. The deliberations of the Committee were enriched by submissions of the following people with technical knowledge: Tegemeo Institute of Egerton University, the Centre for Governance and Development, Hon. Murungi, who is here with us, and hon. Michuki. Also, the Committee relied heavily on the well-researched and rich contributions by its own Members.

Mr. Temporary Deputy Speaker, Sir, I am grateful to all who contributed; without their inputs, it would have been difficult for the Committee to identify those areas of emphasis. Lastly, I would like to express my gratitude to the Secretariat from the Clerk's Chambers, who played a crucial role in organising sittings of the Committee.

As promised, I would like to touch on just a few highlights, because the complete report was tabled here. For those hon. Members who have not picked up their copies of the Report, they are found in Room No.8, upstairs. We looked at the Bill and found that it was not fully liberating the farmer; the Government still retained an upper hand in terms of control of the tea sub-sector in the sense that the Ministry remained the appointing authority. This, the

Committee did not find proper. It was the feeling of the Committee that the Tea Board should be self-regulatory, and that its members should be appointed by the stakeholders as the Ministry retains the gazetting powers. All these are recommendations contained in our report. On the issue of pricing of Kenyan tea, we found that a lot of overseas tea buyers came here and swamped the prices of our tea here, while they blended the same tea out there, fetching higher prices. So, it was the feeling of the Committee that ways be found of adding quality to our tea, to enable it fetch higher prices.

The other issue looked into by the Committee is that of marketing, and we felt that the KTDA should not be the sole marketing agency of the commodity but other players should be allowed to participate, too. I am happy that the Minister has included this aspect in his proposed amendments of this Bill, which will come at the Committee Stage. On the issue of access roads, the Committee felt that the cess money that is being levied on tea may not be enough to repair all the damaged roads in the tea growing areas countrywide. Hence, we felt that the Government should not abdicate its responsibility of building roads in those areas. One startling factor we found out is that the injection of public funds in these sectors, especially coffee sector, only managed to lower the gains made. We wonder how these funds were utilised. I think the Minister, will, at one stage, be constrained to explain to the House why, after injecting colossal sums of money, the farmers' gains are steadily going down instead of going up.

Having touched on just a few highlights, and my colleagues having spoken on various issues, I am left with the Nyayo Tea Zones, which everyone knows have been a very big burden on the Treasury. These tea zones were created as buffer zones, to protect our forests and help generate some revenue for the Government. Ironically, these tea zones have become predators on the Exchequer. It is, therefore, our strong recommendation that the Minister for Agriculture, under whose docket the zones now fall, quickly brings a Bill here to change these tea zones, so that whatever purpose they were created for - and since it is obvious that they have failed - the land under those tea zones can go back to the areas of jurisdiction of the respective local authorities, so that *wananchi* can benefit from them.

Mr. Temporary Deputy Speaker, Sir, I want to give opportunity to my colleagues to also contribute to the Bill. Hence, it is my pleasure to support this Bill.

Thank you very much.

Mr. Khamasi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on this important Bill which is before the House. I think that tea is a very important cash crop in this country. It earns the Government a lot of money in foreign exchange, and everything should be done to make sure that the small-scale tea farmer benefits from the changes that will be made.

It is my strong belief that the changes will be introduced into the Tea Act will go a long way in empowering the farmer and making him a happier farmer than he is today. As we speak here now, we know very well that the tea farmer contributes substantially to the Exchequer and, yet, when one goes to the rural area, he or she will find that the same tea farmer is one of the poorest of the poor. One wonders how in this sector we can provide so much for the Exchequer and, yet, the person who labours; the person who wakes up at 5.00 a.m. to work on the farm is the same person who is the poorest among the poor. It is very ironical.

Recently, the Minister for Agriculture tabled a report in this House on what had gone wrong in the coffee sector. If you read that report, you will think that you are reading a fairy-tale and, yet, the facts contained there are true. We would like to ask the Minister to table here a report on what has gone wrong in the tea sector. It could be worse! If our farmers are being ripped off in this manner, then this Government needs to think twice about how it should deal with the small-scale tea farmer. I think that the changes which are proposed in this Bill are meant to make the tea sector more viable, freer and remove it from this tight control of the Government.

However, having said that, I am a little bit worried about what will happen come 1st January, 2000. I am worried because chances are that we shall not be ready by that time to release this sector as proposed in the Sessional Paper No.2. I believe that it is now important for us to think very hard and see whether it is possible to effect the changes that are proposed in this Sessional Paper. If we are not ready, we must swallow our pride and say so because if we do not do that, this sector will be in disarray. We will open it to thieves and crooks of every nature. It is important that we now take a bold step in this House and say that we are not ready to get into these changes come the year 2000. I am saying that with a lot of keenness, because what is on the paper might be almost impractical to apply. So, it is important to take that decision.

Mr. Temporary Deputy Speaker, Sir, I believe that what we have seen, with the co-operation of the two Ministers we have dealt with, will become a reality. In fact, I want to join my Chairman in congratulating hon. Mudavadi and hon. Obure, who has just come in the Ministry and is picking up very fast. He has actually won our admiration. Actually, we would like to encourage him to go on with that spirit, because it is the intention of a Minister to make sure that the citizens of this country get a good deal from whatever they do.

In this particular Bill, we are trying to get tea factories to be independent. It is important that we get this right and straight. This is because there has been a lot of hangover and control from the Government. It is high time we saw

independent factories being managed independently by the people who are elected by the tea farmers.

We have known cases where tea brokers have been controlled. Tea brokers have been chosen from elsewhere. We want to see a situation where each individual factory can choose its own broker to negotiate the pricing on its behalf. We do not want this amorphous thing which is done elsewhere, and high fees are charged to tea factories. Election of the factory directors is very important and the Minister has got to move with speed on this one. We want to see new rules being put in place. We do not want a situation where incumbent directors buy their way back into the positions they are holding. Elections should not be conducted under the management of the Kenya Tea Development Authority (KTDA). What normally happens is that they actually make rules and conditions suitable for themselves to be re-elected.

We want the Minister to make sure that somebody else other than the KTDA management organises the elections, which should be free and fair. I am saying that with a lot of bitterness because in my own area - Shinyalu Constituency - we had directors who were not elected by the farmers. These people hid in a place at night and conducted their own elections. I would like to say that this time round we shall not stomach that. If the Minister wants peace, then we must have free and fair elections when the time comes.

Mr. Temporary Deputy Speaker, Sir, the Kenya Small-Scale Tea Growers Association (KSSTGA) is an animal which was created by the KTDA management. It is being used as a conduit by the KTDA to freeze the small-scale farmer off his money. In fact, the main reason why it was created was to fight the Kenya Union of Small-Scale Tea Organisation (KUSSTO) which was fighting for the small-scale tea farmer. The same directors of the KTDA are the leaders of the KSSTGA and, yet, you say that you want them to speak on behalf of the small-scale tea farmer. That cannot happen. So, we are saying that the KSSTGA has got to be scrapped because it is not an arrangement of the small-scale tea farmer, and as such it should not depend on the money that the farmer works for.

Mr. Temporary Deputy Speaker, Sir, I am very happy about the amendments which have been proposed by the Minister. There are a few areas where we are giving notice to the Minister that we shall want some amendments. For example, we will require an amendment in the Principal Act Clause 9 regarding application for planting licences, and we will forward that to the Clerk. Clause 18 (1B) should be amended by repealing it. The Nyayo Tea Zones is an area which has been discussed here time and again. It has been under the Office of the President and wrongly so, since inception. Even up to now when the Minister explains nobody gives you an answer as to why it was put under the Office of the President. It has now been shifted to the Ministry of Agriculture. I do not know whether the law has been amended to make those changes.

The fact of the matter still remains that the purpose and objectives for which Nyayo Tea Zones were created have not been achieved. It was understandably going to act as a buffer so that it can protect people from destroying forests. That has not been achieved. It is of no consequence at all. The Nyayo Tea Zones land is Trustland and it belongs to the indigenous people wherever the zones are. In view of the fact that they have become a liability to the Exchequer, those particular zones have to be reverted to the indigenous people. They should be given to the local authorities wherever they appear so that they can be managed by agents who know something about management of tea.

We will not allow a situation whereby private arrangements are made for people to buy these particular Nyayo Tea Zones privately. We understand that in some areas, they have been bought privately. The Government must be warned that, that is brewing trouble. Never shall people accept that this exercise be conducted privately so that a few politically correct people are given opportunity to buy those Nyayo Tea Zones. I believe the sort of amendments which the Minister has brought in this House are good and we support them. I believe that by the end of the day the import contained in this Bill will be for the betterment of the tea sector so that at the end of the day the small-scale tea farmer is better off economically than he is today.

With those few remarks, I beg to support.

The Assistant Minister for Lands and Settlement (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Tea Bill. I know my friend is looking at me and wondering whether I can contribute to the Tea Bill when the Coast Province does not grow tea. I do drink tea and, therefore, I am an interested party. In any case, this is a Bill for all the hon. Members to contribute to because we are contributing to Kenya's welfare and development. Therefore, I will duly proceed.

I am standing in support of this Bill. I am touched by the amendments that have been brought through the Tea Amendment Bill 1999 because I believe that this amendments will augur well and enhance the value that tea has to our economy. We all know that tea is a major foreign exchange earner and indeed, a major role player in our economic activities in this republic. Therefore, the Tea Act does deserve these amendments so as to make the tea industry operate better than it does at the moment. I have a couple of points that are very straight and impactful. Why do we not have tea blended, branded and sold as Kenyan tea? Why must we sell it and make other people convert it into Lyptons and the likes? Indeed, with due respect, they mix our tea with other things that are not tea and call it tea. I think we are

losing a hell of a lot here. I would call upon the Minister and his team and the Government as a whole to look for ways and means to ensure that our tea is grown, branded, processed, added value here and sold as Kenyan tea because it is the best in the world.

Ninety per cent of the tea buyers in Mombasa are all foreigners. I have been trying to assist to provide financial facilities through the African Export and Import Bank to some of the local buyers and it has really been difficult. We grow the tea, we take it to the auction and the buyers are all these multi-nationals. There is nothing wrong with that because we are getting the money, but I would have preferred to have seen Kenyans do that business, if we must sell the tea in the state in which it is sold at the moment. I am a little bit disappointed because I have not seen anything in this Act that supports the Kenyan buyer of tea to outsiders. As much as I do appreciate that we have liberalised the tea sector, I think there ought to have been some provision in this Act that would give the indigenous buyers a chance. The locals should be given more power and authority to be the chief buyers.

I am appreciative of all the Acts relating to tea, cotton, coffee and many other crops. They are very good indeed, but these only cater for crops grown in upcountry areas. Where is the Coconut Act, the Cashew Nut Act and the Mangoes Act? This is a very serious matter and I would like to urge the Minister to ensure that there is a Sessional Paper to cater for the crops grown at the Coast. It is amazing that no single crop grown at the Coast has an Act of its own. Why? This is because we are forgotten. This Government has been forgetting people of the Coast Province. With due respect, it is time that the Minister, who is my good friend and his team, brought Sessional Papers as well as Bills which will be debated and passed into Acts so that we can have a Coconut Act, Cashewnut Act, Mangoes Act and Sisal Act. There should be no discrimination whatsoever, against any crop. I am afraid, the past has discriminated against the Coast Province. We are upstanding and fighting against that discrimination today. So, while I welcome this Act, I am appealing to my good friend here to find ways, if it possible, to bring Bills on other crops to this House, so that we debate and pass them, in order for us to develop those sectors. Today, we spend billions of shillings importing palm oil for the East Africa Industries and other industries, while we could save this money by having an aggressive coconut industry.

Mr. Temporary Deputy Speaker, Sir, I want to appeal, therefore, that the Minister finds it possible to do this. I know there is the Horticultural Crops Development Authority, but I want to see something specific on coconuts and cashewnuts. That is my point.

An hon. Member: Irrelevant!

The Assistant Minister for Lands and Settlement (Mr. Keah): You say it is irrelevant? Do you mean Coast Province people are irrelevant? That is a very dangerous statement.

Mr. Ndwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not say coconuts or Coastal people are irrelevant. I said the Bill before the House now, with its amendments--- A Coconut Bill will come and we will discuss it. Today, it is tea. Please, confine yourself to tea.

The Temporary Deputy Speaker (Mr. Musila): Mr. Keah, in any case, you are not supposed to be listening. You should listen to the Chair and not somebody else across.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I am much obliged. We are talking about tea. This is an agricultural crop. Therefore, this gives me the opportunity of extending my speech from tea to other crops.

Mr. Temporary Deputy Speaker, Sir, while talking about tea, and I appreciate the role tea plays in our economy, I merely want to touch a little bit about the cotton industry because they are all related.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Keah, I would like you to stick to the Bill that we are debating now. You are just giving the Chair a notice that you want to discuss cotton. Look at it carefully; we are debating the Tea (Amendment) Bill. I do not mind you digressing a bit, but now when you tell me that you want to talk about the cotton industry, please, talk about tea industry in Kenya.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I am much obliged. I will not talk about the cotton industry, even though that also needs enhancement. Going straight to the Bill, I see absolutely nothing wrong in the text that has been provided here, and I think, the Clauses are certainly agreeable. However, I would like to differ with the hon. Members who have been speaking against the Nyayo Tea Zones, because I think these zones have been a tremendous boost to the tea development in this country. This is because we have been able to produce more tea in Nyayo Tea Zones. I disagree with those who have been opposing the establishment of the Nyayo Tea zones. That is my point of view.

Mr. Odoyo: On a point order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to mislead this House that, the purposes of Nyayo Tea Zones was to grow extra tea, while we know it was to protect forests in this country? We know that the Nyayo Tea Zones have failed miserably because all our forests have been depleted. I can assure Mr. Keah that, not only our forests have been depleted, but even some areas for growing coconuts in Mombasa, have been apportioned to some Ministers in this country.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, those are his views in so far as the Nyayo Tea Zones are concerned. I agree, one of the reasons was to protect the forests, but indeed, one of the objectives was also to produce tea which they have done successfully. Therefore, I am right---

Mr. Ndwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is this Assistant Minister, who was in the Ministry of Finance for a long time, in order to mislead this House that, the **[Mr. Ndwiga]** Nyayo Tea Zones have achieved their objective of increasing tea production in this country, while we know that, the estimates of this year contain an item of the Government subsidy to Nyayo Tea Zones, ten years after they were established?

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I am very much in order because I am talking about quantities of tea produced and not money. Definitely, there has been an increase on the quantities of tea produced since Nyayo Tea Zones were established. There is a difference between quantities and volumes of tea produced from the Nyayo Tea Zones, as compared to the monetary contributions which have not touched the board.

Mr. Temporary Deputy Speaker, Sir, let me go on with the Bill. I said I see nothing wrong with the text as given here. On the appointment to the board, and as much as I appreciate the Minister will have the responsibility of appointing six people, I believe that one of them should, at least, come from regions rather than non-tea producing region as shown here.

The other point that I had on the Bill itself was related to the accounts which are not here. But I would like to urge the board to ensure that the board's accounts are produced and audited timely, unlike now when they are years in arrears. Indeed, this is a very important point which deals with the governance and accountability. I want to urge that the Minister should make sure that, the board's accounts are produced, audited and presented to the House in good time rather than in arrears.

Mr. Temporary Deputy Speaker, Sir, with these remarks, I beg to support this Bill. I want to urge the Minister to see to it that tea is processed, added value to, blended and sold here as Kenya tea.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to make a few remarks in support of this Bill. I would have been very disappointed, if I did not catch your eye as you know, Imenti South produces the highest quality tea, not only in this Republic, but in the world. This year, Imenti tea Factory and Kinoro Tea Factory are the leading factories in the Republic in terms of bonus. So, I have every right to speak on this Bill.

Mr. Temporary Deputy Speaker, Sir, we want to thank the Minister for Agriculture, hon. Obure, for taking tea very seriously. Although he was appointed only the other day, we are very happy with the work that he has done so far. We believe that the process of liberalisation which had started and for which there was a timetable, will be as reasonably followed up and implemented as agreed by his predecessor. As of now, we have no reason to doubt that the Minister will implement that plan.

Mr. Temporary Deputy Speaker, Sir, as the Vice-Chairman of the Coffee and Tea Parliamentary Association (COTEPA), we are aware that this Tea (Amendment) Bill is a culmination of a long struggle between the oppressed and exploited tea farmers in this country on one side and the KTDA and the Government on the other. We see this Bill and the other instruments as a charter of independence for tea farmers in this country. We have had occasions to do a thorough analysis of the Bill at the Centre for Governance and Development, which we have shared with the Agriculture, Lands and Natural Resources Committee. I have a copy of our Report which I am going to lay on the Table for consumption by hon. Members. Most of the recommendations that we made have been adopted by the Committee. We are happy to see that the amendments that are going to be introduced at the Committee Stage reflect some of the suggestions that we made.

Mr. Temporary Deputy Speaker, Sir, we in COTEPA, have since 1995 been saying that the principal problem in the tea industry has been corruption and mismanagement. We are very happy that as we are talking now, a probe is about to be completed by the Government on the KTDA. Just like the Minister did with the Coffee Board of Kenya (CBK), we also expect him to lay before this House the Report of that probe when it will be ready.

I will touch on a few other issues. First, as regards to the KTDA, we are aware that under the KTDA Order, 1999, KTDA is to convert into a limited liability company with effect from 1st January, 2000. This is only about one-and-half months away and we are not sure---

An hon. Member: It is less than a month!

Mr. Murungi: Sure, it is less than one month's away. We are not sure whether those systems will be in place. We do not want chaotic changes in the tea sector; we do not want a repeat of what has happened in the coffee sector. So, although this date has been proposed, we will suggest that a further fresh look be given to it, and we do not mind if the date is extended so that we do not disrupt the operations of this sector. But the privatisation and the reform process which have started should not be abandoned. All we want is that the KTDA should be given a little more time so that

the Minister and the new officers at the KTDA who are new are given time so that there can be a smooth transfer of the assets, management and transition of the tea sector.

Mr. Temporary Deputy Speaker, Sir, one of the key areas where we expect change is in the management and control of the small-scale tea factory companies. We are aware that the Minister [**Mr. Murungi**] intends to call for elections in all the tea factories in the Republic early next year and we are afraid about the quality of directors who are going to be running those factories, because they are going to exercise much more powers than the previous directors. We know what happens at the grassroots. The elections are just like those of the National Assembly, or the civic wards. When the elections are called, the proposed directors brew traditional liquor and call dancers at night, and on the voting day, whoever manages to feed more people, is the one who is going to be the Director. This is a very dangerous system.

The tea industry is the largest one in the rural areas and if it ends up in illiterate hands, then, we really do not know what kind of management we are going to have. We think that it is in the interest of the tea industry that actually the Minister publishes some rules to govern those elections and set up very high qualifications for the directors of those factories. At the minimum, we think they should possess O-Level grade with some working experience in the public sector. Let the proposed directors be given an opportunity to tell the farmers what they have done in public life and how they have performed so that the farmers can make a judgement whether they are honest and qualified people who can run their factory. If we leave it open, we are going to have drunkards and illiterate people running these factories. Although we are talking about corruption and mismanagement by the KTDA, there is going to be worse corruption and mismanagement if we do not have high quality directors at that level.

Mr. Temporary Deputy Speaker, Sir, already the farmers are anticipating these elections. If the elections go beyond February, we might have fresh riots. I think this is an area where the Minister should take immediate action. Let us have a fresh start. Maybe, let us have them by January, and at the latest February, 2000. Secondly, we have had a lot of politics in the tea industry because of two groups; the Kenya Union of Small-Scale Tea Organisation (KUSSTO) and the Kenya Small-Scale Tea Growers Association (KSSTGA), each of which claim to represent tea farmers. We think that KSSTGA is not a true representative of the tea farmers; it was a creation of the KTDA. If you look at the circumstances under which it was created, you will find it was a "committee of elephants," which the late President Kenyatta talked about in his book, *Facing Mount Kenya*. In that book, a farmer had complained that his maize had been eaten by elephants and the elephants met and formed a committee to go and investigate the farmer's complaints. After the investigations, this "committee of elephants" decided that the farmers complaints had no merits. So, the KSSTGA was formed under similar circumstances. Right now, that politics is part of our history and we would like the Minister to take immediate steps to deregister KSSTGA, because it is unnecessarily perpetuating this negative politics in the tea industry. At the same time, now that we are liberalising the industry and each factory is going to be on its own with its own managing agents, as far as possible, we do not need these national bodies to represent farmers. So, we do not need KSSTGA and KUSSTO. Let the farmers organise themselves at the factory level. If the shareholders have any problems, they will air them at their annual general meeting at their respective factories, just like what happens in the Kenya Breweries Limited, or the Kenya Commercial Bank. Their shareholders meet and air their grievances. Let also the shareholders in the tea factories meet and air their grievances. There will be no cases of farmers coming to demonstrate in Uhuru Park, because there will be no national body like the KTDA, which they will be demonstrating against.

Mr. Temporary Deputy Speaker, Sir, there is a lot of worry among farmers right now, over the establishment of tea factories. The impression that we had been given by KTDA, was that, as a result of liberalization, the donors were willing to fund the expansion of the industry and creation of new factories, but they would not do so, if the Government was involved. I think the Minister needs to come out clearly to reassure farmers, that although KTDA has been brought under the State Corporations Act, the construction of factories would continue, because the farmers have already contributed a lot of money. In one constituency, for example, farmers have contributed Kshs200 million. Every time we go to the constituencies they want to know from us whether that money is safe. I would be very happy if the Minister could tell the farmers where this money is. Many of them believe that the money was "eaten" by Mr. Karanja before his departure, and there is no money for them. So, we need this assurance, that these factories would be actually constructed. In my constituency, we are constructing two factories; the Weru Tea Factory and the Kionyo Tea Factory, where we have contributed over Kshs200 million. We had been assured by KTDA, that the construction of those factories would start early next year. So, if the construction of those factories does not start, then we should expect fresh strikes and riots from the farmers. The Minister should come out transparently and let the farmers know what plans are in place about the pending factories.

Mr. Temporary Deputy Speaker, Sir, there is also the question of the Presumptive Tax. The tea farmers feel cheated by this Government. The only evidence they see of Government is the use of one per cent tea cess which the farmers pay for maintenance of their roads. The Tea Cess is under control of the farmers, through the factory

committees, and it is going into good use. We are very happy with its use, especially in my constituency, because it is being used to build roads. But farmers would also like to know about the two per cent they pay as Presumptive Tax. There is no presence of Government, in either supporting road construction or other activities to support farmers in tea areas. They have been left alone. We would like the Government, and especially since the Minister for Roads and Public Works is here, I would like to urge him to use the tax tea farmers pay to supplement the one per cent, so that the roads are improved to ease tea collection in the tea growing areas. We have a Government policy which we passed here in 1994, when we were discussing the National Food Policy. We said that the Government should invest more, in high productive agricultural areas to improve communications there, so that we can exploit the potential in those areas. We have not seen any movement in that area. So, we are urging the Government to invest more in the tea areas. Even when it comes to research, it is the farmers who are supposed to pay the tea officers for extension services. Why should farmers pay tax and also go to pay for extension services separately? The Government should pay for extension services within the tea growing areas, and not leave it as a burden to the tea farmers.

Mr. Temporary Deputy Speaker, Sir, we have seen the Government support the maize and milk farmers when there was trouble. In this Parliament, we voted Kshs800 million to meet payments for milk farmers, when KCC could not pay them. But we have not seen coffee or tea farmers benefitting from the Government, at any time, even when the prices are down. Is this a Government of milk and maize farmers only or is it also a Government of tea and coffee farmers?

Mr. Temporary Deputy Speaker, Sir, since all the issues we have raised are in this paper, and we have given it to the relevant House Committee, I do not want to go beyond this stage, but I would like to urge the Government for the one hundred and one time, to tarmac the Meru-Githongo-Chogoria Road. This is a road which connects five tea factories and which as I had said are producing the highest quality of tea in the world. So, it is a shame that this Government has turned its back on the tea producers in Meru, who are contributing so much to the country's foreign exchange earnings. We do not need to convince the Government about this. I am happy, that recently, the Minister for Roads and Public Works, Eng. Kiptoon agreed to look into this matter, and we expect to see funds for the tarmacking of those roads in the next budget.

With those few remarks, I beg to support.

Mr. Sambu: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving the opportunity to say a few issues regarding the Tea Amendment Bill and support the recommendations given in the Sessional Paper No.2 of 1999.

Mr. Temporary Deputy Speaker, Sir, tea is an important cash crop. Although many Kenyans take tea, it is very important to us as a cash crop. I think efforts should be made to open up new tea areas. There are tea areas that have not been opened up, although there are good for tea farming. For example, there are such areas in Nandi District on the border with Western Province, Trans Nzoia, Trans Mara, Vihiga, Lugare and Malava. The Ministry should make an effort to see to it that farmers in these areas are assisted to go into tea planting. Even if we vote funds into the Consolidated Fund, to be drawn for alleviating poverty, it will not work, because money cannot be dished out to people. We can only promote people by encouraging them to be productive. One of the things they can produce to alleviate poverty is tea. Tea farming should be promoted in those areas, by supplying the materials required for tea nurseries, for example, the polythene tubes and sheets for the propagators, should be subsidised through this Poverty Alleviation Fund, so that new farmers can engage in tea growing.

Mr. Temporary Deputy Speaker, Sir, I am happy that the Departmental Committee dealing with agricultural matters will be making proposals to amend the main Act. As it is, it was not conducive to tea farmers. If you look at some of the functions of the Tea Board, in the Tea Act as given in Section 4, Sub-section 2(a), the first thing you see, is the licensing of tea growers.

Why do we not licence growers of mangoes and sugar cane? The licensing of tea growers was a colonial law meant to stop Africans from engaging in growing this profitable crop. I believe that this Section 4, Sub-Section (2A) of the Act will be repealed so that factories can only register their growers. Farmers should not be asked to engage in filling these detailed forms which are given in here. As it is now, the Tea Research Foundation has not done enough research, particularly, in Western Kenya, into those areas where that tea could be planted. I wonder why the Tea Research Foundation should be involved in allowing farmers to grow tea in various areas, and saying: "This or that climate is not good for tea growing". They should let the farmers do the experiment themselves. We have seen farmers planting maize in the Aberdare Ranges where it is so cool. Why do we have to say that we have to research into soils to see whether they are suitable for tea growing? That is another form of colonial mentality as expressed in this Act, Section 4, Sub-section (2A).

Mr. Temporary Deputy Speaker, Sir, we have discussed about tea zones, and it is good that this Sessional Paper says something about them. The tea zones were established through the Legal Notice No.13 of 1996, with the express purpose of protecting the forests. The philosophy and the original thinking was good, but the implementation has failed miserably. If you want to see the areas where indigenous forests have been destroyed, you will only have to

travel to an area where there is a tea zone. That is on the eastern slopes of Mt. Kenya and it is where bhang is grown. This is because we have interfered with the forests.

The Nyayo Tea Zones Corporation has no guards or personnel and that is why it relies on the Treasury for its funding and survival. It cannot, therefore, purport to look after the forests. Therefore, these zones have failed in their original purpose. The only answer to this is for the tea zones to revert to the local authorities which will get managing agents to manage them on behalf of the county councils or the local authorities, and which in turn would be managing them on behalf of the people of those areas.

Why does the Government need to get engaged in tea planting? It is only in communist countries where Governments establish plantations. There is nowhere else in the world where a Government engages in plantations. The tea zones must revert to the local authorities. The local people will look after these zones better. They will look after their forests. In Nandi District, for example, all the forests, which include the North Nandi, South Nandi and the South Tinderet Forests, where the tea zones have been established, those are trustlands. The Constitution says that if the Government wishes to acquire any trustland for any purpose, it has to consult the county council. The Nandi County Council was at no time, whatsoever, consulted on the acquisition of land for establishing the tea zones. I am saying that those tea zones in Nandi District, in particular, being on trustlands, must revert to Nandi County Council which is the owner of the land. It is the owner of the land who determines the application of the funds accruing from the tea zones. It is not the Nyayo Tea Zone Corporation which should determine that. Therefore, we have been saying that the Nyayo Tea Zone Corporation, in fact, should be dissolved. It is just a drain on the Treasury funds and it is doing nothing.

Mr. Temporary Deputy Speaker, Sir, I wish to support the Sessional Paper on the stand it has taken on the KTDA. The KTDA should be converted to be an agency. As has been said by one of my colleagues, the only problem here is that the time span may be too short. The KTDA as it is now controls a lot of assets and holds a lot of mortgages on behalf of the individual tea companies. We need time, but the principle must be effected. The individual tea companies must be independent. The KTDA has, for a long time, been a drain on the small-scale farmers' income. It could have been relevant in the 1960s and 1970s, but it is no longer relevant. Therefore, KTDA, as has been proposed, should be an agency. The individual tea companies should be free to appoint their own brokers because it is through broking that money gets lost between the tea broker in Mombasa and the KTDA. What the tea factories would get when they will be handling their tea directly at the auction will make you marvel a lot. They will be paying huge bonuses. In any case, why retain a farmer's money? That is why the tea quality goes down. The farmer should be paid most of his money, as soon as, the tea has been auctioned. This will be achieved through the tea companies selling their tea directly.

Mr. Temporary Deputy Speaker, Sir, Kenyan farmers are now literate. Why do we need to hold their money throughout the year and then purport to pay them a bonus? This is not a bonus, but is a misnomer. It is a misnomer for the fact that this bonus is the farmer's money. The farmer did not give KTDA tea to trade with. A bonus is only made in the trading account. I expect that that the individual tea factories will not be trading with KTDA, but will be processing and selling the tea on behalf of the small-scale farmers.

The development of these other bodies, particularly, this Kenya Small Scale Tea Growers Association (KSSTGA) was something invented at the KTDA to cover up certain matters. I support what my colleagues have said, that the local tea company elections are overdue. The Board of Directors of the local tea company will be the only legal body to represent the farmers. This KSSTGA should cease. I do not know who registered it and for what purpose. We know that one of the leaders of that organisation immediately they formed it, bought a new Mercedes Benz car. From where did he get the money? We, those who come from his home district know how many acres of tea he has. This KSSTGA should cease to exist immediately. If the individual tea companies will wish to have an umbrella body, that will be up to them after they have been freed from KTDA.

Mr. Temporary Deputy Speaker, Sir, I now wish to come to the processing of tea. If I want to start a maize mill for packaging maize flour, I will apply for a licence from the municipality or the local authority and I will get it. A farmer will just do the usual Environmental Impact Assessment (EIA) and if the applicant fulfils those conditions and then, he is licensed. I agree that we should continue licensing tea factories, but there must be rules. I believe that we should amend Section 13 of the Principal Act.

Section 13 subsection (i) reads as follows:-

"No person can manufacture tea for sale, whether by sun drying or otherwise, except under and in accordance with a licence."

Subsection (ii) reads:-

"The Board may, after consultation with the Minister, issue a manufacturing licence, subject to such terms and conditions the Board thinks fit."

That is where the catch is! This matter may not be so in Central and Eastern Provinces. But, in my own

District of Nandi and Kericho District, there are people with 300 and 400 acres of tea, who have been denied licences to establish tea factories. We know who controls the multi-national companies there! They want those people to continue to selling their green leaf to the multi-national companies! We accept that they should be licensed. But it should not be on the whims of the Board. There should be rules which specify what conditions are required to start a tea factory. If you look at the Act, there are no rules which specify what a large scale tea planter has to fulfil, before he is granted a licence to manufacture tea. The people of Kericho and Nandi Districts who have applied cannot get a licence because there are no rules. We want rules but not at the whims of people who sit on the Board!

Section 13 subsection (ii) reads:-

"The Board may, after consultation with the Minister, issue a manufacturing licence, subject to such terms and conditions the Board thinks fit. Or may, after such consultations, refuse to issue a manufacturing licence on any ground which may appear to the Board to be insufficient."

There should be rules and not what the Board thinks. I believe that, the Minister will listen to our feelings. We are expressing the feelings of those who elected us here. We know that tea, if properly liberalised, would save this nation. Kenya has a lot of areas which can produce world-class tea. Although we have been having a problem of our tea being blended--

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Sambu, I just want to draw your attention to stick to the main Bill. This is because Section 13, which you are referring to, and which is on the Memorandum of Objects and Reasons, is not necessarily what is in the Bill. So, I would like to caution you not to go to the main Act, which is not the subject of the Bill that we are debating. Proceed, hon. Sambu!

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, that is muzzling democracy! This Bill seeks to amend this Act. This has been the problem in this House! We debate a Bill without looking at the main Act. We are asked to remove clause (a), or repeal this or that section, but if you do not look at the main Act, in spite of the advice given, we shall never liberalise our economy! How can we just look at the Bill, in total isolation of the very Act that it seeks to amend? All that I am saying is that, we need rules. We do not want to go by what the Board may think. If the Board thinks that hon. Sambu is not a good person, or if the Board thinks that the applicant is from the Opposition, it will not grant him a licence! Is that justice? We are only saying that the Minister, in consultation with the Committee on Agriculture, Lands and Natural Resources of this House, should make the rules. We are also conscious that we should not allow a free-for-all situation! We are seeing what is happening with coffee. I am a trained agriculturalist and I know the effects of allowing a free-for-all situation. But we cannot debate this Bill without looking at the main Act. In any case, as I said earlier, most of the main Act is composed of colonial laws. I would like the Minister to tell us when they last sought an amendment to this Act. That is the same thing with coffee. The rules must be made in consultation with the relevant Committee of this House. The Minister should not close himself up there in his Office, and make his own rules which will be in conflict with the Act. This is the problem that we have in coffee now. Some of the rules which have been made are in conflict with good agricultural practitioner of coffee.

I would like to end by supporting this amendment. All we are saying is for the good of the tea industry. It is good for the expansion of the industry to alleviate poverty. We should support those areas which have not planted tea, but are good for tea growing, particularly in Western Kenya. We should expand tea plantations and help alleviate poverty and earn foreign currency.

Thank you.

Mr. Mwiraria: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand in support of this Bill. In supporting this Bill, I would like to underline the main reasons for bringing The Tea (Amendment) Bill, 1999, before this House.

We are liberalising the tea industry, with the main aim of ensuring that, the tea farmers reap maximum benefits from their efforts in growing tea. While I agree that the Sessional Paper goes some way towards improving the lot of the farmers by separating the individual tea factories, I must underline the fact that the tea farmer, like all farmers in this country, continues to be neglected by the Ministry of Agriculture. One of the reasons why the small-scale farmer is growing between 50 and 60 per cent per hectare, of the amount of tea that would come from a similar acreage from the large scale farms, is because there is little use of fertiliser. The management of factories has not been very good, and there is poor husbandry.

I would like to suggest, through the Minister that, one area where the Ministry needs to step in and support the Kenyan farmer, is by exploring the possibility of subsidising the inputs, so that our farmers can produce goods which are competitive. We cannot do this today because we have very high cost of inputs.

Mr. Temporary Deputy Speaker, Sir, it is important for us to look at the effect of this Bill on the cost of production for the farmers and since it is our intention to assist the farmers to produce cheaply and sell at the best possible prices, I want to make the following suggestions. Firstly, KTDA should be operating at lower rates than they have been operating. The charges that KTDA levy on individual factories should be lowered because at the moment,

they seem to take a very high percentage of the tea production from each of the factories. I do hope that the Minister will address this aspect. Although we are changing the name from Authority to an agency, the agency will continue doing most of the jobs, except a few of them. The question is: How does the Ministry intend to lower the cost of KTDA services to the farmer?

I would also like to underscore a point which has already been made by hon. Keah and strongly support the increase of the value added to our tea within the country. I also strongly suggest that individual tea factories should be encouraged not only to produce and pack in big cartons, but package tea for sale in tea bags so that the value of the tea increases substantially. Countries like Sri Lanka which have done this have increased the value of the tea they sell by between 50 per cent and 80 per cent. I believe that we would be doing the Kenyan farmers a great service if we encouraged them to package their tea in tea bags and other forms so that it is sold in Europe, America and the Far-East at better prices than it is at present.

Mr. Temporary Deputy Speaker, Sir, I would also like to support those hon. Members who have spoken before me. I would like to agree with them that we should complete the elections of the individual factories as soon as possible, but we should be careful not to rush the elections and end up getting the wrong leaders. The Minister should be careful in this exercise and ensure that there are set minimum qualifications for anybody who wants to be elected as a director of a tea factory. Some of the tea factories are producing as much as Kshs500 million to Kshs1 billion in a year. That by Kenyan standards is a very large income and it should be entrusted to people who are qualified to look after that amount of money. I would, therefore, support my colleagues who have proposed that a director of a tea factory should have a minimum education of at least "O" Level and should be experienced in either business or Public Service. Besides that, nobody should be appointed a director of a tea factory unless he is a stakeholder. He must be a tea farmer who produces a substantial amount of tea leaf from his own shamba. We run the risk of getting rabble-rousers if we elect people who are not farmers. People who have organisations such as KUSSTO and KSSTGA could be good trade unionists, but not good managers. So, I really want to caution the Minister on that particular issue. We should elect directors who are properly qualified and who have a stake in the tea industry.

Mr. Temporary Deputy Speaker, Sir, the Nyayo Tea Zones which were ostensibly meant to protect forests, ended up destroying them. The Nyayo Tea Zones were meant to increase the amount of tea which we produce in this country, but they have been totally neglected in most parts of the country. In some cases, people just go into the Nyayo Tea Zones, pick the tea and take it to the factory as their own tea. In cases where the tea is still being harvested by the Nyayo Tea Zones, it is doing great de-service to the factories concerned because the tea they pick is of lower quality and hence it assists in lowering the quality of tea for some of the factories. So, I would really urge that instead of continuing with the Nyayo Tea Zones, we should accept the fact that the Nyayo Tea Zones have completely failed and they have been a drain on public funds. They do not really earn the Government any money. While we want to retain the Nyayo Tea Zone belts, the land should be handed over to the local people who could be charged a fee for getting the land together with the tea. They should be encouraged to pick the tea and at the end of the day, a small percentage of their gross earnings could go towards Government revenue. But certainly, no tea should remain in the hands of the Kenya Government.

Mr. Temporary Deputy Speaker, Sir, in summary, what I am really urging the Minister to do is, first and foremost, address the question of how to make tea growing in Kenya profitable to the small-scale grower and to the large-scale grower. I suggest that the Minister should examine the possibility of subsidising fertilizer, not only for tea, but for many other crops. I know the Government gets a lot of assistance like the PL480, so why could we not use the money we get to buy fertilizer and give it to the farmers at reasonable prices so that they can improve their crops and at the same time, lower the cost of production. Mr. Temporary Deputy Speaker, Sir, secondly, I have suggested in all honesty that we should begin assisting the tea factories to package tea in order to increase the value of whatever tea they produce when it is sold. Finally, I have suggested that the Nyayo Tea Zones should be sub-divided and, given in small lots to local people who would pick the tea, take it to the factory and perhaps, who would be charged a proportion of their earnings, say about 20 per cent. This can be worked out so that the Government does not lose both what it has invested and the forest land by giving it away for nothing.

With those few remarks, I beg to support.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Deputy Speaker, Sir, thank you very much. Indeed, I will be very brief. First, I wish to support the Government's efforts in trying to streamline both KTDA and the Coffee Board of Kenya. Where I come from, my electorate comprises of people who grow tea and coffee. They are very happy at what is going on in these two sectors. They are tired of their money being misused and they are happy to see that those who misuse money are removed from those positions.

Mr. Temporary Deputy Speaker, Sir, the areas where we grow tea, are also the areas where rainfall is heavier than anywhere else. I wish to suggest that the Government borrows money and finances the tarmacking of those tea roads. Tea cess can be used to service that loan. If we took a long-term loan to tarmac those roads and then used tea

cess to service the same, we would have resolved the problem of where cess money should go. Presently, tea cess is being managed properly because it has been given to farmers, unlike the coffee cess. But in some areas like in my constituency, for the last few years, coffee cess has been given to an individual just because he happens to represent the coffee growing areas in the district. We have complained and these complaints have fallen on deaf ears. An individual uses that money the way he wants. He goes to your road and employs maybe ten people and pays them a little money and he says that money is finished. Tea cess is being used properly, but I am suggesting a method where it could even be used in a better way. The cost of putting up a tea factory has been very high. Sometimes you are told it costs between Kshs450 million and Kshs600 million. I believe there is something fishy in the deals that raises the putting up of a tea factory to that level. There should be more transparency. Let the local people do their own sourcing of contractors and machinery and I am sure the cost of putting up a tea factory will go down even to Kshs150 million or Kshs200 million where farmers would save Kshs400 million for themselves.

Mr. Temporary Deputy Speaker, Sir, I also wish to point out to the Minister that tea farmers would like to see an election of directors of tea factories where they all participate not by delegates. Presently, in many areas, delegates from the tea collection centres are the ones who go and elect the chairman and other directors to manage a tea factory. This method is wrong. Let farmers be involved. Let them feel that we elected so and so to be our chairman and director. In that way, those who have been elected will also feel that they are responsible to those who elected them and so they will serve them well. However, when they are elected by directors, they can always "buy" and misuse these directors who are representing collection centres.

Mr. Temporary Deputy Speaker, Sir, since I said that I am going to be very brief, the last point, I want to say is that the Kenya Small Scale Tea Growers Association (KSSTGA) was financed -and I do not fear to say so - by the directors of KTDA so that they would safeguard whatever they might have looted. Consequently, when farmers complain in this transition period, the KSSTGA would work in support of the directors so that they are safe. So, I think the Minister should, in all sincerity scrap this body. At the same time, I wish to call upon those who incite farmers to stop picking their own tea to cease forthwith. KUSTO is the wrong organisation because it agitates for non-picking of tea. Farmers should know what they lose by not picking tea. The loss goes to the farmers and not to anybody else. The Government does not lose when the farmer does not pick his or her own tea. It is you as a tea farmer who loses. So, the bodies that incite farmers against picking their tea should not be allowed to operate. Farmers should never be incited to stop picking their own tea.

I support.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, thank you very much. I rise to support this Bill because I also represent a constituency that grows tea and we are very keen that these changes do come. I thank the two Ministers for the way they have taken the matter very seriously. I am sure that when these changes are implemented, we will make progress.

Now, there are other aspects which should be brought to light now. First and foremost, it has been suggested that we follow what Ceylon has done by going into partnership internationally with those who do the marketing of tea. You take companies like Liptons and you will find that they buy tea from all these primary producers in Africa and other places. They then process and market it under their own names in Europe and in America. If you calculate, processed tea is marketing at a cost which is almost four times what we get when we sell the tea. Now, the technical aspect of processing our tea so that it is now packaged in the small packages is very small and there is hardly any complication. The problem is with marketing, and I suggest that we in Kenya, without being shy about it, should just approach those who are now controlling the actual market and we propose that we go into a joint venture and establish the process here in Kenya. This is because we shall create employment and also earn a bit of money because as I said, the value added is almost four times when you process the tea further. It is of course the same with coffee but it is even easier with tea than the latter. We should just approach one of these giants and I am sure they would welcome it. After all, in our investigation and I am sure that the Ministry officials know it, Kenya tea is primarily bought for blending with other poorer quality teas of the world so that it fetches that premium price because it is needed for blending. So, we can also buy tea from other sources and let us do the blending and packaging from here.

Mr. Temporary Deputy Speaker, Sir, if there is need for an incentive, we can plead with the Government to give a tax relieve for whoever is going to set up such a plant in Kenya. You can be told: "If you come, you will not pay tax for the first three years". This is because we are seeking to create employment; that is our primary problem and here is a chance we have to do that. I am sure that this is the way we should be thinking about and I am sure through that way, we shall find a very useful and meaningful solution.

Everybody has mentioned that we need to carry out elections in each factory before the handing over. However, who will supervise the elections? By next year, KTDA will not exist as an Authority, but only as an agency.

KTDA as an organisation should only be an agency. I think it is only the Ministry which can now supervise it. I do not see anybody else who can do it. If it is the Ministry, then they need to begin organising it now, so that they can

hold meetings in each factory around the country in order to talk to farmers and above all, to explain to them the size of the job that the farmers' directors will be taking on.

As it is today, every ordinary person who is growing tea believes that he can become the chairman of the factory company and many of them have never even run a kiosk! They are asking to become the chairmen of a factory companies whose turnover in a year is Kshs800 million, Kshs900 million, Kshs1 billion *etcetera*. Even the smallest factories have a turnover of Kshs400 million to Kshs500 million a year. There are people who have never run any business of any nature and they are not shy, they are actually campaigning right now. I am sure that the Minister, coming from a tea growing area, is aware of it. The campaign is already going on now. Those who actually want to become the chairmen of the factories, campaign for the chairmanship because they can see it as a big business. They are already working at it.

Mr. Temporary Deputy Speaker, Sir, there is need to address the farmers, and all of us as hon. Members, can help or if we are not needed; in case you fear that we may bring in some politics, we can keep away and attend purely as tea growers. We need the Ministry because that is the only institution which can take on this job since the KTDA will not be there. The farmers should be explained about the size of the job we are seeking. But rules which are going to be made should do what has been proposed. We need to set a minimum qualification. But then, actually people need to be informed about the size of the job for which they are going to be choosing managers and directors.

Mr. Temporary Deputy Speaker, Sir, thirdly, the KTDA has a lot of staff in the field. Many of the staff have been employed, not because they are of any use to anyone, but just because they knew whoever was the boss that time. Therefore, when these factories take over, they must have the authority, not to be burdened with people who were recruited without reference to their efficiency or even capacity. The Board of Directors must have the freedom to employ people of efficiency and capacity. So, whatever rules that have been drawn, the new Board of Directors must have the freedom to either take those who are there or recruit new people. We do not want to be loaded with all those people.

Mr. Temporary Deputy Speaker, Sir, there was a proposal about new factories. I know it was mentioned by many hon. Members, but since in the rules and everywhere else, it has not been stated very precisely as to who is going to take over the responsibility of negotiating for finance and so on--- This is because we do not want to lose time. I do not know how many factories were proposed. I do not know whether they were seven or nine.

An hon. Member: They were nine!

Mr. Kibaki: They were nine. It is necessary that we do not lose those opportunities but, let us also take care of what was said about the price that was being charged. This is because, definitely, there is something fishy when a private contractor constructs a factory in his own tea estate for Kshs375 million and we are told that, ours under the KTDA scale must be Kshs500 million. It is not possible because the suppliers are the same, everything is the same, it is only a question of people who were "eating" all those commissions. Now that they will not be there, we presume, we want to---

An hon. Member: They will be replaced!

Mr. Kibaki: Yes,! They will be replaced; but we want only the owners of the factories to replace them.

Mr. Temporary Deputy Speaker, Sir, indeed, that is the point I was coming to because it was left untouched during those negotiations with the KTDA. When the KTDA eventually becomes an agency, we then do not need the headquarters, which is so expensive to run and, it is paid for by the farmers. The headquarters of the KTDA is too expensive to run and, in fact, you only need one quarter of the staff that we now have at the headquarters. When these authorities are devolved to the factory companies, the headquarters does not need to have more than one quarter of the staff which we have now. Therefore, it has to be reduced as quickly as possible because we are the ones who are paying them. If we leave it to them to determine the timeframe over which they want to phase them out, they will tell you that, everybody will be needed and we know that, they will not be needed. This is because what has been listed in the Sessional Paper, as the powers that will go to the factory that is where the activity will be. We will not need that headquarters!

With regard to the headquarters, we need the Ministry to protect us as growers. This is because monies were levied so that the headquarters may be built and some buildings in Nairobi may also be bought, which were not even needed. Those assets belong to us as growers and they cannot be left as assets of the KTDA because the KTDA will not need those assets as it will not have any staff there. There is no reason why the KTDA should continue to earn money from buildings which they have bought with cess from we farmers. So, if those buildings are to remain there and the money is earned from them, we have to find a way in which the money will be distributed to the growers, because that is the only fair thing that can happen. Otherwise, we should sell them. But this is not the right time to sell them. The property market is much too down and we do not need sell them now, it is the wrong moment to actually sell the assets. But it is a very major issue. The assets of the KTDA belong to the growers and the KTDA as an agency, does not need all those buildings. We shall need to face that particular issue.

Mr. Temporary Deputy Speaker, Sir, finally, I agree with those hon. Members who have said that, we do not need to rush over this Bill. We can go over it for two to three months; provided that we begin now to explain the tea growers the role it is going to have from now onwards. Three months should be adequate as a transition period and that will be quite reasonable. Now, concerning the issue of the structure; because in the Sessional Paper, not in the law, there is still mention about those middle organisations called KUSSTO, or Kenya Small Scale Tea Growers Association--- It looks like the Ministry had yielded to what was being proposed by the KTDA that, we needed a middle organisation. So, the Minister must think again, whether he really needs another middle organisation.

An hon. Member: A trade union!

Mr. Kibaki: We do not need a trade union because if I am a small scale tea grower and I sell my tea through factory X, why do I need another organisation? If I am also going to choose the directors of my factory, why do I need another organisation between me and my factory? I do not need such an organisation!

Mr. Temporary Deputy Speaker, Sir, the reason why we are objecting to this is that, any new organisation will also be financed by a levy on the tea growers. We are paying too many levies. So, where there is no need for these organisations, we do not need them. But it was the KTDA which registered these organisations. I am telling you that, they use large sums of money. This is because even in one meeting in Nairobi, they spend a lot of money on a small agenda. It is a very expensive organisation for no good reason. So, it needs to be looked a very carefully whether we need that organisation. I do not see its role. It is not spelt out in the law, but in the Sessional Paper, it is recognised that we need a middle organisation which we actually believe we do not need. This is because in all other factories, shareholders are direct shareholders and they go to the annual shareholders meeting and it should be like that so that we remove that cost wherever it was.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I think this Bill has been debated for a very long time and now, there seems to be a lot of repetition. Would I be in order to move that the Mover be called upon to reply?

The Temporary Deputy Speaker: It has been proposed from the Floor of the House that the Mover be called upon to reply.

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

The Minister for Agriculture (Mr. Obure): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First of all, I want to take this opportunity to thank my predecessor, hon. Mudavadi, for all the tireless efforts he put in to prepare both the Sessional Paper and all the other documents including The Tea (Amendment) Bill which we are discussing. I also thank the Members of the Departmental Committee on Agriculture, Lands and Natural Resources for the valuable contributions they have made in arriving at this document. Let me also thank Members of this House who have made their contributions. They have articulated the various issues very effectively. I must say that I have found these contributions very, very informed and for all that, I thank hon. Members.

Mr. Temporary Deputy Speaker, Sir, we have now passed the Sessional Paper---

QUORUM

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Musila): Yes, there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, we now have a quorum. Proceed, Mr. Minister.

The Minister for Agriculture (Mr. Obure): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank hon. Members because we have been able to pass the Sessional Paper which gives a vision for the development of the tea industry in this country. It also gives the direction in which the tea industry will follow towards greater prosperity.

Mr. Temporary Deputy Speaker, Sir, this afternoon we are passing The Tea (Amendment) Bill which I hope will be passed and which will be a major step towards liberalising and restructuring this important sector in our country. Once this Bill is passed, the mode of operation in this sector will change dramatically. The Kenya Tea Development Authority (KTDA) which has featured prominently in the leadership of the small-scale sector will find

itself competing with other firms in seeking to manage tea factories for small-scale holders.

Mr. Temporary Deputy Speaker, Sir, it is my hope and that of many Kenyans that what we are doing this evening will be a milestone in the development of the tea sector. It will empower the farmer in managing matters pertaining to the growing and processing of tea. We hope that it will enhance efficiency by reducing costs at all levels. It will also enhance the total role of the private sector and, therefore, hopefully, trigger greater economic activity in the country's economy, as a whole.

The Bill we are about to pass will strengthen the role of the Tea Board of Kenya, for purposes of more effective supervision of the industry as a whole. We hope to achieve greater acreage, and encourage more people in this liberalised sector, to plant tea. We hope that the earnings that will go to the rural sector in particular will enhance income, bring greater development and reduce the poverty levels in those areas. We hope to achieve more prompt payments to the farmers for their crop and minimise mismanagement and corruption, which have characterised this sector in more recent days.

Above all, we hope to achieve greater quality of output, so that, again, we can enhance our earnings. In all these, the bottom line is that we want to increase earnings that accrue to the tea growers. The point of value addition to tea has been made by various speakers, including the Official Leader of the Opposition. This is an important aspect, and that is the direction in which we are now moving. We would like to encourage tea processors in this country to undertake packaging and selling of Kenyan tea; we believe that will enable Kenyan farmers to earn more in terms of foreign exchange for improvement of their welfare. The points that have been raised in this House are of very valuable to the tea sector. I would like to assure hon. Members that we will take up the various suggestions that have been made.

Mr. Temporary Deputy Speaker, Sir, another issue that was raised here is that of tea ownership. This issue is addressed in both the Sessional Paper and the Bill; it is now clear that both the tea leaf and processed tea belongs to the farmer until it is sold and the farmer paid for it. This is a very important point, which is underlined in both the Bill and the Sessional Paper. A question was asked as to whether we will start implementing the provisions of both this Bill and the Sessional Paper from 1st January, 2000. I would like to say that we, initially, intended to conclude this process by last October but, due to the various delays, it has not been possible for us to do so. So, we are monitoring the situation very closely; it might be necessary to issue a legal notice to provide for a little delay after 1st January, 2000. However, I would like to assure this House that there is utmost good faith in whatever we are doing, and that we want to hand over the entire industry to the farmers within the shortest time possible after 1st January, 2000.

Also, the issue of access roads in tea producing areas featured prominently during debate. We have realised it is necessary to have good access roads, so that tea leaves can be taken to factories for processing quickly. This will result in having quality tea, which will guarantee more earnings to the farmer. Therefore, this is a question to which we are attaching utmost importance, in conjunction with both the Ministry of Information, Transport and Communications, the tea cess committees and the local authorities. Hon. Members raised the question of raising the monthly payments to tea growers. This is a matter we are pursuing vigorously to establish whether it will be possible to increase the monthly payments from the current rate of Kshs6 per kilogramme of green tea. We believe that, by doing so, more income will flow to rural areas on a more regular basis. Farmers will be able to plan the use of their money more effectively.

Mr. Temporary Deputy Speaker, Sir, on the question of construction of new tea factories, I would like to assure this House that, already, there are commitments to construct nine new factories: One will be put up at Gachege in Thika District. The construction of another factory is set to start any time from now at Gacharagwe in Maragwa District; another one will be put up at Nditu, also in Maragwa District. Other tea factories will be put up at the following places: Kathangiriri in Embu District; Weru in Meru South District; Kionyo in Meru Central District; Chemamul in Kericho District; and Yanchore in Nyamira District. Another tea factory will be constructed in Gucha District.

The policy that has been derived from the Sessional Paper is that farmers will make some contribution to the tune of approximately 30 per cent of the total costs of constructing these factories. The new thinking in the Ministry as well as in the tea sector, generally, is that it is possible to construct these factories at a lower cost than that incurred in previous similar undertakings. We believe that with greater transparency on the question of constructing tea factories, it is possible to achieve this at much reduced costs; this is being pursued. The second point I would like to talk about is that---

Mr. Ndwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has confirmed that it is now possible to build a tea factory at a lower cost than the sum of Kshs450 million announced by the Kenya Tea Development Authority (KTDA). Now that Kathangiriri farmers have Kshs140 million, when will the construction of this factory start?

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndwiga, you are out of order; you cannot rise on a point of order and ask a question. If you want to ask the Minister a question, wait for the appropriate time to come.

The Minister for Agriculture (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, the point I would like to make is that we want the construction of new tea factories to be done on a very competitive basis. We believe that with transparency and stiff competition in bidding, it will be possible for us to achieve these levels. I would like to assure hon. Members that the money that has so far been collected by various farmers towards the construction of new tea factories is safe. The money is deposited in banks approved by the Central Bank of Kenya, and will be utilised at the appropriate time. Negotiations are currently very actively going on. We believe that in the course of next year, the construction of some of these factories will start. We are also considering the possibility of constructing factories with lesser capacity and not necessarily the ones that can process 15 million kilogrammes, as it has been said. Right now, the Kenya Tea Development Authority (KTDA) is vigorously re-organising itself. It is processing the formation of the KTDA Management Agency which is a new company. Therefore, it is gearing itself for the new status it will assume from January next year.

Mr. Temporary Deputy Speaker, Sir, I would like to say something about the Kenya Union of Small-Scale Tea Organisation (KUSSTO) and the Kenya Small-Scale Tea Growers Association (KSSTGA). We believe that the most important thing here is to ensure that elections of tea directors is done in a transparent manner. If the directors at the factory level were appointed by all tea farmers in a fair and straightforward way, we believe that there would be no need for them to seek the intervention of organisations like the KUSSTO and the KTDA which operate on the principle of trade union organisation.

So, our role as a Ministry will be to ensure that the tea farmer is given a chance to elect directors of his own choice so that he will have a voice in the management of his own organisation through them. Similar to what other registered companies, like the Barclays Bank of Kenya and the Kenya Breweries Limited (KBL) do, shareholders do not need an intermediary. They make their own decisions and we believe that, that should really be the way forward for the tea farmers. There is no need of creating intermediaries which will "eat" the earnings of the farmers. With these few remarks, I beg to move.

(Question put and agreed to)

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

Second Reading

THE KENYA ROADS BOARD BILL

The Minister for Roads and Public Works (Eng. Kiptoon): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Roads Board Bill be now read a Second Time. Hon. Members of this House must have been aware of constraints to timely and proper road maintenance in [**The Minister for Roads and Public Works**] this country. These constraints have been identified as institutional, managerial and financial constraints. It was, therefore, decided way back that a sustainable source of funding be established to maintain our roads and also that the existing management institutions set up be reviewed in order to enhance efficiency in the provision of good roads for our people.

Way back in 1993, the Road Maintenance Levy Fund Act was enacted and reviewed in 1994 to address the financial constraints to road maintenance. Since that time the Fund has been rising to the extent that we currently collect to the tune of about Kshs6.5 billion per annum.

Later on, the Government set up the Road Sector Institutional Studies (ROSI), which were to look into the other constraints that deny us an efficient road network. In its report of 1998, the ROSI recommended the institutional establishment of an Executive Roads Board and Roads Agencies. The Roads Board would be a purchaser of road work services from Roads Agencies, which will be responsible for road maintenance, rehabilitation and construction services at values that would be realistic. The Kenya Roads Board Bill, which is before the House is as a result of that study. Therefore, the Roads Board will be a major reform step in the management of Kenyan roads.

Mr. Temporary Deputy Speaker, Sir, we have all heard complaints about shoddy work in the country, or money being spent unscrupulously by individuals or contractors. This has come about due to lack of a supervisory body that would award tenders. It has been easy to have an individual, either a Minister or a Permanent Secretary being open to influence, because as a person, he will not resist the influence of money, political power and tribalism. This is what we generally call corruption. This vice sets in because the decision to spend that large amount of money was vested in one person. As the amount of money collected from the fuel levy continues to rise to the tune of Kshs 6.5 billion now, it is imperative that influence is kept off from decision making.

The Chair is also aware that in the past, some individuals in authority had the audacity of actually influencing the construction of roads in their own areas in order to gain favours from their own community, or to get votes to come to this House in future. In some cases, some people have influenced the construction of roads up to their homes because they had authority to do things on their own. Therefore, it is necessary that we, as a Government, set up a mechanism that will keep off the bad influences. It is also necessary to set up a body that will account for the money that is obtained from the fuel levy.

The Bill is for an Act of Parliament to provide for the establishment of the Kenya Roads Board in line with recommendations of the ROSIS of 1998, which I had mentioned earlier on; and also in line with the promises made by the Government to establish an autonomous Executive Roads Board to manage the Road Maintenance Levy Fund and road maintenance, as indicated in the 1997/2001 National Development Plan. It is also in line to establish an autonomous Roads Board as announced in the Budget Speech of last year and restated in the 1999/2000 Fiscal Year. We all recall that when the Minister for Finance made his Budget Speech, he mentioned that there is need to have a Roads Board in place in the 1999/2000 Financial Year.

Therefore, it is in this line that the Government finds it necessary to consult the House, being the supreme authority of the land to allow for the establishment of this body that will cater for the provision of good road network within our country. This would be the actual authority that would manage our roads. We are going to have agencies under it providing the actual service, be they local government, the Kenya Wildlife Services or the department of roads in the Ministry. All these and anybody else who will want to provide road services will be doing so as an agent of the board. The Government is currently thinking of privatising some of our major roads. We are considering that it will be necessary in due course when our traffic flow allows for this. We will make the decision to allow some of our trunk roads say, from Mombasa to Nairobi, from Nairobi to Thika or from Nairobi to Nakuru to be built to high standards whereby, maybe you will get two lanes going down to Mombasa and two coming up to Nairobi or two lanes going to Nakuru and two others coming to Nairobi.

We are thinking of reaching a stage where we shall be calling upon contractors to build, operate and later on transfer the whole road to the Kenyan people. This would mean that the issue of somebody being given concession, say for a period of 20 or 30 years, to manage the road.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, today being Thursday, I have no items under zero hour. It is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, the 7th of December, 1999 at 2.30 p.m.

The House rose at 6.35 p.m.