

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th December, 2011

The House met at 9.00 a.m.

(Mr. Deputy Speaker in the Chair)

PRAYERS

NOTICE OF MOTION

DEPLOYMENT OF KENYA DEFENCE FORCES UNDER AMISOM

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that the Inter-Governmental Authority on Development (IGAD) and African Union (AU) Extra-ordinary Session attended by the Heads of States called upon Kenya to consider the integration of its forces in Somalia into the African Union Mission in Somalia (AMISOM), a regional peace-keeping mission operated by the African Union with the approval of the United Nations and which is mandated to conduct Peace Support Operations in Somalia; noting that the African Union plans to engage the United Nations Security Council on this matter, on or about 19th December, 2011; this House approves the deployment of the National Security Forces in Somalia to serve under the auspices of AMISOM pursuant to provisions of Article 240 (8), (a)(i) and (ii) of the Constitution.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. While I rise to support the Motion by---

Mr. Deputy Speaker: Order! It is a notice of Motion! You cannot debate or discuss the content of the Motion! You can only rise on a point of order on procedural matters. What is the procedural matter?

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir, for that correction. Actually, I am rising on a procedural matter. Given that the country is at war and the sensitivity of this matter--- This is not the first time we are discussing the matter. I am seeking your direction that, while I support the Motion, we should discuss it in camera when you approve it, given that the matter is very sensitive.

Mr. Deputy Speaker: You will rise on the same at the time when the Motion is being moved. The Motion is slated for this afternoon.

QUESTIONS BY PRIVATE NOTICE

IMPOSITION OF DUTY ON MEDICINAL PRODUCTS IMPORTED BY
BETA HEALTH CARE INTERNATIONAL

(**Mr. Kutuny**) to ask the Deputy Prime Minister and Minister for Finance:-

(a) Under what circumstances did the Kenya Revenue Authority (KRA) impose duty on medicinal products Sandoz Calcium (Forte) 500MG and Calcium Sandoz 1000MG imported by Beta Health Care International Limited and yet such products are zero-rated?

(b) What informed the decision for the tariff reclassification of the two products from Medicine (HS Code 3004.90.90) to Food Supplement (HS Code 2106.90.90) and imposition of duty retrospectively, from 2008 to 2003?

(c) Why is KRA also demanding over Kshs.127 million from Beta Healthcare on imported products that were re-exported and why has KRA since attached Kshs.33 million from the Company's VAT Receivable Account and frozen some of its bank accounts?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): On a point of order, Mr. Deputy Speaker, Sir. This Question came up here on 16th November, 2011. Before I answered the Question, I sought direction from the Speaker as to whether the Question was properly before the House because it was *sub judice*. I tabled a Motion of a ruling by the court, but the Speaker ruled that the document was not valid because it was not properly signed by the court. I was, therefore, asked and directed by the Speaker to bring all the necessary documents to prove that this matter was actually *sub judice* before the Question could be dealt with on the Floor of the House. That is what I have done this morning. I have brought some documents from the court to prove that this matter is, indeed, *sub judice*. It is before a court of law. I want to table them so that you can scrutinize them and agree or disagree as to whether the matter is actually *sub judice*. If you agree with me, perhaps, without the Question being asked again, I can table the documents before the House.

Mr. Deputy Speaker: The Question is not formerly on the Floor of the House! You can only rise on a point of order when the Questioner asks the Question.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I just wanted to clarify my point of order.

Mr. Deputy Speaker: Order! Even then, you can only rise to clarify after it is validly before the House! A Question is only valid before the House when an hon. Member stands up and says: "Mr. Speaker, Sir, I beg to ask Question so-and-so". Is that clear with you now?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question by Private Notice!

PLANNED EVICTION OF FAMILIES LIVING IN KWABULO

Mr. Joho: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware of plans by the Government to evict more than 4,000 families living in Kwabulo in Kisauni Constituency?

(b) Could the Minister provide the names of persons and/or companies that have been allocated the said land and state from whom they acquired the land and at what cost?

(c) Could the Minister clarify whether there have been any transactions in relation to the said land and state what measures the Government will take to ensure that the residents are not evicted?

Mr. Deputy Speaker: Minister for Lands! Is the Minister not here? We shall come back to the Question later.

Next Question by Mr. Olago!

ORAL ANSWERS TO QUESTIONS

Question No.1307

NON-CANCELLATION OF FRAUDULENT TITLE DEED

Mr. Olago asked the Minister for Lands:-

(a) whether he could inform the House why the Kisumu District Land Registrar failed to cancel the title deed fraudulently issued to one Mr. Salim Mupelele Said in respect of L.R. No. Kisumu/Dago/39 contrary to his commitment to do so vide a letter dated 16/4/1987; and,

(b) why Mr. Salim Mupelele Said is frustrating the family of Mr. Olang'o Ongudi and St. Antony Dago Kokore Secondary School from transferring the parcel of land to the school.

Mr. Deputy Speaker: Is the Minister not here? We will come back to the Question later. Question No.1008 by Mr. Ganya!

Question No.1008

REPEAT OF CENSUS EXERCISE IN NORTHERN KENYA

Mr Deputy Speaker: Mr. Ganya is not here. Next Question by Dr. Kones!

Question No.1059

RECONSTITUTION OF TEA BOARD OF KENYA BOARD

Dr. Kones asked the Minister for Agriculture:-

(a) when she will reconstitute the Board of Tea Board of Kenya in line with the Tea (Amendment) Act 2010;

(b) when she will publish regulations to guide the involvement of the farmers in the management of the tea cess for maintenance of rural roads as envisioned in the Act; and,

(c) when she will amend the rules for elections of factory directors of KTDA managed factories from voting by shares to one-man-one vote as per the wish of the small scale tea growers.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I will reconstitute the Tea Board of Kenya in line with the Tea (Amendment) Act, 2011 as soon as the miscellaneous amendments, through which I have proposed to increase the number of loans, are effected.

(b) I cannot publish regulations to guide the involvement of farmers in utilisation of tea cess because, through the miscellaneous amendments of 1999, to the Agriculture Act, Cap.318, cess collected in respect of tea and coffee shall be transmitted to the respective District Roads Committee covered under the Kenya Roads Board Act, 1999.

(c) I cannot amend the rules for election of factory directors of the Kenya Tea Development Authority (KTDA) managed factories because KTDA factories operate under articles of association as enshrined in the Companies Act.

Thank you, Mr. Deputy Speaker, Sir.

Dr. Kones: Mr. Deputy Speaker, Sir, while appreciating the answer given by the Assistant Minister, I do not know whether he understood the Question. He is talking about bringing some amendments to an Act that is even yet to be operationalised. This House passed a Bill which was assented by the President on 21st March, 2011 but to date, the Act has not become operational. So, I wonder what he means by bringing some miscellaneous amendments when the Act is very clear on the membership of the Tea Board of Kenya. I have the Act here, and it provides for three Permanent Secretaries, two representatives of factory organisations, one person from plantation tea producers and one representative of tea auctioneers. This is very clearly spelt out. What amendments is the Assistant Minister talking about? What are those amendments supposed to do when the Act states clearly who the members of the Board are?

Mr. Mbiuki: Mr. Deputy Speaker, Sir, we are seeking to amend Section 3 of the revised Act, so that the Minister can appoint nine members. The Act says that there will be nine elected members, but, unfortunately, when it comes to the tabulation, we are ending up with seven. So, we want to add two more slots, so that we are in conformity with the current Act.

Mr. Mbau: Mr. Deputy Speaker, Sir, can the Minister explain who is managing the tea sector now that the Kenya Tea Board is in limbo? Who is in charge of the processing and regulation, on behalf of the small-scale farmer, now that the Board is not in existence? We do not have to have the Government micro-manage this sector.

Mr. Mbiuki: Mr. Deputy Speaker, the current Kenya Tea Board is in operation. The next Board will be constituted when the term of the current Board expires in 2013.

Mr. Deputy Speaker: Last supplementary question, Dr. Kones.

Dr. Kones: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading the House by saying that the term of the Board will expire in 2013 when there is a new Act which abolished the current Board. Is he in order to mislead the House by saying that the Board is in existence when there is a new Act which has brought in a new Board, which is completely different from the Board that existed before?

Mr. Mbiuki: Mr. Deputy Speaker, Sir, the new Act did not abolish the current Board. The Minister for Agriculture will be able to reconstitute the Board and we are

saying it is important, therefore, to accommodate the existing Tea (Amendment) Act; there is a provision intended to facilitate and realign the composition of the Board as stipulated; it will consequently enable the dissolution of the Board whose term will expire in 2013. So, the current Act has not at all abolished the existing Board. Once the current Board expires in 2013, the new one will be constituted. That is why we are proposing some miscellaneous amendments before 2013, so that the new Board can be in place.

Mr. Deputy Speaker: Next Question, Mr. Chanzu.

Question No.1175

NON -ISSUANCE OF TITLE DEEDS TO RESIDENTS OF SHAVIRINGA

Mr. Deputy Speaker: Is hon. Chanzu not here? We will come back to this Question

Next Question, Dr. Nuh.

Question No.1223

ISSUANCE OF NATIONAL IDENTITY CARDS

Mr. Deputy Speaker: Is Dr. Nuh also not here? We will come back to the Question.

Next Question hon. Peter Kiilu!

Question No.1232

DISMISSAL OF POLICE CONSTABLE G.K. MBINDA

Mr. Kiilu asked the Minister of State for Provincial Administration and Internal Security:-

(a) under what circumstances Police Constable Gerald Kioko Mbinda (P/F No. 54962) was dismissed from the Force on 30th April, 2009; and,

(b) whether he could consider reinstating him.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I have already dealt with this Question. What was remaining was to find out whether it was possible for this particular officer to be reinstated.

I have also received some information from the Questioner, and I would request that Constable Gerald Kioko appeals directly, through the presiding officer, in order for us to work on this particular case. That would be the best way to go about this matter.

Mr. Deputy Speaker: Hon. Kiilu, are you satisfied with that?

Mr. Kiilu: Mr. Deputy Speaker, Sir, I am not satisfied with this answer. Indeed, the officer appealed but the Assistant Minister did not take cognizance of that appeal when you directed that he comes back to tell this House why the officer was suffering double jeopardy, given that he had been charged under Orderly Room proceedings and

subsequently charged in a court of law. In his answer, the Assistant Minister failed to state anywhere that this officer had been charged in court. Indeed, it would not be fair for this officer to be told to appeal again when he had already appealed. The Assistant Minister's officers kept this information from him.

Mr. Ojode: Mr. Deputy Speaker, Sir, I was taking this matter seriously because of the information I got from the Questioner. The officer did not appeal as per the procedures. The letter that he wrote, which was purported to have been an appeal, was done by the Questioner, and he is the one who took it to the Commissioner of Police. What I am saying is that the officer should appeal through the right channel, by giving it to his presiding officer, so that it can go all the way to the Commissioner of Police. That is when his appeal will be heard. The way he did it is not right. The officer wrote the appeal and gave it to the Questioner and the Questioner took it to the Commissioner of Police, thereby avoiding the other officers below the Commissioner of Police.

Mr. Deputy Speaker: Mr. Ojode, are you sure that you are answering to the sentiments of the hon. Member? I thought the hon. Member said that the officer has been subjected to double jeopardy, which means that he has already been taken to court on the matter.

Mr. Ojode: Yes, he has been taken to court.

Mr. Deputy Speaker: Order! Order! The matter was dismissed. Ordinarily, if an officer is taken to court and the court finds that he has no case to answer, does that warrant a dismissal, in the first place? Is that what the hon. Questioner is asking? Hon. Questioner, are those your sentiments? Are you questioning the dismissal itself given that the officer has been acquitted by a court?

Mr. Kiilu: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Assistant Minister, can you answer to that one?

Mr. Ojode: Mr. Deputy Speaker, Sir, we would not know whether the court acquitted him. That is why we are saying he has to appeal through the laid down procedures. There is a committee which listens to appeals.

Mr. Deputy Speaker: Does that committee listen to appeals against interdiction or dismissal?

Mr. Ojode: Mr. Deputy Speaker, Sir, it listens to whatever the case may be. He should apply and give reasons as to why he wants to be reinstated. In his appeal, he can explain that he has already been taken to court and acquitted. He can appeal against wrongful confinement and wrongful charges preferred against him.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading the House that this officer needs to appeal, yet the officer has appealed using the laid down procedures? I have here documents showing that the police officer appealed through the right procedure. He directed his appeal to the Commissioner of Police, through the PPO, Nairobi, the OCPD, Central, and the OCS, Central. What other procedure does he expect this police officer to use? Earlier this Assistant Minister used to do a good job, but after the ODM elections took place, he became a bit confused. Is he in order?

Mr. Ojode: Mr. Deputy Speaker, Sir, we should not play around with matters relating to dismissals. Writing through somebody and taking it through that somebody are two different things. He wrote an appeal to the Commissioner. In fact, he wrote the appeal through the presiding officers. Now, those presiding officers who were supposed

to sign and recommend the appeal never got their copies. So, the appeal letter that we have does not have any signature of the presiding officers.

Mr. Kiilu: On a point of order, Mr. Deputy Speaker, Sir. Indeed, this officer appealed. I have a copy of the appeal letter here and I wish to table it.

(Mr. Kiilu laid the letter on the Table)

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. This officer has been dismissed and once that has been done the officer leaves service and even the station. Is the Assistant Minister in order to mislead the House that the same officer can appeal through an OCS who does not recognize him as one of his officers?

Mr. Ojode: Mr. Deputy Speaker, Sir, when you are talking about an individual and an institution, those are two different things. You can appeal to the Officer Commanding Station (OCS). You will not be appealing to Mr. John Olago Aluoch, the OCS!

(Loud consultations)

You know, you guys must take this thing seriously because somebody has lost his job.

Mr. Deputy Speaker: Order, hon. Members! Order!

Mr. Olago: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Can you be informed by Mr. Olago?

Mr. Ojode: No, I do not want information, Mr. Deputy Speaker, Sir. He does not work with security people; so, he would not know what we are talking about.

Mr. Deputy Speaker, Sir, my colleagues must take this thing seriously because Mr. Kioko is out of a job, and we want a way of assisting him. So that he is reinstated to his job, Mr. Kioko should appeal and take his appeal to the OCS to sign. The OCS will then take the appeal letter to the OCPD to sign. The OCPD will take the letter to the PPO who will eventually take it to the Commissioner of Police. Finally, the letter will be taken to the Committee which will hear the problem. You know some of us are just talking because they have never served in the Government and they do not know how it works. That is the procedure. In fact, I want hon. Kiilu to assist this man.

Mr. Olago: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Ojode, why do you not accept the information?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is because I do not want it.

(Laughter)

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Maybe the Assistant Minister is talking out of misinformation. Would I be in order to request that since the letters have been tabled here by the Questioner, the Assistant Minister acquaints himself with the documents which show that the procedure for appeal was followed and then he responds with information?

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this House about the procedure of appealing in the police force when he knows, or ought to know that there are standing orders in the police force,

and that such appeals must be filed to the Commissioner, but they go through the OCS, the OCPD and the PPO?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is exactly what I have been saying. The appeal has to pass through the presiding officer. In this case, the presiding officer means your immediate boss.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! There is an appeal or a request, for that matter, for reinstatement by PC.Gerald Mbinda, which has been tabled here. This has gone up to the Commissioner of Police through the OCS, OCPD, and PPO. So, indeed, there is a letter which is dated 16th February, 2010. The letter, which is almost two years old, is with us here. Do you wish to acquaint yourself with the contents of the letter?

Mr. Ojode: No, Mr. Deputy Speaker, Sir. I know what you are talking about. When you lose a job and you appeal to the Commissioner of Police, you do not take that letter of appeal to the Commissioner of Police. You go through your presiding officer, who is your immediate boss, who will recommend or sign the letter. The same letter will go somewhere else. If you look at that appeal there is nothing recommended on it, or signed indicating that it was passed to the next person.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! You are clearly out of order in this matter. When the officer appeals, the appeal ceases to be his property from then on. He does not have to carry it himself from one officer to another for recommendations. The only thing that can be in possession of the officer is a copy of the appeal that he sent for reinstatement. If you expected him to have an appeal which shows recommendations by other officers, that is not possible. The officer is not an insider in the organization to do it.

Mr. Ojode: Mr. Deputy Speaker, Sir, there are people who have not known how these procedures are followed. Once you write a letter to the Commissioner of Police through your presiding officer, it does not mean that it is you who goes physically to hand over to the OCS, the OCPD and the PPO. Once you write to the Commissioner through your presiding officer, then there will be an automatic procedure which goes all the way to the Commissioner of Police, who then refers the appeal to a committee on discipline.

When we asked Police Constable Kioko to appeal, he did so, but gave the Questioner to bring the appeal letter to the Commissioner of Police. In order for us to fast track this appeal to be heard, let Kioko follow the right channel. We will assist him; we will hear what he is appealing for.

Mr. Kiilu: On a point of order Mr. Deputy Speaker, Sir. This officer followed the procedure. I am familiar with this procedure from my past experience. I could be more familiar to this than the Assistant Minister, having worked in the Provincial Administration. So, I am convinced that this officer followed the right procedure. It is only the Assistant Minister who, for some strange reasons, is denying the officer a chance to serve this country. Is he in order to continue misleading this House that this officer did not appeal?

Mr. Ojode: Mr. Deputy Speaker, Sir, the hon. Member was a Provincial Commissioner and I agree that he knows the procedures. However, did the procedure during his tenure entail looking for the area MP to hand in an appeal? In this particular

case, Police Constable Kioko gave his appeal to hon. Kiilu. I am requesting hon. Kiilu to ask Kioko to take the appeal to his presiding officer, so that we can consider it.

Mr. Deputy Speaker: Hon. Assistant Minister, when did hon. Peter Kiilu take this appeal letter to the Commissioner of Police?

Mr. Ojode: Mr. Deputy Speaker, Sir, hon. Kiilu should be the one to answer that, but allow me to check the information. The information I have, which he has not denied because he is a good friend of mine, states like this:

“The Minister cannot consider the officer for reinstatement as he did not appeal against the sentence as advised by the PPO, Nairobi. This is in a letter reference BEEST115 Vol.1120 dated 18th May, 2009”.

It was not until 11th March, 2010 when an appeal was forwarded to the Commissioner of Police by hon. Peter Kiilu contrary to the procedures which require an appeal to be done within seven days through the presiding officer. That means your immediate boss takes your appeal through the right channel.

Mr. Kiilu: On a point of order, Mr. Deputy Speaker, Sir. I deny what the Assistant Minister is trying to tell this House. Indeed, I did not appeal for this officer. What I have tabled here is a copy of the appeal by this officer to the Commissioner of Police through the right channel.

(Applause)

What I did was to act on a letter written more than two years ago. I asked why the Commissioner had not responded to the appeal by Mr. Kioko. I did not appeal and I deny that claim. Is the Assistant Minister in order to impute improper motive on me?

Mr. Deputy Speaker: Assistant Minister, since there is evidence here of a letter that was sent by the officer himself appealing through the normal channel, why do you not check with your own system there to find out whether the OCS does, indeed, have it? The OCPD and the PPO, Nairobi Area, should have it! The statement for the appeal is dated February and you are talking about March.

Mr. Ojode: Mr. Deputy Speaker, Sir, you know I am not a personnel officer. All these questions are coming from the personnel of the police. That means that when they went through the file of PC Kioko, they found that the appeal had not reached, or it had not gone through the right channel. In a nutshell, what we are saying is that let PC Kioko appeal, so that we take it to the file and then we can---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. From the way the Assistant Minister is responding to this issue, it is quite evident that he is not sure. He is trying to push it now to the officers who are not responsible to this Parliament. I think it will be in order for this matter to be deferred, so that the Assistant Minister can come properly prepared to answer this Question. The way I see it, the Minister looks a bit confused.

(Laughter)

Mr. Ojode: Mr. Deputy Speaker, Sir, a Minister cannot be confused and will never be! Maybe the Questioner is confused because of what happened earlier.

(Laughter)

Mr. Deputy Speaker, Sir, I am suggesting that we go by the procedures. Let PC Kioko, through my friend, hon. Kiilu, be advised to appeal through the presiding officers all the way up to the Commissioner. There is a number of disciplinary cases which are still waiting. I would---

Mr. ole Lankas: On a point of order, Mr. Deputy Speaker, Sir. Going by the answers that the Assistant Minister is trying to give, it is evident that there is a problem here. Would I be in order to request that this matter be referred to the relevant parliamentary Committee to address this issue exhaustively, because it appears that he is not ready to give the proper answers?

Mr. Washiali: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House by asking the Questioner to ask Kioko to appeal afresh when the previous appeals--- For example, there is a case in my constituency of a certain Nerima who appealed to the Assistant Minister. He even brought a recommendation from the Attorney-General that he be taken back to the force, but up to today – one year after the Assistant Minister committed himself on this Floor that he would reinstate him in his job – nothing has been done. So, of what use are these appeals?

(Applause)

Mr. Ojode: Mr. Deputy Speaker, Sir, the primary reason for an appeal is for your case to be heard. That is the reason why you must appeal. There is a committee that deals with those who are having disciplinary cases. It is that committee which decides that an appeal has merit, and reinstates applicants to their positions. It may also find that an appeal has no merit, and so an applicant cannot be reinstated to his position.

Mr. Deputy Speaker, Sir, I am suggesting, just as hon. ole Lankas has also suggested, that we take this matter to the relevant Departmental Committee; I have no objection to that; we want to know the details of it.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Assistant Minister, clearly there is an issue here that needs to be resolved, and it can only be resolved if you and the hon. Member of Parliament work together. The hon. Member maintains that this appeal was lodged as far back as February of last year, and was lodged through the right procedure. It was handed over to the OCS and went through the internal system all the way to the Commissioner. You need to get together to find out where the disconnect was, or where the gap is, and rectify the matter. Referring this to a committee is essentially not the right thing to do. This is a simple matter; it is not a matter of policy, it is not a matter of principle; it is not a very wide matter. It concerns one officer; I believe with a lot of sincerity and *Utumishi Kwa Wote*, or service to all, you can sit in your office with the hon. Member and find out exactly what happened. I would---

Mr. Ojode: Mr. Deputy Speaker, Sir, I will go with the decision. The hon. Member can come and take tea with me in the office, and then we agree on the way forward; this can be next week or the week after.

Mr. Deputy Speaker: In the meantime the Chair wants to defer this Question to another date. The Chair defers this Question to next week, Wednesday morning; it is the

prayer and expectation of the Chair that the matter will have been sorted out in order to help this poor Kenyan, who clearly feels aggrieved.

(Applause)

Mr. Ojode: Mr. Deputy Speaker, Sir, I am not disputing your ruling, but I do not know why it is being deferred.

Mr. Deputy Speaker: It has to come back to the House for the House to be satisfied that---

Mr. Ojode: No, Mr. Deputy Speaker, Sir! Let me clear for the Chair---

Mr. Deputy Speaker: Order! Order! Order! This is the prerogative of the Chair; it is not a matter for debate! It is a direction of the Chair. The Chair directs that this Question be listed on the Order Paper on Wednesday morning next week. At the same time the Assistant Minister and hon. Peter Kiilu will sit down and sort out the matter.

Mr. Kiilu: I am obliged, Mr. Deputy Speaker, Sir.

(Question deferred)

Mr. Deputy Speaker: Next Question.

Question No. 1267

CONSTRUCTION OF SEWERAGE SYSTEM IN MANDERA TOWN

Mr. Deputy Speaker: Where is hon. Mohammed Hussein Ali? We will come back to this Question. Question No. 1 by Private Notice, hon. Kutuny!

QUESTIONS BY PRIVATE NOTICE

IMPOSITION OF DUTY ON MEDICINAL PRODUCTS IMPORTED BY BETA HEALTH CARE INTERNATIONAL

(Mr. Kutuny) to ask the Deputy Prime Minister and Minister for Finance:-

(a) Under what circumstances did the Kenya Revenue Authority (KRA) impose duty on medicinal products Sandoz Calcium (Forte) 500MG and Calcium Sandoz 1000MG imported by Beta Health Care International Limited, yet such products are zero-rated?

(b) What informed the decision for the tariff reclassification of the two products from Medicine (HS Code 3004.90.90) to Food Supplement (HS Code 2106.90.90) and imposition of duty retrospectively, from 2008 to 2003?

(c) Why is KRA also demanding over Kshs.127 million from Beta Healthcare on imported products that were re-exported and why has KRA since attached Kshs.33 million from the Company's VAT Receivable Account and frozen some of its bank accounts?

Mr. Deputy Speaker: Is hon. Kutuny, by any chance, out of the Chamber today on an official parliamentary Business?

An hon. Member: Yes.

Mr. Deputy Speaker: Not to the knowledge of the Clerk's Department! Question dropped!

(Question dropped)

PLANNED EVICTION OF FAMILIES LIVING IN KWABULO

Mr. Joho: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware of plans by the Government to evict more than 4,000 families living in Kwabulo in Kisauni Constituency?

(b) Could the Minister provide the names of persons and/or companies that have been allocated the said land and state from whom they acquired the land, and at what cost?

(c) Could the Minister clarify whether there have been any transactions in relation to the said land and state what measures the Government will take to ensure that the residents are not evicted?

Mr. Deputy Speaker: Minister for Lands? Where is the Minister for Lands?

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. It is very curious that when we asked this Question, the Minister for Lands was not here. The Minister has just come and walked out knowing very well he had business to do here. Is he in order to try to avoid answering this Question?

Mr. Deputy Speaker: Mr. Assistant Minister, what can you say on behalf of your colleague?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I thought my colleague was at the back of the Chamber, but it looks like he has rushed to the office, and I would request the Chair to allow the Minister to answer this Question tomorrow.

(Applause)

Mr. Deputy Speaker: Yes, hon. Joho?

(Mr. Orengo entered the Chamber)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, he has just arrived.

Mr. Joho: Mr. Deputy Speaker, Sir, I have not received the written answer yet.

Mr. Deputy Speaker: It is a Question by Private Notice; it is not obligatory. Yes, Minister!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I wish to apologize. In fact, I was not aware that this Question was coming up this morning. However, the answer is on the way. Given a few minutes, I will be able to answer it.

Mr. Deputy Speaker: But it is the second round for this Question.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I am really sorry about it.

Mr. Deputy Speaker: Indeed, it is not possible to hold it any longer. Under the circumstances, the Chair directs that this Question be listed on the Order Paper tomorrow afternoon. Is that okay with you, Mr. Joho?

Mr. Joho: Mr. Deputy Speaker, Sir, this is what happened last week. I would plead with the Chair to kindly allow it be answered now because it is an urgent matter.

Mr. Deputy Speaker: Basically, we have simple rules here. You go for two rounds. This is the second round on the Question.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, just for the comfort of the hon. Member, I have written to the PC, the Commissioner of Police and to Mr. Kimemia telling them there should be no eviction at all. I gave the hon. Member a copy of the letters. So, if they do it, then--

Mr. Deputy Speaker: Fair enough! In any case, you are not answering the Question. You are giving comfort to the Questioner. The Question will be listed on the Order Paper tomorrow afternoon and we expect a comprehensive answer to it.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1307

NON-CANCELLATION OF FRAUDULENT TITLE DEED

Mr. Olago asked the Minister for Lands:-

(a) why the Kisumu District Land Registrar has failed to cancel the title deed fraudulently issued to one Mr. Salim Mupelele Said in respect of LR. No. Kisumu/Dago/39 contrary to his commitment to do so, vide a letter dated 16th April, 1987; and,

(b) why Mr. Salim Mupelele Said is frustrating the family of Mr. Olang'o Ongudi and St. Anthony Dago Korere Secondary School from transferring the parcel of land to the school.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, again, I apologize. The answer is on the way. But for the comfort of the hon. Member, action had already been taken on this particular matter. I think we had already canceled the title deed that was fraudulently---

Mr. Deputy Speaker: Under the circumstances, the Chair defers this Question also to tomorrow afternoon for the answer.

(Question deferred)

Mr. Deputy Speaker: Question 1008.

Mr. Chachu: Mr. Deputy Speaker, Sir, I am sorry. I was not here when this Question was called in the first round. However, allow me to ask my Question.

Question No.1008

REPEAT OF CENSUS EXERCISE IN NORTHERN KENYA

Mr. Chachu asked the Minister of State for Planning, National Development and Vision 2030:-

(a) why the Ministry has not repeated the 2009 census exercise in the eight districts of northern Kenya whose results were nullified; and,

(b) when the Ministry will repeat the exercise in the districts.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Deputy Speaker, Sir, I beg to reply.

(a) As you are all aware, the Ministry launched the census results on 31st August, 2010. The results indicated that the country's total population stood at 38.6 persons at the midnight of 24th and 25th 2009. However, the preliminary analysis indicated that results from eight out of 158 districts, namely Mandera Central, Mandera East, Mandera West, Wajir East, Lagdera, Turkana North, Turkana Central and Turkana South, were highly inconsistent. Subsequently, the Government canceled results for the eight districts and ordered a repeat exercise in the affected districts. Though the plan for the repeat exercise in the eight districts is underway, the process requires careful and complex logistics planning.

Indeed, the Treasury did allocate our Ministry Kshs150 million for preparatory work in the Supplementary Estimates of 2010/2011. Further, I am happy to report that the Treasury has provided an additional Kshs300 million in the Financial Year 2011/2012 which should see the exercise undertaken successfully.

(b) While the repeat exercise was planned for August, 2011, this was not possible due to a court case challenging the cancellation of the results for the eight districts. The Attorney-General has advised the Government to await the outcome of this case before conducting the repeat exercise.

Furthermore, in view of the prevailing security operation on *Al Shabaab* in the country and Somalia, it is not conducive for the repeat census, particularly in the northern part of the country as at now.

Mr. Chachu: Mr. Deputy Speaker, Sir, I do thank the Assistant Minister for his response. I am asking this Question in the spirit and letter of Article 89 of the Constitution of this Republic of Kenya. Article 89 clearly states that the population quota will be used to create the 80 new constituencies in this Republic. If we have irregular and inconsistent census results in substantial parts of this country, there is no way we can say you have accurate census results in this Republic to actually carve out those 80 new constituencies.

Mr. Deputy Speaker, Sir, using those inaccurate and irregular census figures basically means you are using inaccurate population quota which will result in rewarding some constituencies with electoral units which they do not deserve, while others are denied electoral units that they deserve. This Government has a duty to this Republic. Bear in mind that this is the only time, under this Constitution that this 80 electoral units will be created.

Mr. M.H. Ali: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that this matter is in the courts. Is it in order to discuss the same while the court has not yet decided on this appeal?

Mr. Keynan: Mr. Deputy Speaker, Sir, on the same under a matter of *sub-judice* or secret under Standing Order No.80(1). It says:-

“Subject to paragraph (5), no Member shall refer to any particular matter which is *sub judice* or which, by the operation of any written law, is secret.

(2) A matter shall be considered *sub judice* when it refers to active criminal or civil proceedings and the discussion of such a matter is likely to prejudice its fair determination.”

Mr. Deputy Speaker, Sir, the Standing Orders are very clear. Taking into account the answer given by the Assistant Minister, would I be in order to request the Chair to defer this matter because this discusses the content of a court case which is still pending. I think we will not be fair to the affected communities. My constituency is not affected. However, as a person who truly believes in the rule of law, it will be unfair for this Parliament to debate an issue which is before a court of law and awaiting determination.

Mr. Deputy Speaker: Under the circumstances, the argument on this, whether the figures are accurate or inaccurate is the very matter of the court process itself. That is a matter to be determined by the court. Only then, as the Assistant Minister has said, will subsequent action be taken.

Under the circumstances, the Chair rules that the matter is *sub judice* and the Question cannot be debated any further.

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. While I appreciate your ruling on this, will this then stop the Independent Electoral and Boundaries Commission from carving out those 80 constituencies using those inaccurate census figures?

Mr. Deputy Speaker: Order! That is clearly not in the domain of the Chair. This is a matter that will be determined by a court of law. Actions to be taken, subsequent or before that, is a matter that essentially is not within the mandate of the Chair. The Chair says that this matter is *sub judice*. No further debate on this matter can be entertained.

Next Question!

Mr. Chanzu: Mr. Deputy Speaker, Sir, when I came in, I think you did not see me. However, I beg to ask my Question.

Question No.1175

NON-ISSUANCE OF TITLE DEEDS TO RESIDENTS OF SHAVIRINGA

Mr. Chanzu asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that the people who were relocated to Shaviringa in Hamisi District from Mbale in Vihiga District in 1991/1992 to pave way for the construction of Vihiga District Hospital have not been issued with title deeds to date; and,

(b) when they will be issued with title deeds.

Mr. Deputy Speaker: Is the Minister for Forestry and Wildlife not here? Where is Mr. Yusuf Chanzu? You came late and just ordinarily went and asked your Question without following the tradition of the House to apologize to the House.

Mr. Chanzu: Mr. Deputy Speaker, Sir, maybe you were not listening to what I said. I apologized and said I was just there. You did not see me when I was coming.

Mr. Deputy Speaker: "Just there" can be just outside the door.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I was in the Chamber. Here at the corner here. But I apologized before I asked my Question.

Mr. Deputy Speaker: The Minister for Forestry and Wildlife?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg the indulgence of the Chair to allow the Minister to answer this Question tomorrow. I will make sure that he comes to answer tomorrow. Please, bear with us.

Mr. Deputy Speaker: Fair enough! The Chair directs that this Question be listed--

Mr. Chanzu: Mr. Deputy Speaker, Sir, this is the third time because in the beginning of the month of November is when the Question came. It was addressed to the Ministry of Lands then it was referred to the Ministry of Forestry and Wildlife. Last week, it is the Minister himself who requested that the Question be put on the Order Paper today for further consultations.

So, I would just like to request that the Assistant Minister here makes sure that the Minister answers this Question because this is a serious issue. These people were moved from Vihiga between 1991 and 1992 where they put up the district headquarters. They do not have title deeds. They are living on the other side as squatters. They are experiencing a lot of problems in Shaviringa. Even his office is involved.

Mr. Deputy Speaker: The Question is deferred to tomorrow.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg the indulgence of the Chair to allow this Question to be answered next week. That is because the substantive Minister is away in South Africa. I will try and look for the Assistant Minister who was away in his constituency. I want to stand corrected so that tomorrow, we do not face the same scenario. Let us answer it next week on Tuesday or Wednesday.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper on the morning of Wednesday next week.

(Question deferred)

Mr. Joho: On a point of order, Mr. Deputy Speaker, Sir. Regarding my Question, you had directed that it should be listed tomorrow. However, I have an urgent issue in the constituency tomorrow that I must attend to. Therefore, I request that you reconsider and list it in the course of next week. That is Question No.2 by Private Notice.

Mr. Deputy Speaker: Which day is convenient for you; Tuesday or Wednesday?

Mr. Joho: Thursday next week, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thursday next week! This is a Question by Private Notice.

Mr. Joho: Wednesday next week, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! The Chair directs that Question No. 2 by Private Notice be listed on the Order Paper on Wednesday next week in the morning! Next Question!

Dr. Nuh: Mr. Deputy Speaker, Sir, first, I want to apologize for not asking the Question when you called it out. I had walked out to Room 8 to see whether they have got an amended answer because what was given to me was the previous answer that was given a month ago.

Question No.1223

ISSUANCE OF NATIONAL IDENTITY CARDS

Dr. Nuh asked the Minister of State for Immigration and Registration of Persons:-

(a) how long it takes a Kenyan to obtain a new National Identity Card or replacement of a lost one upon application;

(b) when the forms bearing serial numbers 2276151157, 2264792765, 2253246922, 2269263157, 2272603401, 2260975963, 2264804604, 2277590052, 2273990196, 2296464536, 2261300711, and 2271853683 were received at the Registration of Persons Headquarters and whether he could provide particulars of the applicants, including their respective names, age, place and date of application and home district as well as the respective stages of the application; and,

(c) when the identity cards will be ready.

Mr. Deputy Speaker: Minister?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, again, I would seek the indulgence of the Chair to allow this Question to appear in the Order Paper tomorrow. I will prevail upon the Minister or his assistant to come and answer it.

Mr. Deputy Speaker: Is that okay with you, Dr. Nuh?

Dr. Nuh: Mr. Deputy Speaker, Sir, I would not have a problem had I not had another Question listed on the Order Paper. This is a Question that was deferred two weeks back. The Ministry ought to have anticipated that because it well within their record and knowledge. It is not coming up for the first time.

Mr. Deputy Speaker: If the Chair directs that this Question be listed on the Order Paper on Tuesday next week, are you comfortable with that?

Dr. Nuh: Much obliged, Mr. Deputy Speaker, Sir. I would only like to add that, if you have been here in the recent past, you must have seen Mr. Ojode having taken over as the Leader of Government Business. We have requested time and again that this Government commensurately compensates him for the work he is doing. There has not been any response to that, even if it is making him the third Leader of Government Business.

Mr. Deputy Speaker: How do you know if the system, within its own internal process of compensation, is not already compensating him?

Dr. Nuh: He is a very good friend of mine and I would have seen that in some of his actions.

Mr. Deputy Speaker: Fair enough! The Chair directs that this Question be listed on the Order Paper on Tuesday next week!

(Question deferred)

Unfortunately, the Chair does not have any powers or authority to direct that Mr. Ojode be paid allowances. Next Question by Mr. Mohammed Hussein!

Mr. M.H. Ai: Mr. Deputy Speaker, Sir, first of all, I apologize for coming late.

Question No. 1267

CONSTRUCTION OF SEWERAGE SYSTEM
IN MANDERA TOWN

Mr. M.H. Ali asked the Deputy Prime Minister and Minister for Local Government what plans he has to construct a sewerage system for Mandera Town, which has a population of over 100,000 people.

Mr. Deputy Speaker: Whereas you have collective responsibility, you have the collective responsibility by and large to be exercised when you have been collectively informed well in advance on this particular one. The Chair has communication from the Minister on the same; that both the Minister and the Assistant Minister are out of the country on urgent official business. Under the circumstances, the Chair directs that this Question be listed on the Order Paper --- None of them is going to be back earlier than 15th of this month.

Mr. M.H. Ali: On a point of order, Mr. Deputy Speaker, Sir. I have an answer to the Question and the Minister is saying that the matter should be addressed by the Ministry of Water and Irrigation. Will I be in order to ask that this Question be directed to the Ministry of Water and Irrigation?

Mr. Deputy Speaker: Can you table that answer? The standard procedure is that if a Ministry realizes or recognizes that a Question is wrongly directed to that Ministry, it is the same Ministry that is supposed to direct it to the relevant Ministry and inform Parliament of the same. It should not send an answer that says: "This was sent to the wrong Ministry as the answer says now." So, I think the Acting Deputy Leader of Government Business for today, will have to correct that.

The Deputy Prime Minister and Minister for Local Government needs to direct the Question to the Minister for Water and Irrigation and inform Parliament of the same.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I will make sure that the Ministry of Local Government writes to the Ministry of Water and Irrigation asking them to answer Question. I will make sure that is done.

Mr. Deputy Speaker: The Chair directs that the Clerks Department puts that at an appropriate time. List the Question on the Order Paper so that the answer is received.
Next Order!

POINT OF ORDER

UPSURGE OF INSECURITY IN MARSABIT COUNTY

Mr. Chachu: Mr. Deputy Speaker, Sir, I wish to seek for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to great insecurity in my local constituency in Marsabit County.

On October 25th this year, a father and his two sons were murdered in cold blood. On December 4th 2011 five herders were killed and nothing was taken away from them. Last night, three people were killed and two were wounded.

In his Statement, the Minister should clarify whether the attacks were pre-planned, who the perpetrators of the crime were, and also explain why some of the villages relocated from the scene of the crime hours before the attack.

Secondly, the Minister should confirm whether the attacks targeted one community and, if so, whether this is a case of ethnic cleansing.

Finally, the Minister should outline the action being taken by the Government in apprehending the culprits and ensuring the Gabra and Borana communities in Moyale and the rest of the county co-exist in peace to avoid a recurrence of a similar massacre like the Turbi Massacre, which was experienced in 2005 between the two communities.

Mr. Deputy Speaker, Sir, just yesterday, with the Provincial Security Committee in Eastern Province, we were in Moyale. After we left, just last night, three more people were killed and two injured. That brings the number killed so far in the last two weeks to 11 people. Those are pastoralists. They have too much pasture and water and they are not fighting over water and pasture today. Not a single camel was taken. Not a single penny was taken. They just killed in cold blood! In one case, they killed a father and his two sons and left. We are greatly concerned.

Mr. Deputy Speaker, Sir, you know the area very well. The place where that is happening is only a stone-throw away from Turbi, a scene of the 2005 massacre. As residents of that county, we are really concerned. We want this Government to issue a clear Statement and tell us what is happening in that county and, if possible, even this afternoon.

Mr. Deputy Speaker: When will you have the Ministerial Statement available?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, it is a sad story. Let me get the details on the ground and issue a Statement tomorrow, if possible. In the event that I cannot get more details--- That is because right now, my detectives are combing that area seriously. If I do not get the details tomorrow, I will do it on Tuesday.

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. With all due respect, the Assistant Minister, who is a good friend of mine, was with me in Moyale yesterday. We do not have a CID Office in Moyale. We are looking for one who can be taken to Moyale to carry out the investigations. This is the case and yet the Assistant Minister is now telling us that detectives are combing the place. Is he in order to tell us that when Kenyans are dying?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I will try and issue the Statement tomorrow, if possible.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member, Mr. Chachu, has raised a very important issue, that there are no CID officers in this county. Could the Assistant Minister confirm that because if, indeed, it is true, then it means that the people of this county are being treated as second rate citizens?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I said that we have detectives combing that area to look for those fellows. They do not have to be CID officers from that area. No! We have brought in people from the headquarters to comb that area for the last two days, and even this morning. In fact, I will challenge my friend to call home and he will be told that, yes, the presence of the Government is being felt.

I will issue the Statement tomorrow.

Mr. Deputy Speaker: Fair enough! It is so directed; that the Statement be made available tomorrow.

Mr. Gitari: Thank you, Mr. Deputy Speaker, Sir. I rise to ask for a Ministerial Statement from the Minister for Lands.

Mr. Deputy Speaker: Order, is this the same statement you brought to my attention yesterday or the day before yesterday? Was it yesterday or the day before yesterday?

Mr. Gitari: Mr. Deputy Speaker, Sir, it was yesterday.

Mr. Deputy Speaker: You probably have to see me so that I can give you advice on the same.

Mr. Gitari: I oblige, Mr. Deputy Speaker, Sir.

MINISTERIAL STATEMENT

APPOINTMENT OF COUNTY COMMISSIONERS BEFORE ENACTMENT OF APPROPRIATE LAW

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, on 22nd November, 2011, the hon. Danson Mungatana, the Member for Garsen rose on a point of order to seek a Ministerial Statement from my Ministry on the appointment of county commissioners before the enactment of appropriate law.

In this statement, the hon. Member wanted to know:-

(i) why the Ministry has opted to use a shortcut to try and appoint county commissioners without bringing the relevant law to the House;

(ii) whether the appointment of the proposed county commissioners conforms with the requirements of the Constitutional provisions under Section 17 of the Sixth Schedule where it is indicated that the structuring of the Provincial Administration should respect the devolved system of Government;

(iii) whether I can confirm that the proposed county commissioners will not water down the powers of the incoming county Governors;

(iv) whether I can confirm that in the event of a conflict between the decision of county commissioners and county governors, the decision of the county governor shall take precedence;

(v) what qualifications county commissioners will have; and,

(vii) whether and when I will bring the relevant law to avoid a unilateral decision by the Ministry, taking such an important constitutional step as far as devolved governments---

Mr. Deputy Speaker: Order, hon. Assistant Minister. The Ministerial Statement you are giving is on a matter that was raised by hon. Mungatana. We will not be doing justice to that matter if hon. Mungatana is not here to interrogate your Statement. I would direct that the Statement be delivered tomorrow if that is okay with you. At the same time, I ask the Clerks Department to inform hon. Mungatana to be available tomorrow.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, we agreed with hon. Mungatana that I would issue the Statement in the morning. However, I will do as you direct. I will issue it tomorrow.

Mr. Deputy Speaker: Let us move on to the next Order!

BILL

First Reading

THE PYRETHRUM BILL

(Order for the First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)

MOTIONS

WAIVING OF TEA FACTORIES' LOANS

THAT, aware that tea farming is the leading foreign exchange earner in Kenya and that Kenya's tea is the most popular the world over for its consistent high quality, considering that most tea factories owe colossal amounts of money in terms of loans to various financial institutions in the country, concerned that these loans impact more heavily on the small-scale tea farmers who contribute highly towards tea export, concerned further that, if these loans are not either waived or written off, tea production may be compromised both in quality and quantity thereby impacting negatively on our GDP; this House urges the Government to take over all the outstanding loans owed to the respective financial institutions by the tea factories so as to spur economic growth, sustain the tea quality and quantity and further make the small-scale tea farming more profitable.

(Dr. Khalwale on 30.11.2011)

(Resumption of Debate interrupted on 30.11.2011)

Mr. Deputy Speaker: Hon. Twaha had sometime left to contribute to this matter but he is not in. Hon. Yusuf Chanzu, you can proceed! I also want to bring to the attention of the House that there have been some typing errors in the Motion as it is in the Order Paper. This Motion was amended and in the amended form, the words tea and coffee should appear to the end. So, the Motion should ideally read:-

THAT, aware that tea and coffee farming is the leading foreign exchange earner in Kenya and that the Kenya's tea and coffee are the most popular the world over for their consistent high quality, considering that most tea and coffee factories owe colossal amounts of money in terms of loans to various financial institutions in the country, concerned that these loans impact more heavily on the small-scale tea and coffee farmers who contribute highly towards tea and coffee export, concerned further that, if these loans are not either waived or written off tea and coffee production may be compromised both in quality and quantity thereby impacting negatively on our GDP, this House urges the Government to take over all the outstanding loans owed to the respective financial institutions by the tea and coffee factories so as to spur economic growth, sustain the tea and coffee quality and quantity and further make the small scale tea and coffee farming more profitable.

That is how the Motion should read now. That is the Motion before you. Proceed, hon. Chanzu!

[Mr. Deputy Speaker left the Chair]

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

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity to support this very important Motion. In the first instance, I would like to take this opportunity to thank and congratulate the Member for Ikolomani, Dr. Khalwale, for bringing this Motion because we have repeatedly said that agriculture is the backbone of this country. We cannot talk about agriculture without talking about tea and coffee because these have been the top foreign exchange earners in this country. This is particularly immediately after independence until a few years back when I think the Government neglected its role in supporting small-scale tea and coffee farmers. It is after this that production of these crops started declining.

The issue that is being addressed here, particularly for tea, has to do with the small-scale farmers who relate with the Kenya Tea Development Agency (KTDA) and not the individuals. I heard some Members say last week that we cannot support farmers, as a whole, especially private tea farmers. So, this relates to those farmers who deal with the KTDA.

Tea and Coffee, as I have said, are supposed to be the major and tangible foreign exchange earners, save for fluctuating world market prices which, occasionally, are chaotic.

However, we should encourage more farming in tea and coffee. Our tea and coffee are of the highest quality in the world market. If we did so, then we will definitely make enough

earnings which will then translate into enabling our small scale farmers to live a decent life.

Mr. Temporary Deputy Speaker, Sir, this will go a long way in helping this country to achieve Vision 2030. We will not achieve it just by talking or holding conferences and seminars in big hotels in town. We will only achieve it, through active and direct participation in production for this country. This can only be done through these small scale farmers.

However, it will not be possible for them to continue with this tea and coffee farming while carrying heavy loan burdens which they have incurred over the years. Save for one thing, there is need for the Government to write-off these loans. I think mechanisms should be put in place to cushion farmers, so that in future they do not accumulate loans which they will not be able to service. Even if we write off or waive these loans, without proper mechanism to cushion them, the same thing might recur. Unless they are properly cushioned against fluctuation of prices for their farm produce, this burden of loans may recur.

Mr. Temporary Deputy Speaker, Sir, there is need for Kenya as an agricultural country to support these two sectors by making them profitable. However, we cannot make them profitable if farmers continue carrying this burden of excessive loans. That is why it is very important that the Government considers writing off these loans. There is need also to support these two sectors that are tea and coffee because they contribute a lot in terms of revenue generation for this Government. We should not rely on one source of revenue collection. That is taxation from incomes. We need to diversify our revenue collection through agricultural production. It will be easier for the Government to have some sources of revenue where it can count on. It is with that in mind, I believe the Government should consider writing off all these excess loans that have been incurred by the tea and coffee farmers in this country.

There are many areas of this country where tea and coffee can be grown. Kenya seems to be divided into two zones when it comes to tea and coffee farming. We have the western zone and eastern zone. In the western zone, we have Mudete Tea factory. The Government spent colossal amounts of money to put up this factory. However, this factory is underutilized. This is because not many farmers are growing tea around that area. We need to encourage them to grow a lot of tea because they have a factory.

The other issue that we need to address is overhead costs within the Kenya Tea Development Agency (KTDA). When you look at what the farmers earn after deductions from loans and other overheads, farmers end up earning very minimum payment. We need to come up with incentives. If the Government can reduce overheads, farmers can grow a lot of tea and earn more revenue for this country. By employing many managers at the head office, we will not be helping farmers. We will not be worried about overtaxing Kenyans to meet our targets of revenue collection.

With those few remarks, I support the Motion. I hope the Government will move with speed and implement this Motion, so that farmers can be encouraged to grow more tea for the country.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion.

Mr. Temporary Deputy Speaker, Sir, I would like to start by thanking the Mover of this Motion. This Motion is very timely, and can give impetus to the dwindling

performance in the tea sector. Let me appreciate the critical effort that has been made by hon. Khalwale to think about farmers in this country. Tea has been the main cash crop in this country for a long time. It has done well in the international market. Kenya has been the lead exporting country in the whole world, producing the most qualitative cash crop into the national market. Even giving the name of this country to the entire world, particularly in Europe, where tea is deliciously taken by consumers in that part of the world. The Kenyan tea has been taken by other exporters and traders to blend other tea grown in other countries. Therefore, the credit of this country has been taken over by other undeserving traders.

Mr. Temporary Deputy Speaker, Sir, small scale farmers have created employment opportunities for the youth in this country. Tea picking is done by our youth, men and women, who have been employed in this sector for a long time. The KRA has also been collecting a lot revenue from this sector. The economic growth of this country has also steadily improved because of this vibrant sector. But we recognize that this sector was badly affected by the drought, meaning that the farmers were not able to buy the fertilizers for dressing the crop. The farmers were not able to pay workers. The farmers were not also able to meet their domestic obligations, one of them being paying for the education of their children.

Mr. Temporary Deputy Speaker, Sir, the production of tea has been badly affected by inflation and drought. Due to inflation, the cost of diesel went up. Even firewood became very expensive. That means that the cost of production by tea factories went up. The production capacity went down in the small-scale farms. As a result, the farmers were not able to get good returns for their small-scale production. The factories were also affected and, therefore, the farmers were threatened with their small securities that they had provided to tea factories. This means that if the small-scale farmers are not assisted, their securities will be auctioned by the multinationals. That is impoverishing the farmers in this country.

Mr. Temporary Deputy Speaker, Sir, it is, therefore, important that we think of how to revive this key sector by way of supporting the farmers. One way of supporting the farmers is to bring the Government on board and make sure that those products that farmers use, like the seeds and fertilizers are made available in the market at cheaper prices. We recall that we passed a Motion in this House requesting the Government to start a fertilizer factory immediately. This is very important because it will assist this country to become self-sufficient in food production and on this main cash crop. It is, therefore, important and critical for the Government to come out now and bail out the small-scale farmers who are now crying. If the Government can support the farmers by writing-off the loans that have been advanced to them, it will really create the necessary working environment and bring back the productivity of this crop. As a result, the farmers will be able to educate their children.

Tea has been a key cash crop, as I have said. Lari, in particularly, we have large areas where small-scale farmers have been growing tea. We do not want them to think about uprooting tea plants in these areas, the way the coffee farmers did as a result of the Coffee Board of Kenya being unable to pay them. Therefore, the threat that is directed to the small-scale tea farmers must be addressed by the Government. This is the time for the Government to rise up and release a lot of money to bail out the farmers. I would urge

that decisive action is taken by the Government to make sure that this industry is brought back to its feet.

Mr. Temporary Deputy Speaker, Sir, the other area that I need to comment on is about tea hawking. This is also threatening the survival of the Kenya Tea Development (KTD) factories. We have seen small-scale tea farmers divert their tea to private processors. This is unhealthy because the farmers are trying to run away from their responsibilities after being advanced loans. This must be discouraged and the farmers supported to deliver their tea to the KTDA factories. This will only be possible if the Government can avail the required funds.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I fully support this crucial Motion.

The Assistant Minister for Tourism (Ms. Mbarire): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to begin by first congratulating Dr. Khalwale for coming up with this very important Motion. I support this Motion because I come from a tea-growing area. Part of the reason why I got educated to university level was because my father had tea and was able to have enough money to pay school fees for me through his tea farm.

This Motion is timely because only recently have we seen that the prices of tea have gone fairly high. Farmers are finally beginning to have hope that they can do the things they have always wanted to do using money from tea. Looking at this Motion, I feel that it is very important that the Government steps in and waives all the loans owed by the public coffee and tea factories that we have. I have two of them in my constituency. I think that once that money is paid, farmers will reap greater gains out of their tea farming and can do a lot with their money. Although the crop has more money than it used to – for example in my place, tea farmers were being paid an average of between Kshs40 and Kshs41 per kilogramme - you will find that they will be deducted up to Kshs10 per kilogramme for these loans. Since I am aware that the same Government is waiving debts owed by coffee factories, then it is good that we deal with the whole burden on both coffee and tea farmers so that they are left debt-free. By doing so, we can begin to spur economic growth from the bottom. If this is done, I believe that we will not even have the pressure as Members of Parliament where we have to pay bursaries for many children at the constituency because the farmers cannot afford school fees.

Mr. Temporary Deputy Speaker, Sir, I remember when I was in secondary school, every beginning of the term, I passed by the tea factory, got my cheque, went and paid my fees. However, this is not happening now and it cannot happen. Some of these debts are incurred because of high prices of farm inputs. For example, fertilizer is very expensive. The farmers borrow money to buy that fertilizer and have to pay it back with an interest. If we can waive these loans, I strongly believe that this is the best Christmas gift that we can give to the farmers of this country. I really urge the Government to hear us on this matter. We have spoken about it before but I am happy that, finally, an hon. Member has brought it on the Floor. I urge all hon. Members present to support this very important Motion.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support
Dr. Monda: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion.

I come from a coffee and tea-growing region which is Kisii. The Kisii farms have become too small because most farmers have a farm holding of half an acre or one acre. The tea crop is grown on average below an acre. The factories are constructed on loans that have finally become a responsibility of the farmers to repay and yet these are large loans. The farmers take a long time to repay these loans. I rise because I know the circumstances under which several factories in the Kisii region and other parts of this country have been constructed. The cost of farm inputs for both coffee and tea has also become very high. It is a big problem for the farmers to pay for the farm inputs and at the same time pay for the loans that were used for the construction of the tea factories.

Mr. Temporary Deputy Speaker, Sir, on coffee, we know that the Kenya Planters Co-operative Union (KPCU) was even put under receivership because of such loans. This is the case and yet this is a co-operative for small-scale farmers. Overall, I want to emphasize that coffee farmers have lost their crop because of the loans that they have to repay.

On tea, I want to indicate that when farmers repay these loans, it takes away all their earnings from their production. You send your produce to the factories and at the end of the day, you only work to repay these loans. That is why I support this Motion and request the Government to take over those loans to offload the burden from tea farmers. They should ease the burden on Kenya Planters Co-operative Union (KPCU) and coffee farmers so that farmers and their families can benefit from the farm produce.

With those few remarks, I support.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to also contribute in support of this Motion by Dr. Khalwale. Like Ms. Mbarire, I also grew up in a tea growing area. My father was a tea farmer. Thanks to that, that is how he was able to pay for my secondary school education.

Mr. Temporary Deputy Speaker, Sir, it is important that we appreciate the difficulties that our farmers find themselves in are also political; if you go back to the politics of interference in our coffee and tea industries.

The Temporary Deputy Speaker (Mr. Manyara): Order, Dr. Mwiria! Maybe, I should remind, hon. Members, that the Motion we are debating is not the one on the Order Paper. It was amended to read tea and coffee. So, wherever you see the word “tea”, you should read as “tea and coffee”.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, following on that, I would like to say that the problems that the tea farmers have experienced were the same problems that were experienced by coffee farmers in this country, especially because of the political interference in the management of farmer’s organizations and the industry in general. Therefore, it would be unfair to punish farmers for problems that they are not responsible for. The situation of tea farmers, like that of coffee farmers, especially the small-scale farmer, has deteriorated with time. Firstly, because the families have become larger and yet, the land that is available is basically the same size as it was 20 years ago. That is because land in cash crop growing areas is extremely expensive and subsistence farmers are not able to expand. So, even in terms of saying that you would grow bigger and use economies of scale to have higher productivity, is not possible. Secondly, the tea and coffee growing areas are generally areas that experience very cold weather. That comes

with other demands, especially with regard to health. Many of the farmers have to spend their limited resources to support health systems and, sometimes, walk long distances to dispensaries. But, essentially, those conditions are not so amenable to farmers that do not earn that much income. Therefore, the little that is generated again goes to other needs.

It is also a case that the cost of food in tea and coffee growing areas is much higher. They cannot grow subsistence food, except for potatoes and a few horticultural foodstuffs. When you consider the main staple food in Kenya like beans and maize, those farmers have to go out to the market because they cannot grow that. So, they find that their limited resources are also being expended to buy foodstuff that they have consume at home because tea is not a food crop.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out the fact that, unlike in the old days, when young men and young women were ready to support their parents with labour to tend the coffee and tea farms, these days, they are becoming less interested. So, you will find that the parents who are getting older have to continue working on those farms. If they cannot do it, then they have to higher labour which is much more expensive. Again, they have to spend their resources in so many different other ways.

As we support the farmers by waiving the loans - and we hope that will done very soon - it is important to have additional complementary support to farmers which should include support in education through bursaries. If possible, we should encourage factories to build schools and other facilities that are easily accessible to farmers. In terms of electricity, through the Constituencies Development Fund (CDF) and Rural Electrification Programme (REP), we can ensure that all tea and coffee buying centres have access to electricity. Of particular importance is the road network. It is very surprising that if you reach tea and coffee growing areas like Githongo in your constituency or Michimikuru in Nyambene, Tigania, the road network is very poor. We are grateful that we are now seeing some improvement in the road network. So, it is important that, as we support them in other ways, we ensure that infrastructure, especially the road networks, are improved so that farmers can access factories more easily and that the cost of transporting tea and coffee is reduced. That way, those benefits are transferred to the farmer.

Mr. Temporary Deputy Speaker, Sir, it is also necessary to support Kenya Tea Development Authority (KTDA) through training, support in marketing and in any other way. The Government can subsidize many of its services to ensure that many of those costs are not transferred to farmers.

I also hope that we can get more from the multinationals that are the biggest beneficiaries of the tea and coffee industries. I do not think we are getting enough in return. We are now seeing Safaricom, Equity Bank and others coming up with bursary and scholarship programmes for students. I do not think I have seen multinational companies having strong bursary programmes to support young people in schools in the tea growing areas, especially children of the farmers and workers in those places.

I would also like to urge that even the management organizations and the farmers themselves need to be improved to be more efficient in management and be more transparent. They should ensure that farmers do not lose money that they have spent so much time earning the hard way being stolen by unscrupulous managers of those authorities.

Mr. Temporary Deputy Speaker, Sir, I would like to conclude by saying the following: I hope what has happened to other coffee factories in terms of complement by the Government to support farmers and traders will also be extended to our tea and coffee farmers.

With those few remarks, I support.

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to contribute to this Motion. I want to thank my colleague, Dr. Khalwale, for thinking it wise to have such a Motion at such a time. I want to say that before I joined politics, I was a director of a small-scale tea factory. I became a chairman of a new factory where I resigned immediately I was elected a Member of Parliament for Belgut in 2003. Therefore, with my experience in the tea sector and also being a small-scale farmer, I want to say that this Motion has good intentions. The Kenya Government has been saying that tea is a big foreign exchange earner in this country. But when you see how the small-scale farmers live, it is pathetic. They live in a pathetic situation. Therefore, the Government should take over the loans because KTDA is owned by small-scale tea farmers. They have about 54 factories across the country. All those factories get their loans at commercial rates. There is no involvement of the Government at all. Therefore, when we call upon the Government to write off the loans owed by small-scale tea factories, it is good. It will assist small-scale farmers so that they are also happy. KTDA announced a lot of money in terms of bonus but what goes down to the farmers is peanuts.

We have multinationals which are buying tea. M/s Lynton, which is owned by Unilever, is a leading tea buying company. These are well-connected companies. Therefore, the Government should look into ways of assisting the small-scale factories to establish marketing capacity at the source. If tea is packaged at source, the multinational companies that come to buy it will buy it at the source and meet the transportation costs. Right now, all the factories transport the tea to the tea auction in Mombasa at their own cost. Therefore, if the Government can assist and ensure that we have tea auctions in the respective tea producing regions, selling tea will really be of help.

Mr. Temporary Deputy Speaker, Sir, my second point is on sub-division of land. Previously, people used to own between 50 acres and 100 acres of tea crop but right now, with the increase in population, you cannot even have an acre of tea crop. Therefore, if you own an acre of the tea crop and you are supposed to service a loan, with the costs related to equipment having increased tenfold compared to the cost of the same in the 1960s and the 1970s, when all these tea factories were started, production becomes untenable. Therefore, establishing new factories to meet the high demand for tea will really assist, if the Government takes over all the loans.

There is another area where the Government has tried but it can do better. The major cost item in all our tea factories is electricity. If electricity is subsidised, small-scale farmers will rejoice. I say so because in my constituency, I have multinational companies producing tea. I have Finlay and Unilever, both of which produce their own electricity. Therefore, as a small-scale tea producer, you cannot compete with multinationals. Unilever generates about two megawatts of power. Therefore, their production costs are low, and they also own the marketing agents, namely M/s Lynton.

Therefore, if the Government assists in establishing mini-hydropower stations that can produce between 1 megawatt and 3 megawatts, the cost of electricity, which is the

main component of expenditure in the small-scale tea factories, will really be zero. Therefore, I call upon the Government to speed up this initiative. I know that the Government has started doing this in some areas.

Mr. Temporary Deputy Speaker, Sir, I know that there is an ongoing mini-hydro power project, and the initiative should be expanded to other areas, so that we can have many mini-hydro power stations. The river that feeds Sondu Miriu Hydro Power project passes through my constituency. The water goes there and generates about 60 megawatts. We can put up mini-hydro power stations midstream, with a capacity to produce between 10 megawatts and 15 megawatts, all the way down to the Sondu Miriu Hydro Power Station. Those stations will assist small-scale farmers.

With those remarks, I beg to support the Motion.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion. I can see my friend, Mrs. Odhiambo-Mabona, smiling. I do not know whether she also grows tea.

I want to congratulate my colleague, Dr. Khalwale, for bringing this Motion to the House. The Motion is timely. As the various speakers have said, tea remains the major foreign exchange earner for this country. Therefore, I would expect the Government to put in more resources into this sector because it is the backbone of our economy. My worry is on the way the Government seems to deal with tea issues.

Mr. Temporary Deputy Speaker, Sir, this morning, I asked a Question relating to the Tea (Amendment) Bill that we passed in this House, and I was not impressed by the way the Assistant Minister responded to that Question, because he looked so casual. He did not appear like someone who felt for the ordinary tea farmers, who are, really, the backbone of the economy of this country. The Assistant Minister should be aware that tea is now the leading foreign exchange earner. The leading foreign exchange earner for this country is no longer tourism or horticulture. It is tea, yet we do not seem to do anything to promote tea farmers, so that they can produce more tea.

The challenges facing tea farmers are many. If you come to my constituency, you will see that between 65 per cent and 70 per cent of the area is under tea production. I have been unable to explain why the poverty rate remains very high in that area despite the fact that tea earns this country the biggest amount in foreign exchange. It beats all mathematical formulae that we cannot correlate the high poverty rate to the high foreign exchange earnings realised by this country through tea.

Mr. Temporary Deputy Speaker, Sir, let me suggest that apart from the Government writing off all debts owed by farmers in the various tea factories, the Government also needs to go further and support other activities that affect the cost of production of tea. In my constituency, and in my neighbouring constituency of Bomet, there is overproduction of tea. That area requires two or three new factories to cope with the production of tea there. We want to urge the Government to come in and put up tea factories. The Government should give funds to the KTDA to start up additional factories in those areas as a matter of urgency, because there is tea. We are producing tea but there is nowhere to process that tea. The Government needs money. Why does the Government not put money in those areas to facilitate processing of more tea and earn more foreign exchange for this country?

Another area I would like the Government to come into is to support the farmers in terms of transportation. One way of doing this would be to support the co-operative

societies that farmers own by purchasing for them trucks for transportation of tea from their areas. Most of our farmers cannot afford to buy new trucks. The KTDA seems to have failed to manage its transportation system. I think it is the role of the Government to come in and support farmers to purchase trucks for transporting tea from the farms to the factories.

Mr. Temporary Deputy Speaker, Sir, as regards fertilizers, the Government needs to find a way of working with the KTDA to ensure that farmers get fertilizer at competitive prices.

Another problem we have in our area, on which I can speak with a lot of authority and with all the facts, is that there has been collusion between officials of the KTDA and some unscrupulous traders to falsify data on fertilizer supply to farmers. I have a very classic case of a farmer who owns a quarter of an acre of tea crop. He had taken three bags of fertilizer but in the payslip that he was given during the tea bonus payment, it was indicated that he had 64 bags of fertilizers. Therefore, on the Kshs120,000 bonus that he was supposed to earn, he needed to add another Kshs60,000, just because of the error and mismanagement in fertilizer distribution.

This is an area I really want the Government to come into. Over the time, the Government has been hiding behind a statement that the KTDA is a private company; and that it is in the interest of the Ministry to look after the interests of the farmers. The Ministry is the overall prefect. Could the Government come in and find a way of streamlining the supply and distribution of fertilizer to ensure that farmers get inputs at the right prices, and that farmers are not charged for fertilizers they have not taken from the KTDA?

Another point is on electricity and my colleague, Mr. Keter, mentioned it here. We really need to support our small-scale factories to generate power. In most of the areas where tea is grown, there are rivers which have the capacity to generate power. In my constituency, we have the capacity to generate enough power to run our factories and even have excess power to sell. Unfortunately, there has been lack of vision and proper planning not only by the KTDA, but also by the Government. The mistake is that some people with vested interests either within the Government or KTDA are using the same projects for power generation to start their own power projects from which farmers are completely removed. What we have done in my constituency is to mobilize the farmers to register themselves and then start projects. I am glad that UNIDO came in to assist the farmers, and they have started a power project. I believe it will be the first hydro-power generation run and managed by the locals in my constituency. It will be the first and the only one in the country. I would like to invite the Minister to make a tour in my constituency and we will show him how to do it. He could then replicate it elsewhere. This will reduce the cost of power in the factories.

I would like the Ministry to take this seriously. Most of our factories use firewood as a source of power. There is not enough land to plant trees. However, we have designated forest areas which you can allocate to the tea factories to plant trees---

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Kones, the schedule I have shows that the Government is supposed to respond at 10.50 a.m. So, you are now speaking at the pleasure of the Assistant Minister.

Dr. Kones: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me conclude. I know the Assistant Minister needs this information, so that when he responds he will be able to address these issues.

What the Assistant Minister needs to do is to facilitate the factories to be allocated part of these forests to grow trees, which will provide them with firewood. That will also cut down on the cost of hydro-power.

With those few remarks, I support the Motion.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Assistant Minister, there are quite a number of people who want to contribute. If you would like to donate some of your time, it is entirely up to you.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, I wanted to give a lengthy response to this Motion. However, I would like to donate a minute each to my colleagues.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me a chance to contribute to this Motion. I thank the Mover of this Motion. It is a very critical Motion he has brought before the House. If it is passed, it will help the poor farmer we have at home to get more revenue. Let us look at the positive effects. If the farmer does not pay the money they are supposed to pay and if they do not pay the loans for the factories, they will be paid more money per kilogramme of the produce. The farmer will use the same money to purchase cooking fat, other essential things and pay school fees. Through taxation, the Government will get the money back. So, it is a good move for the Government to take over the loans owed by these factories, because at the end of the day, the Government will benefit. The farmer will have more disposal income to use. The farmer's income will be used to buy consumables which are taxed, and so the Government will earn some money.

I support the Motion.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to thank the Mover and the Assistant Minister for donating time to me. I do not come from a tea-growing area, but I went to a school in a tea-growing area. We must take cognizance of the fact that the world is now a global village and each country must know what their competitive niche is. Every country must be treated the way you would treat a company. In Kenya, we must declare our competitive niche, whether it is tea, coffee, fishing, or tourism. If we outline five areas which Kenya should consider its competitive niche in the global market, then we must put in resources and energy to ensure that we excel in those areas. In that regard, I would like to urge the Government to ensure that we do aggressive marketing and packaging. If you go outside there, you will realize that our Kenyan tea is packaged and sold as English tea when, in fact, it is Kenyan tea. The Government must change that.

Secondly, we must make sure that we modernize our marketing and use all the modern techniques, whether it is facebook or whatever it is for marketing our tea.

Finally, we must subsidize our farming. The developed world subsidizes its farming, but we do not. We must also diversify our farming. We have seen that fishing has developed in areas that are traditionally not fishing areas. Let us take agriculture to those areas that are not agricultural areas.

I support.

Mr. Lang'at: Mr. Temporary Deputy Speaker, Sir, I support the Motion. We know that tea earns more foreign exchange than any other thing in Kenya. It earns more than tourism, for which we have a special Ministry. I think we should even create a Ministry of Tea because it generates more foreign exchange than any other product. Once the Government takes over these loans, the factories will manage their businesses. They will engage in activities that will generate more revenue for the factories. Kenya has the capacity to generate three times the tea we are currently generating and the market is there. It is only the Government to invest in tea like it is investing in the tourism and other sectors.

I support this Motion and urge the Government to take over all these loans so that our farmers can get more.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, from the outset, I would like to thank Dr. Khalwale for bringing this Motion to the House. My heart and spirit is with this Motion. I would like to start with coffee. Where I come from, we have been brought up by coffee. In the early 1970s and 1980s, coffee was the leading export earner. However, in the late 1980s and 1990s, the coffee fortunes went down as a result of massive debts. The Government has gone out of its way for the last five years to revive coffee production and as at now, many farmers are reverting to coffee production. The Government has instituted several measures to ensure that the production of coffee is enhanced. Most of the debts have been waived.

As I stand here, I want to confirm that the Government has approved more than Kshs2 billion to waive most of the debts in the coffee subsector. We expect that in early January, the Minister for Co-operative Development and Marketing and the Deputy Prime Minister and Minister for Finance will be able to move across the entire country issuing these cheques, so that the farmers and the farmers union can utilize this money to offset all those historical debts which have been weighing down the farmers.

Mr. Temporary Deputy Speaker, Sir, the tea industry plays a very important role in the socio-economic development of the country. In the year 2010, the industry generated more than Kshs97 billion in export earnings and, indeed, it is the leading foreign exchange earner for the country. A further Kshs8 billion was generated by the industry in the local tea sales. It also created employment to over three million people along the value chain, either directly or indirectly, and it was also involved in infrastructure development in the rural areas.

Mr. Temporary Deputy Speaker, Sir, the tea industry production is structured in two categories, that is the plantations and the small holder. The small holder category accounts for more than 56 per cent of the total tea production, and is managed through the Kenya Tea Development Agency (KTDA) Ltd. The small holder tea production was established under the Agricultural Act, Cap. 318 of the Laws of Kenya and managed by the Government in 1960 under the Special Crop Development Authority (SCDA), a body which was replaced by the KTDA in 1964.

Mr. Temporary Deputy Speaker, Sir, I am giving the origin of all the issues with regard to tea, so that you can appreciate the predicament in which the Government is in the management of the tea subsector. The KTDA was then privatized in 2000 under the Tea Industry Structural Reform Programme. Prior to the privatization of the subsector, the Government provided extension services to the growers who undertook the processing and marketing of tea. Following the privatization, these roles were taken over

by the KTDA Ltd, which currently manages 66 small holder tea factories with a total of 554,715 tea growers. These factories are owned by the tea growers and are registered under the Companies Act as independent and private tea enterprises. All the 66 factories have borrowed a total of Kshs5.5 billion from the various financial institutions, where Kshs4.2 billion is the main loan sourced for the construction of the new satellite factories, expansion and renovation of the old factories, fuel, wood and land acquisition project as well as the hydro power project.

Mr. Temporary Deputy Speaker, Sir, the industry has borrowed Kshs1.2 billion under the asset based financing from banks and financial institutions as follows: Kshs176 million from the Barclays Bank of Kenya, Kshs722,000 from NIC Bank, Kshs115 million from Eco Bank, Kshs115 million from KCB, Kshs12 million from Stanbic as well as Kshs420,000 from Co-operative Bank and Kshs163 million from Equity Bank.

Mr. Temporary Deputy Speaker, Sir, out of the Kshs105 billion generated by the industry in 2010, the small-scale tea accounted for more than Ksh54 billion, out which Kshs40 billion was paid to the tea farmers. The total amount paid out to the tea farmers translated to more than Kshs48 for every kilogramme of green leaves delivered to the factories. The subsector has recorded a remarkable growth, with the number of tea processing factories growing from 66 to 2,010. Most of these are financed by bank loans.

Mr. Temporary Deputy Speaker, Sir, the plantation subsector consists of approximately 44 estate factories, with a total of 56,893 hectares under tea, and production of over 174 million kilogrammes of tea.

Mr. Temporary Deputy Speaker, Sir, the small tea growers are registered outgrowers of their respective tea factories, and the factories are owned by the growers through shareholdings. The number of shares depends on the green tea delivered by the growers by the time of share allocation. The factories normally elect six directors who make decisions on behalf of the tea growers. The directors are elected to serve a term of three years on a rotational basis.

Mr. Temporary Deputy Speaker, Sir, as Government, we want to really highlight that we want the Ministry to be involved in most of the interventions in the tea production. In 2009, the Government attempted to involve KTDA in the bulk importation of fertilizer, so that the Government could subsidize it, but we ran into difficulties with the KTDA. The management of KTDA insisted that KTDA was a private company and, therefore, there was no way they could team up with the Government. So, we want to say that even as the Government, we have been getting some frustrations from the KTDA, because they have not been willing to work with the Government.

Mr. Temporary Deputy Speaker, Sir, through the hydro power generation, the Government through the Ministry of Energy, is going out of its way to ensure that most of the factories are able to have their own power generation. I would like to tell my good friend, Dr. Kones, to visit Imenti Tea Factory, where so far we are using our own hydro power generated by the factory. So, you are not the first when it comes to the power generation and the Temporary Deputy Speaker can testify on that.

Mr. Temporary Deputy Speaker, Sir, the small tea business model in Kenya is highly successful, and is among the best worldwide in terms of organization and management. Since most of these debts are privately sourced by KTDA through these factories, and most of these factories are also owned by private institutions, it is a bit difficult for the Government to really come in and write off the debts. I, therefore, on

behalf of the Government – although my heart and spirit are 100 per cent for the Motion – say that the Government opposes the Motion.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Khalwale, it is your time.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. In spite of the last sentence by the Assistant Minister, I am glad that in heart, spirit, body and mind are in support of this Motion.

Mr. Temporary Deputy Speaker, Sir, there is a saying in Kiluhya that when a snake enters the house, you do not run out of the house to look for a stick to kill the snake. You kill that snake using your own walking stick at the risk of breaking that stick. There is a snake in this House; the snake is called poverty. If we must fight it, we have to use the stick that we have in the House, and the stick we have is that Kenyan tea is the number one foreign exchange earner.

Mr. Temporary Deputy Speaker, Sir, this Government never ceases to surprise me. The Government is aware that they brag day in, day out about our tea when they do nothing about helping the farmers in construction of factories. They do nothing to help farmers to access cheap fertilizers; they do nothing in marketing tea on behalf of the farmers. They do not even do anything about the road infrastructure within the tea growing areas. It is time the Government woke up and realized that the role they are supposed to play is providing all these things if tea will continue earning Kenya the respect and money that we get from it.

Mr. Temporary Deputy Speaker, Sir, having said that, I want to thank all the hon. Members, hon. Gitari, hon. Kabogo, hon. Lee Kinyanjui, hon. Twaha, hon. Chanzu, hon. Njuguna, hon. (Dr.) Monda, hon. Mbarire, hon. (Dr.) Kilemi Mwiria, hon. Keter, hon. Kones and, of course, my own brother, hon. Mbiuki, for supporting this particular Motion. I would also like to thank Mrs. Odhiambo-Mabona and hon. Lagat. I am sorry that I had left you out.

Mr. Temporary Deputy Speaker, Sir, I would like to ask the Government to think about marketing. It is important that the Government goes out and becomes very aggressive in marketing Kenyan tea. In fact, there is room to ensure that all trade attaches in all our foreign missions are given performance contracts to ensure that in the country where they are accredited, they sell some tea in those countries, because tea is enjoyed by just about all men and women of the world.

Mr. Temporary Deputy Speaker, Sir, if leaders really want to commit to the Kenya of tomorrow, it is towards steering this country to a status of zero foreign aid from the so-called development partners and towards 100 per cent trade engagement with the international community. We cannot do this if you are ignoring obvious earners like tea.

I want to assure hon. Members as I beg you to support this Motion, that we are not alone. From the time Mr. Gitari seconded this Motion last week, my facebook page and twitter accounts have been flooded with messages of congratulations for this Motion. I have received text messages on my phone and even phone calls. This means that if we want to give it, then using Ms. Mbarire's own words, this is the best Christmas gift we can give to these farmers.

Mr. Temporary Deputy Speaker, Sir, finally, this Motion is asking the Government nothing new. If the Government can find money to invest in the Women Enterprise Fund; if the Government can find money to invest in the Youth Enterprise

Development Fund; if the Government can find money to invest in small and medium-scale enterprises, then the Government can surely find money to invest in tea. Unlike the above stated, it is only tea that is a sure earner of forex.

With those many remarks, I beg to move.

The Temporary Deputy Speaker (Mr. Imanyara): Please, note that the Clerks-at-the-Table have corrected---

(Question of the Motion as corrected put and agreed to)

Resolved accordingly:-

THAT, aware that tea and coffee farming are the leading foreign exchange earners in Kenya, and that Kenya's tea and coffee are the most popular the world over for their consistent high quality, considering that most tea and coffee factories owe colossal amounts of money in terms of loans to various financial institutions in the country, concerned that these loans impact more heavily on the small scale tea and coffee farmers who contribute highly towards tea and coffee exports, concerned that if these loans are not either waived or written off tea and coffee production may be compromised both in quality and quantity thereby impacting negatively on our GDP, this House urges the Government to take over all the outstanding loans owed to the respective financial institutions by the tea and coffee factories so as to spur the economic growth, sustain tea and coffee quality and quantities and further make the small scale tea and coffee farming more profitable.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, with regard to Orders No.10 and 11, the respective movers have requested that these two Orders be deferred to next week and the Chair has conceded.

ADMISSION OF 75 PERCENT OF STUDENTS IN
REGULAR PROGRAMMES IN PUBLIC UNIVERSITIES

THAT, aware that the Joint Admissions Board (JAB) admitted 32,611 students to public universities in the years 2009 and 2010 double intake; concerned that less than a third of the 81,000 students who qualified to join public universities were admitted; further concerned that parallel degree programme admissions continue to expand further stretching resources for regular programmes; aware that the economic growth of our nation is tied to the educational development of her people; acknowledging that the first group of students under the free education programme will be graduating by 2015 and more than 150,000 students are likely to qualify for university intake; this House urges the Government to ensure that at least 75 per cent of all qualifying students are admitted to the regular programmes in our public universities from the year 2011.

(Motion deferred)

ALLOCATION OF FUNDS FOR NATIONAL POVERTY SURVEY

THAT, aware that Article 202 of the Constitution provides that revenue raised nationally shall be shared equitably among the national and county governments; further aware that Articles 203 and 204 provide criteria for determining the equitable shares and use of the equalization fund respectively; concerned that the last National Poverty Survey that was used to determine poverty levels in different constituencies was undertaken in 2005 and the reliability of the results challenged in different fora; further concerned that the National Revenue Allocation Commission will face serious challenges in discharging its functions unless a new and credible National Poverty Survey is undertaken before the operationalization of county governments; this House urges the Government to allocate adequate financial resources for conducting the said survey at ward, constituency and county levels before the end of 2011/2012 Financial Year.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, there being no other business for us, the business of the House is adjourned to Wednesday, 7th December, 2011, at 2.30 p.m. this afternoon.

The House rose at 11.15 a.m.