

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th February, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

PRAYERS/FUNDRAISING MEETING FOR
NAKUMATT AND MOLO FIRE VICTIMS

Mr. Speaker: Hon. Members, we have an invitation from the Minister of State for Special Programmes to all the hon. Members to attend a prayers and fundraising meeting tomorrow, Thursday at 11.00 a.m. at the Kenyatta International Conference Centre in support and aid of the Nakumatt and the Molo fire disaster victims and the affected persons. Hon. Members, you are urged to attend so as to demonstrate your solidarity with your sisters and brethren.

PAPER LAID

The following Paper was laid on the Table:-

Report of the Parliamentary Select Committee on the review of the Constitution on the nomination of the Chair and the Members of the Interim Independent Electoral Commission.

(By hon. Abdikadir)

NOTICE OF MOTION

APPROVAL OF PSC RECOMMENDATIONS
ON CHAIR/MEMBERS OF IIEC

Mr. Abdikadir: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, pursuant to Section 41 of the Constitution of Kenya; this House approves the recommendations on the Chair and Members of the Interim Independent Electoral Commission contained in the report of the Parliamentary Select Committee on the review of the Constitution laid on the Table of the House on Wednesday, 18th February, 2009.

QUESTIONS BY PRIVATE NOTICE

DELAYED PROMOTION OF
P1 TEACHERS

Mr. C. Kilonzo: Mr. Speaker, Sir, although I have not received the written answer, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Why has the Government delayed promotions of the over 7,000 trained A-level holder P1 teachers in the teaching service?

(b) Could the Minister also explain why untrained A-level teachers, who underwent a two-weeks induction course in 1996 to be promoted to S1 status have continuously been promoted while trained A-level holder P1 teachers have been ignored?

(c) What measures is the Minister taking to correct this anomaly?

Mr. Speaker: Minister for Education!

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I beg to seek the indulgence of the Chair. I hope the Minister will come before the end of Question Time.

Mr. Speaker: Deputy Leader of Government Business, the Member does not have a written answer. Please, ensure that he gets the written answer before the Minister rises to answer the Question.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Yes, Mr. Speaker, Sir.

STOPPAGE OF TEACHING
AT MARSABIT MOI
GIRLS SCHOOL

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

(a) Could the Minister explain why there has been no teaching at Moi Girls Secondary School, Marsabit, since 3rd February, 2009?

(b) What urgent measures will the Minister take to ensure that teaching resumes at the school?

Mr. Speaker: That Question will meet the same fate because the Minister is not yet here.

ORAL ANSWERS TO QUESTIONS

Question No.317

DELAYED CONSTRUCTION OF DAMS IN
ARROR/CHESUMAN LOCATIONS

Mr. Speaker: Mr. Kaino! He is not yet here! Since we have extended indulgence to Ministers, we will also have to extend indulgence to this hon. Member.

Question No.619

SUPPLY OF MANOONI DAM WATER
TO NZAUI RESIDENTS

Mr. Kiilu asked the Minister for Water and Irrigation what steps she is taking to supply adequate, clean and safe drinking water from Manooni Dam to residents of Mbitini, Mulala and Matiliku divisions in Nzau District to avert potential outbreak of

water-borne diseases.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

My Ministry will rehabilitate Manooni Dam starting the next Financial Year, 2009/2010 at an estimated cost of Kshs21.3 million. The works will comprise of scooping the silt that has accumulated over the years, construction of composite filtration units, rehabilitation and extension of distribution network, construction of community water points and rehabilitation of masonry tanks and fencing of the dam site.

Mr. Kiilu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer he has given. However, I would like him to clarify whether he will consider supplying water to the 75 families whose land was taken away for the construction of this dam, who are currently not being served by this water point?

Mr. Kiunjuri: Mr. Speaker, Sir, it would be unfortunate if there are families that were removed from that area and have not been compensated. They are supposed to be compensated if the Government took over the land.

So, I would like us to approach the issue from that point. To be fair to them, we should first of all, deal with the issue of whether they were illegally removed from their land or not.

Mr. Lekuton: Mr. Speaker, Sir, it has been in our policy documents since 1963 to make sure that every household has access to clean water. That target was missed in 2000. Our next millennium development goal is supposed to be 2015. Can we meet that goal?

Mr. Kiunjuri: Mr. Speaker, Sir, every Government plan, not only in the Ministry of Water and Irrigation, is contained in the Vision 2030. It is only good that Members be versed with that and it will give you the answer.

Mr. Kiilu: Mr. Speaker, Sir, I would like the Assistant Minister to give an undertaking that while he is doing the rehabilitation works and constructing the composite tanks, he will treat the water before it is supplied to consumers.

Mr. Kiunjuri: Mr. Speaker, Sir, we are constructing these tanks, so that we can treat the water. However, upon having the dams and the tanks, it is upon the water users in the area to come up with a team to manage the dam. The issue of the treatment will fall strictly under them.

Mr. Speaker: Next Question, Mr. Chanzu!

Mr. Chanzu: Mr. Speaker, Sir, before I ask the Question, I want to thank you for your indulgence and having this Question reinstated. Last week on Thursday, I realised that I was going to be late and I called your office. The Secretary assured me that she was going to inform the Clerk's office. I was late because I was dropping my daughter at school. So, thank you!

Mr. Speaker: Very well! You may proceed!

Question No.592

UPGRADING OF MBALE RURAL TEACHING
HOSPITAL TO MTC

Mr. Chanzu asked the Minister for Medical Services when he plans to convert the 20-year old Mbale Rural Teaching Hospital into a Medical Training College (MTC) to serve the extensive catchment area as well as the rest of the country.

Mr. Speaker: Minister for Medical Services! We will leave the Question in abeyance and revisit it later.

Question No.556

REHABILITATION OF
THUA BRIDGE

Mr. K. Kilonzo asked the Minister for Roads what action he is taking to ensure that Thua Bridge in Mutito Constituency, which was built in the colonial period and is now hanging dangerously, is repaired or replaced to avert imminent disaster.

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

The Ministry will provide Kshs800,000 during the current financial year for the maintenance of Thua Bridge. This is the amount estimated to be adequate for emergency repairs and maintenance of the existing bridge.

The Ministry will also construct a drift downstream of the existing bridge at a cost of Kshs13 million in the Financial Year 2009/2010 to be used by vehicles weighing over 15 tonnes.

Mr. K. Kilonzo: Mr. Speaker, Sir, from the outset, I want to thank the new Minister for Roads, hon. Bett, who visited this area and promised to look into the issue of this bridge plus the tarmac which has already worn out.

In view of the fact that the Minister visited this area, saw how dangerously the bridge is hanging and promised to replace it, could the Assistant Minister to review this answer in light of the visit by the Minister?

Mr. Kinyanjui: Mr. Speaker, Sir, I want to acknowledge, indeed, that the Minister visited the area on Monday this week. We require adequate time to assess what we can do in terms of the replacement or the repair of the bridge. We will give the bridge priority and get back to the hon. Member.

Mr. Nyambati: Mr. Speaker, Sir, there are many bridges in the country, especially in my constituency, which are not functional. What plans does the Ministry have to ensure that bridges in the country are in a good condition, especially in Kitutu Masaba Constituency?

Mr. Kinyanjui: Mr. Speaker, Sir, I agree with the hon. Member that, indeed, his constituency is one of the few constituencies with very many bridges partly because of the terrain in the general Kisii region. My Ministry has been regularly maintaining the bridges. Despite that, some are still in a deplorable condition. We will send a team there to conduct a thorough assessment of what is required to be done. Then the Ministry can source for the necessary funds.

Mr. K. Kilonzo: Mr. Speaker, Sir, as I said, the Ngai Ndethya section of the road, which means "God help me", is in a very bad condition. This is where the bridge is. Given the fact that the Assistant Minister has said that he will look into the matter and will consult with me, I am satisfied.

Question No.423

NUMBER OF ACCIDENTS ON NKUBU-MERU
ROAD IN LAST TEN YEARS

Mr. Ruteere asked the Minister for Roads:-

(a) whether he could state how many accidents have taken place between Kathita Bridge and Gikumene Primary School section of the Nkubu-Meru Road in the last ten years;

(b) when the Government will erect road bumps to slow down the traffic to avoid accidents; and,

(c) when the contract for the construction of Kathita Bridge will be awarded.

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

(a) Three hundred and seventeen accidents have taken place between Kathita Bridge and Gikumene Primary School in the last ten years.

(b) The Government will construct rumble strips this financial year to slow down speeding vehicles.

(c) The contract for the construction of the Kathita Bridge has already been awarded and work will commence as soon as the contractor provides the performance security as per the terms of the contract in the agreement signed. The contract was awarded in January this year for a period of 12 months at a cost of Kshs8 million.

Mr. Ruteere: Mr. Speaker, Sir, I thank the Assistant Minister for the good answer he has given. However, you will realize that the death of 317 people on a stretch of the road which is less than a kilometre long is a very high death rate. That is how a whole village has been lost, along a very short distance. How soon will the rumble strips be put on that road because a majority of those who have died are children?

Mr. Kinyanjui: Mr. Speaker, Sir, as I have indicated, we plan to do so by the end of this financial year. Therefore, that means before June. Latest, we will have the rumble strips done by May this year.

Mr. Ruteere: Mr. Speaker, Sir, the construction of Kathita Bridge is expected to start "as soon as possible". "As soon as possible", could mean after a very long time. Could the Assistant Minister give a specific date when this project will start, so that we do not wait indefinitely?

Mr. Kinyanjui: Mr. Speaker, Sir, the reason why there has been a delay in the construction of the Kathita Bridge is because the main road project was given to Intex Construction Company.

However, their quotation for works on the bridge was in excess of Kshs35 million. Therefore, we re-tendered the bridge. Kiwi Construction won it. They have already signed the contract. We are expecting them to execute the performance guarantee in the next two weeks, latest.

Mr. Speaker: Mr. Assistant Minister, the question was very simple and specific: Could you give a date?

Mr. Kinyanjui: Mr. Speaker, Sir, within the next two weeks, work should begin.

Mr. Speaker: Very well! That is what you should have done! You have cost us one and a half minutes unnecessarily!

Next Question, Mr. Mwakulegwa!

Question No.498

POSTING OF TEACHERS TO MAUNGU
SECONDARY SCHOOL

Mr. Mwakulegwa asked the Minister for Education when the Ministry will post teachers to Maungu Secondary School as the same is now registered but does not have TSC teachers.

Mr. Speaker: Where is the Minister for Education? Deputy Leader of Government Business, you should rise! However, we will come to the Question later.

Question No.433

RETIREMENT BENEFITS FOR
FREDRICK MUNYASYA

Mr. Nyamai asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware that Mr. Fredrick Ngumbi Munyasya (P/No.184370) an

employee of the Kitui County Council for 19 years and a contributor to the Local Government Provident Fund has not been paid his dues after retiring on 1.7.1998; and,

(b) what steps he is taking to ensure that Mr. Munyasya is paid.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Fredrick Ngumbi Munyasya PNo.184370, an employee of Kitui County Council for 19 years and a contributor to the Local Government Provident Fund has not been paid his dues.

(b) Contributors and beneficiaries of the Local Authorities Provident Fund are paid their dues after retirement. This is done after the officer concerned has filled and submitted the statutory forms requesting for payment of his dues.

Mr. Munyasya has not undertaken this very initial step. Efforts by my Ministry, through the managers of the fund, to get in touch with him did not bear fruit because he has not presented himself for payment to be effected. I urge the hon. Member to assist us in tracing the said retiree.

Mr. Nyamai: Mr. Speaker, Sir, I thank the Assistant Minister for the answer he has given me. However, the issue of not being able to trace Mr. Munyasya 13 years after he retired does not arise. He has been to the Ministry offices a number of times. However, since you have said you want me to bring him, I will come with him to your office tomorrow morning. Therefore, I will come to your office tomorrow morning with him.

Mr. Githae: Mr. Speaker, Sir, thank you for that wonderful undertaking. Please, when coming with him, remind him to bring with him the required forms; duly submitted.

Mr. Ochieng: Mr. Speaker, Sir, these kinds of situations are very common. They are very rampant and they affect several local authorities former employees who have retired. Is it in order that every hon. Member should bring similar cases to your office directly?

Mr. Githae: Mr. Speaker, Sir, indeed, that is why we are here to serve you! Please, bring them!

Mr. Nyamai: Mr. Speaker, Sir, I am satisfied with what the Assistant Minister has said.

Mr. Speaker: Very well! Next Question, Mr. Lekuton!

Question No.652

CONSTRUCTION OF POLICE POSTS
IN SAKU LOCATIONS

Mr. Lekuton asked the Minister of State for Provincial Administration and Internal Security, considering that Huluhula, Karare and Songa locations constitute almost 75 per cent of Saku Constituency, when he will construct Police Posts in the respective locations.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) Huluhula Location is situated only seven kilometres from Marsabit. Therefore, adequate patrol from Marsabit Police Station is considered to be enough. Karare Location is largely peaceful as I speak now. Songa Location is covered by Liahe Police Patrol Base. At the moment, there is no necessity of having a police post at Songa as the crime reported from there, is very minimal.

Mr. Lekuton: Mr. Speaker, Sir, I am really shocked to hear the Assistant Minister tell this House that there is no need of having a police station in Huluhula because it is seven kilometres from Marsabit. In the last one year, seven people have been killed in Huluhula. All their goats were flushed out. Is it in order for the Assistant Minister to mislead this House by saying that a mere patrol base

situated seven kilometres away is enough to save the lives of those seven people who died last year?

Mr. Ojode: Mr. Speaker, Sir, I want to congratulate the hon. Member. That is the most peaceful constituency within Kenya. I want it to continue with that kind of peace. Seven kilometres away from the police post is not so expansive. While considering setting up police posts and police stations we have to look at several issues. One is the criminal activities experienced within that area.

The criminal activities experienced within that area are very minimal. We have to look at the availability of land to build a police post or a police station. Of course, I know if there is any need, we will ask the hon. Member to look for land. However, as I speak now, there is no need. We also have to look at the population which the police station must serve. Lastly, we have to look at the distance between one police station to the other. As I speak, the hon. Member has done very well in keeping peace. There is minimal criminal activity in his constituency.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The hon. Assistant is trying to run away from a major problem. The hon. Member does not keep peace in his constituency. It is the responsibility of the Government to do so.

The hon. Member is complaining while the hon. Assistant Minister is running away from the Question. Is he in order to insinuate that hon. Members are the ones to keep the peace in their constituencies? Why is he running away from his responsibilities? Why can he not promise to give another Land Rover like he always does? He should tell us how many Land Rovers he will send there.

Mr. Speaker: Order, Mr. Ruto! You have made your point.

Mr. Ojode: Mr. Speaker, Sir, there is what we call Community Policing which has done very well in his constituency. The other issue is that yes, indeed, we purchase vehicles. We purchase these vehicles away--

Mr. Chachu: Mr. Speaker, Sir, the hon. Member asked a Question about Saku Constituency. Hon. Lekuton is the hon. Member for Laisamis Constituency. Is it in order for him to say that Mr. Lekuton is the hon. Member for Saku Constituency?

Mr. Ojode: Mr. Speaker, Sir, I did not say that hon. Lekuton is the hon. Member for Saku Constituency. I mentioned Songa, Liaye and Hulahula locations. All these locations are within his constituency.

Mr. Gabbow: Mr. Speaker, Sir, I can attest to the fact that those locations the Assistant Minister has mentioned are in Saku Constituency and not in Laisamis. Is it in order for him to lie to this House?

Mr. Speaker: Mr. Gabbow, the word "lie" is unparliamentary.

Mr. Gabbow: Mr. Speaker, Sir, I withdraw. I meant "mislead."

(Laughter)

Mr. Ojode: Mr. Speaker, Sir, if you go by the Question, you will see that it says: "Considering the fact that Hulahula, Karare and Songa locations constitute 75 per cent of Saku Constituency, when will the Minister construct police posts in the respective locations?" Whether they are in Saku or Ndhiwa, I am talking about those locations. I have said that there is no need for us to construct a police station because there are minimal criminal activities in that constituency.

Mr. Gabbow: Mr. Speaker, Sir, the Assistant Minister has told us that, that is the most peaceful constituency in the country. Does he want to tell us that the loss of seven lives is nothing and that it is a sign of a peaceful constituency?

Mr. Ojode: Mr. Speaker, Sir, incidentally, I am not aware of seven lives being lost. If I were to be given a brief on those who were killed or those who were maimed, I would take up the issue from there.

The brief I have is that we do not have criminal activities in that constituency. However, if

there are some specific names of people who have been killed, I will undertake to find out and then give a report to the hon. Member.

Mr. Lekuton: Mr. Speaker, Sir, it is obvious that the Assistant Minister has no idea of what I am talking about. Maybe he needs to familiarize himself with the issue before he answers this Question.

Would I be in order to say that I have not received a sufficient answer? Would I be in order to ask him this Question another time?

Mr. Ojode: Mr. Speaker, Sir, I would have accepted that if he availed the names of those who have been killed. However, as I speak, the answer has been given according to the Question on the Order Paper. I feel that I have satisfactorily answered this Question.

Mr. Speaker: The Chair is satisfied that this Question has been adequately dealt with.

Question No.636

AMOUNT OF ANNUAL REVENUE
FROM SODA ASH

Mr. J.M. Kamau asked the Minister for Environment and Mineral Resources:-

(a) given that soda ash is the only stable and viable mineral in Kenya, how much the Kenya Government earns from soda ash annually in terms of revenue;

(b) whether he could explain the kind of agreement/contract existing between the Kenya Government and the owners of Magadi Soda and if he could state the terms; and,

(c) if he could also state when this agreement was entered into, the number of times it has been reviewed and table the contract/agreement.

The Assistant Minister for Environment and Mineral Resources (Mr. Kiptanui): Mr. Speaker, Sir, I beg to reply.

(a) The Kenya Government earns an approximate of Kshs15 million from Magadi Soda Company Limited annually. The royalties fluctuate depending on the quantity of soda ash, crushed raw soda and salt sold annually. For instance, in 2008 the Government received Kshs15,557,803 while in 2007 it received Kshs13,175,340.

(b) The kind of agreement contract existing between the Kenya Government and owners of Magadi Soda Company operates under a land lease issued on 1st November, 1924 for 99 years by the Commissioner of Lands during the colonial era.

The lease was to expire on 31st October, 2003 but was extended for 50 years with effect from 1st April, 2004. The extension of this lease was a requirement for a loan facility for the expansion of the plant under the land lease, which is being administered by the Minister for Lands.

Mr. J.M. Kamau: Mr. Speaker, Sir, I thank the Assistant Minister for attempting to answer my Question. But you realise that this industry is the only one that we have that is viable in this country. It is the only viable mineral we have in this country and he has just told us that the country earns a paltry Kshs15 million. That is one company that is quoted at the British Stock Exchange, and its profits are counted in billions of pounds. I think it is a joke for this country! People are fighting one another in the Rift Valley over one acre piece of land instead of fighting those British fellows who are earning so much money and stealing from us. Could the Assistant Minister tell us the position, because this is one of the richest companies in the world, yet the Kenya Government makes nothing out of it.

(Laughter)

Mr. Speaker: Order, Mr. J.M. Kamau! You have asked your question! Mr. Assistant Minister, will you respond?

Mr. Kiptanui: Mr. Speaker, Sir, it is not true that this is the only mineral we have in this country. I would like to inform the hon. Member that we have other minerals like fluorspar, a variety of gemstones, gypsum, limestone and natural carbon dioxide. We also have gold, and so soda ash is not the only one.

On the issue of the royalties paid, I would like to inform the hon. Member that, indeed, the rates were adjusted in 2003. Initially, they used to pay Kshs3 per tonne but they are currently paying Kshs25 per tonne, according to the agreement of 2003.

Mr. Namwamba: Mr. Speaker, Sir, of course, it is true that this country has other minerals, but it is known the world over that soda ash remains the pre-eminent mineral mined in this country. I would like [Mr. Namwamba]

the Assistant Minister to clarify whether the Kshs15 million revenue from Magadi Soda Company Limited is from royalties, taxes, shares that the Government might have in that firm or what exactly it is, because when you consider the kind of revenue the Government draws from companies like the East African Breweries (EABL), Safaricom and others in form of taxes alone, it runs into billions of shillings. So, could the Assistant Minister, please, clarify the basis of that kshs15 million? Is it taxes or revenue? I am not convinced that, this amount is sufficient from such a key industry.

Mr. Kiptanui: Mr. Speaker, Sir, with regard to soda ash, I have mentioned that the Kshs15 million is from royalties paid. But as a company, Magadi Soda pays, in total and inclusive of the VAT, land rates, Kajiado County Council business permit fees, the Kenya Bureau of Standards (KEBS) levies amounting to Kshs1.29 billion per year.

Mr. Baiya: Mr. Speaker, Sir, considering that the initial agreement was entered into with the local community whose bargaining capacity *vis-a-vis* the British colonial Government was completely inadequate, is this a fair deal for the Kenyan economy? Is the deal between the British company and the Government of Kenya a fair deal?

Mr. Kiptanui: Mr. Speaker, Sir, I believe it is a fair deal for this country. I have said the total taxes and other dues Magadi Soda pays us amount to Kshs1.294 billion per year. I have also said that in 2004, the rate that they paid per tonne went up to Kshs25. The rate was negotiated to Kshs25 per tonne for soda ash and Kshs18 per tonne for raw soda. In 2004, the Government started more negotiations and we are thinking of reviewing those rates, but I believe it is a fair deal. Prior to 2004, they used to pay us Kshs1 million per year for royalties. From 2003/2004, they have been paying over Kshs15 million, which I think is a fair deal for our country.

Mr. J.M. Kamau: Mr. Speaker, Sir, I would like to ask the Assistant Minister whether he is aware that the original agreement was signed sometime in 1904; it was renewed in 1911 and the area where Magadi Soda company is mining their soda ash was not included in the agreement. Is he aware that a clause was inserted by the British Government to allow them to do the mining which was not originally agreed on and deny the Maasai people---

Mr. Speaker: Order, Mr. J.M. Kamau! You have asked a question, allow the Assistant Minister to respond!

Mr. Kiptanui: Mr. Speaker, Sir, I have said that the initial agreement was in 1924. That is the information we have, which I believe is correct and it was extended in 2004.

Mr. Speaker, Sir, we are not aware of the information that the hon. Member is giving; that they are now mining soda ash from some areas, but I believe that currently they are doing what they are supposed to be doing. They are mining where they were given a land lease.

Mr. J.M. Kamau: Mr. Speaker, Sir---

Mr. Speaker: What is it Mr. J.M. Kamau? You must rise on a point of order! You do not just rise and start talking!

Mr. J.M. Kamau: Thank you for correcting me, Mr. Speaker, Sir. Can something not be done about this company because I believe we are getting a raw deal?

Mr. Speaker: Order, Mr. J.M. Kamau! You are out of order! I thought what you would do, and this is why I allowed you indulgence, is ask the Assistant Minister whether it is in order not to respond to your assertion that a clause was inserted subsequent to the agreement being signed.

Mr. Speaker, Sir, that is what I expected but you have not done that. Mr. Assistant Minister, would you like to do that?

Mr. Kiptanui: Mr. Speaker, Sir, I would like to request the hon. Member to give us more information. I am not aware of that clause.

Mr. Speaker: You are not aware of that clause!

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. What the hon. Member is trying to say is that the agreement was done during the colonial time, and it should be reviewed. Mr. Speaker, Sir, those people are capital flight companies. They reap from our country and take the money to Great Britain. So, could the Assistant Minister tell us if they are going to review the agreement?

Mr. Speaker: Order, Mr. Mbugua! With the greatest respect, that is not a point of order!

That is a question, but, because I want to be kind to you this time, I will not take any action against you.

(Laughter)

We will now go back to the Questions we left in abeyance, beginning with Questions by Private Notice. Mr. C. Kilonzo!

QUESTIONS BY PRIVATE NOTICE

DELAYED PROMOTION OF PI TEACHERS

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

(a) Why has the Government delayed promotions of the over 7,000 trained A-level holder PI teachers in the teaching service?

(b) Could the Minister also explain why untrained A-level teachers, who underwent a two weeks induction course in 1996 to be promoted to SI status have continuously been promoted while trained A-level holder PI teachers have been ignored?

(c) What measures is the Minister taking to correct this anomaly?

Mr. Speaker: Deputy Leader of Government Business!

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I have now received information that the Minister for Education, together with his two deputies, are on an official function outside Nairobi. I seek your indulgence. Perhaps, subject to your direction, they could answer this Question tomorrow.

Mr. Speaker: Very well!

(Question deferred)

Hon. Members, the same appears to go for Question No.2 by Private Notice as well.

STOPPAGE OF TEACHING AT

MARSABIT MOI GIRLS SCHOOL

(Mr. Chachu) to ask the Minister for Education:-

(a) Could the Minister explain why there has been no teaching at Moi Girls' Secondary School, Marsabit, since 3rd February, 2009?

(b) What urgent measures will the Minister take to ensure that teaching resumes at the school?

(Question deferred)

Mr. Speaker: Madam Deputy Leader of Government Business, given that these are Questions by Private Notice, I direct that they be placed on the Order Paper for tomorrow afternoon. Please, ensure that the Minister will be present to deal with them.

Next Question, Mr. Kaino!

ORAL ANSWERS TO QUESTIONS

Question No.317

DELAYED CONSTRUCTION OF DAMS
IN ARBOR/CHESUMAN LOCATIONS

Mr. Kaino asked the Minister for Water and Irrigation whether he could explain what became of the plans to construct two dams for irrigation and hydropower generation in Arbor and Chesuman Locations in Marakwet District, and which were factored in the 1995-1996 development plan.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply. I am aware of plans to construct the dams for irrigation and hydropower generation in Arbor River Basin in 1986.

The Kerio Valley Development Authority (KVDA) commissioned M/s Degi Constructing Engineers of Milan, Italy, to carry out a feasibility study for a multipurpose scheme. The study indicated the suitability of the project to generate hydropower and develop a potential area of about 6,460 acres of irrigation. The project has not been implemented due to lack of funds. The cost estimates for the project implementation was approximated at Kshs16,803,000.

The KVDA has prioritised and revised this project's design, and is seeking for funding. Once this project is implemented, it will add about 70 megawatts of hydropower to the national grid and enhance provision of water for food security in the region. The project will be implemented once funds become available.

Mr. Kaino: Mr. Speaker, Sir, this answer is not satisfying. The Kerio Valley has seven rivers flowing into Lake Turkana. The Assistant Minister would have convinced me by stating how much money has actually been allocated in the current financial year for this project, so that they can be looking for other funds as implementation of the project continues.

Mr. Kiunjuri: Mr. Speaker, Sir, I am not disputing the fact that the Kerio Valley has seven rivers flowing into Lake Turkana. On that one, I am in agreement. However, I have indicated that we have no funds. We are talking of Kshs16 billion. I do not even believe that the Ministry of Water and Irrigation will be allocated Kshs17 billion in the next financial year. We can only rely on donors to do this. So, I would urge the hon. Member to be patient.

Mr. Kaino: Mr. Speaker, Sir, many studies have been carried out on the same project. Each study has come up with the same 70 megawatts potential. We have scarcity of power in this country.

The Ministry is not serious. I want some concrete answers on this Question. Could he state exactly when they will implement this project?

Mr. Kiunjuri: Mr. Speaker, Sir, the Ministry is very serious. It is only that we cannot squeeze water out of a stone. The only way out is to look for funds, which is what we are doing. We shall even be asking the Ministry of Energy to work with us, so that we can combine efforts. We are also aware that we are short of power in the country. We will do our level best to ensure that we do the dams.

Mr. Litole: On a point of order, Mr. Speaker, Sir. The Minister has just said that there is no money to construct these dams. Why are there monies for bringing food all the way from Brazil to Marakwet and Pokot districts?

Mr. Speaker: Order, Mr. Litole! That is a Question, and not a point of order. So, you are out of order.

Next Question, Mr. Chanzu!

Question No.592

UPGRADING OF MBALE RURAL
TEACHING HOSPITAL TO MTC

Mr. Chanzu asked the Minister for Medical Services when he plans to convert the 20-year-old Mbale Rural Teaching

[Mr. Chanzu]

Hospital into a Medical Training College (MTC) to serve the extensive catchment area as well as the rest of the country.

Mr. Speaker: Minister for Medical Services! Madam Deputy Leader of Government Business, is your Minister still not here?

An hon. Member: He is here!

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Speaker, Sir, I apologise.

I beg to reply.

The Ministry has no plans to convert Mbale Rural Health training centre into MTC. Our plans are to revitalise the facility to function as originally intended - that is, as a centre for continuous professional development for serving health workers in Western Province.

Mr. Chanzu: Mr. Speaker, Sir, considering that over the last 20-30 years, there has been a lot of changes in the country, including rapid population growth, and cognizant of the fact that most of the middle-level colleges have been turned into constituent colleges of the universities, could the Ministry consider reviewing that earlier decision, so that this institution can be converted into MTC to benefit from the expansive area on which it stands and the population?

Mr. Mungatana: Mr. Speaker, Sir, the quest seems reasonable, but rural health training centres were established in the 1980s for the purposes of hosting in-service training for health workers who are of lower cadres. Their original number was seven, and they were distributed throughout the country. We have centres in Nairobi and Garissa.

We have one national training centre located at Karuri, Kiambu District. The initial purpose was to train lower cadre professionals in the health profession. So, they were never meant to graduate into MTCs. The suggestion given by the hon. Member is worth considering. However, for this particular one, we want it to continue providing in-service training for lower cadre medical personnel.

Mr. Affey: Mr. Speaker, Sir, these training institutions were designed to provide opportunities for people who live in catchment areas. There is one such institution in Garissa. I would like to find out from the Assistant Minister whether they could consider allowing the students at Garissa Medical

Training College (MTC) to pursue diploma courses, apart from the certificate courses that the college is offering?

Mr. Mungatana: Mr. Speaker, Sir, that is a reasonable request. However, for now, we are still continuing to offer certificate courses. We have to develop capacity in Garissa before we can do what the hon. Member has requested. Mr. Affey is a long-standing Member of Parliament. He knows that we can follow certain procedures, but he has to invoke that administrative mechanisms for us to create capacity.

Mr. Speaker: Last question, Mr. Chanzu!

Mr. Chanzu: Mr. Speaker, Sir, I agree with the Assistant Minister that when this facility was put up many years back, it was meant for the purpose he has just explained. However, we now have Vihiga District Hospital, whose existence was not contemplated at that time, and which can offer these services.

Secondly, there is Masinde Muliro University in Kakamega, which if the Ministry were to accept their request, will also serve this purpose. So, I would like to request him, once more, based on those facts, to consider turning Mbale Rural Teaching Hospital into MTC.

Mr. Mungatana: Mr. Speaker, Sir, we will consider that. For a university to have a medical training college, there are criteria which must be followed. Therefore, we could discuss this but the hon. Member needs to get the system working together with the Ministry of Higher Education, Science and Technology. Certain criteria must be met before a university is allowed to start a medical college. We will assist him in helping Masinde Muliro University reach that level.

Mr. Speaker: Hon. Members, that brings us to the end of Question Time. We have two Ministerial Statements and each of them will take five minutes. We will begin with the Minister for Public Service.

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

Mr. Speaker: Order, Mr. Yakub! I am aware that you have a request for a Ministerial Statement. That will come after Ministerial Statements have been made.

MINISTERIAL STATEMENTS

FATE OF FORMER ECK COMMISSIONERS/STAFF

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, following the dissolution of the Electoral Commission of Kenya on the passing of the Constitutional Amendment Bill, 2008, the Government formed an inter-Ministerial task force on 19th December, 2008, to look into various aspects of the dissolution.

Among the issues that the task force looked into were exit packages for commissioners and staff, redeployment of all eligible and willing former ECK staff, security of Government property and assets and liability status of ECK.

The Inter-Ministerial Task Force completed its work and the report was presented to His Excellency the President and the Right Hon. Prime Minister on 5th January, 2009. I, therefore, wish to inform this House, the former commissioners and staff in particular, as well as Kenyans, in general, that the necessary consultations on the recommendations of the task force are now complete and the Cabinet has made the following decisions:-

(a) That former ECK commissioners be paid three months gross salary, one month's basic salary *in lieu* of notice, service gratuity at the rate of 31 per cent of the basic salary and all unutilized leave to be commuted in cash. This will cost the Exchequer Kshs68.7 million. As to the ECK staff, each of them will receive a golden handshake of Kshs170,000, one month's basic salary *in lieu* of notice, unutilized leave commuted in cash and severance pay of one month's notice for each year of

past service.

They will all receive benefits under the ECK staff pension scheme or under their respective employment contracts. For the staff who opt to be deployed to the Civil Service, they will be paid one month's basic salary *in lieu* of notice. They will then take their unutilized leave in cash and all the benefits under their pension scheme. Further, a total of 467 staff out of a total of 546 ECK staff complement have been approved for deployment into various Ministries and departments. A total of 79 have, however, not been considered for redeployment due to either having attained or being very close to the mandatory retirement age or have disciplinary issues on record.

My Ministry will publish the names of all the staff deployed to various Ministries in the print media to ensure that the affected staff are aware of their postings. I wish to assure the House that the Government is aware that the former staff have been extremely anxious about their fate since the ECK was dissolved. I, therefore, wish to take this opportunity to assure the staff that their welfare has been central to this consultative process which has finally come to an end.

At this stage, I regret that according to information I received from Mr. Affey, we have lost three members of former ECK staff. Whatever their issues were, we send our condolences to their families. The Government will avail the necessary resources to pay all the staff their terminal dues. My Ministry will ensure that this operation is taken care of with all efficiency.

My Ministry has already put in place systems to fast-track the payments and the separation packages as soon as all the former staff exercise their options either to accept re-deployment into the public service or take their terminal dues. We will also prepare a counselling programme that we intend to use to assist the former staff who may require such services.

Mr. Speaker, Sir, finally, I wish to appeal to all former ECK staff to remain calm as they have done for the last six weeks. I wish also to advise that they exercise their options immediately so that this process can move smoothly. I have rushed through because the Chair gave me only five minutes.

Thank you, Mr. Speaker, Sir.

Mr. Affey: Thank you, Mr. Speaker, Sir. One of the reasons why we passed the Bill was that there was an understanding with the Government that the ECK staff would be re-deployed so that no Kenyan suffers. In fact, it is regrettable that three Kenyans have already died as a result of frustrations and due to loss of income.

Mr. Speaker, Sir, could the Minister lay on the Table the results as approved by Cabinet and to confirm to the House and the country when the ECK staff will be re-deployed into the several Ministries? Do you have a timeframe as to when these officers will report in the Ministries and when will you pay them the money? That has not been clear from the Statement.

Mr. Olago: Mr. Speaker, Sir, members of staff of the disbanded ECK also include commissioners.

Mr. Speaker, Sir, the issue of payment of members of staff who are salaried was discussed and agreed. Under what circumstances did the Cabinet agree to pay gratuity to commissioners without reference to the House?

Mr. Njuguna: Mr. Speaker, Sir, while we appreciate the response given by the Minister to the effect that three employees of the ECK have already lost their lives, could he consider giving a comprehensive compensation to the families of the deceased employees?

The Minister for Public Service (Mr. Otieno): Mr. Speaker, Sir, all that the report gives are details of how we will deploy all the staff to different Ministries. I am not so sure if it serves any purpose to just lay it on the Table. I can make it available to any hon. Member who would like to have a look at it. The former employees will receive payment with immediate effect.

Mr. Speaker, Sir, the commissioners were paid what the Government has been paying any constitutional office holder whose service comes to an end; that is their gratuity, one month's salary *in lieu* of notice and one month's pay for past services. So, we have not paid the ECK commissioners

anything different from what we have paid past Permanent Secretaries who were dropped out of the Government under similar circumstances.

Mr. Speaker, Sir, as to the loss of lives, I do not have the particulars but if their families could communicate with us, we will assess the circumstances and make the right decisions at the right time. All deployment is with immediate effect, as soon as they elect which option they want.

FAILURE BY FUEL COMPANIES
TO REMIT FEES

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, last Tuesday, 10th February, 2009, hon. C. Kilonzo asked me to make a Ministerial Statement on the subject of oil contractors who have refused to pay fees for service rendered. In particular, he asked:-

[The Assistant Minister for Energy]

(a) Why the Government has continued to award contracts to two oil companies for importing crude oil, while they have refused to pay fees for services rendered?

(b) Why the Government has continued to award contracts to the same two companies?

(c) Confirm whether there are other companies that owe monies and they have refused to pay.

(d) Action taken against those two companies for their refusal to pay fees to Kenya Revenue Authority (KRA), Kenya Ports Authority (KPA) and Kenya Pipeline Corporation (KPC).

Mr. Speaker, Sir, I beg to issue the following Statement. By way of introduction to the issues raised by hon. C. Kilonzo, I would like to inform the House as follows:-

In the year 2003, my Ministry, through Gazette Notice No.197 of 2003, introduced the Open Tender System (OTS) for the importation of petroleum crude oil and refined fuels to ensure competition in the domestic market. Through that process, they required monthly quantities of both crude oil and refined products for domestic use that were imported by bidders who offered the lowest prices. The imported crude oil is processed at the Kenya Petroleum Refinery Ltd (KPRL) at a fee, which has maintained no change for close to ten years, since 1996. That was despite the huge operating costs and investments made in the refinery.

(Loud consultations)

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

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

Mr. Chanzu: Mr. Speaker, Sir, I think the Statement the Assistant Minister is reading is very important. But you realize that hon. Members are consulting rather loudly.

Mr. Speaker: Order, hon. Members! Please, lower the level of your consultations, so that the Assistant Minister can be heard.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Thank you, Mr. Speaker, Sir. With regard to KPC, a decision was made in May, 2005, by the Government, which owned the Kipevu Oil Storage Facility (KOSF) to adjust the storage tariff charged from US\$2 to US\$3 per cubic litre. That enhanced tariff was made to address the increased operational costs and the cost of additional storage facility constructed at KOSF.

Mr. Speaker, Sir, for the oil refinery, the fee was raised from US\$0.4 per barrel to US\$2.5 per barrel of crude oil processed. That upgrade improved the ullage allocation to all oil companies.

Those enhanced tariffs were communicated to all oil companies who have since complied, except for Kenol/Kobil Group of Companies.

Mr. Speaker, Sir, I now wish to respond to the specific issues raised by hon. C. Kilonzo.

(a) As mentioned in the introduction, the Government does not award contracts to oil

companies for importation of crude and refined oils. What the Government does is to oversee the Open Tendering System (OTS) by inviting all kinds of bids which are then evaluated in the presence of all participating oil companies.

Mr. Speaker, Sir, in tandem with the OTS rules, the Ministry of Energy informs all oil marketing companies of the winners of tenders who then are required to import the tendered quantities. It is through the OTS process that Kenol/Kobil Group of Companies have continued to participate and win many tenders for processing by KPR Ltd.

(b) Mr. Speaker, Sir, with respect to non-payment of required fees, when the dispute arose, the Ministry of Energy decided to exclude Kenol/Kobil Group of Companies from participating in the tender as it was considered unfair for them to continue importing crude oil for domestic processing without paying the required processing fees. Kenol/Kobil moved to court and obtained an injunction to maintain the status quo. Kenol/Kobil Group of Companies currently owes KPRL Kshs497 million.

Mr. Speaker, Sir, with regard to KPC, the relationship between the company and the oil companies is governed by a transport and storage agreement signed and executed between the company and all individual oil marketing companies. The current version of the agreement became operational in 2006 and was signed by all oil companies with the exception of, again, Kenol/Kobil Group of Companies. Instead, Kenol/Kobil Group of Companies sued and obtained an injunction against the company again.

Within the framework of that agreement, the KPC increased storage tariffs at KOSF from US\$2 to US\$3 per cubic meter. All oil companies complied with that tariff increase. As a result, the KPC gave notice to suspend provision of further services to Kenol/Kobil Group of Companies for failure to pay. As at December, 2008, Kenol/Kobil arrears to the KPC, including interest therein, stood at Kshs1.2 billion, which accrued as follows:-

- (1) Failure to pay the revised tariff increase for use of KOSF.
- (2) Withheld payments to KPC by awarding rebates to themselves.
- (3) Demurrage claims allegedly incurred for shipments that could not be discharged at KPC facilities as the company disregarded ullage allocations arrangement at KOSF.

Mr. Speaker, Sir, hon. Members may note that Kenya Ports Authority (KPA) also has informed the Ministry of Energy that they are owed by Kenol/Kobil Kshs564 million as at 1st March, 2008, for seven tenders. Consequently, the two companies owe three parastatals, namely KPRL, KPC and KPA more than Kshs2.3 billion.

Mr. Speaker, Sir, as regards my answer to part "b", whereas the Government has not awarded any contract directly to Kenol/Kobil Group of Companies, both KenGen and KPC have running fuel supply contracts with that group.

There is, however, no evidence that, that has led to the shortage of fuel in the country.

(c) There are no other companies that owe money to the Government. They are all paying their processing fees to KPRL, the storage and transportation fees to KPC and to KPA for ship berthing and dolling services.

(d) Mr. Speaker, Sir, the actions the Government has taken against the two companies for failure to pay fees are:-

When Kenol/Kobil declined to sign the contract for the current transport and storage agreement, KPC gave notice to suspend provision of further services for failure to pay.

Mr. Speaker, Sir, in October, 200--

(Loud consultations)

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

The Assistant Minister for Energy (Eng. M.M. Mahamud): I am finishing, Mr. Speaker, Sir,

within the next five minutes.

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

Mr. Speaker: Order! What is your point of order, Mr. Ruto?

Mr. Ruto: Mr. Speaker, Sir, hon. Members are actually too noisy in their consultations. They are consulting too loudly and the Assistant Minister is actually reading the Statement very fast. We are trying to follow, but it is becoming difficult.

Mr. Speaker: Order, hon. Members! Please, keep the level of your consultations low. Hon. Ruto, please, note that hon. Members do not make noise. They only consult!

(Laughter)

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, I am reading very fast because of the five minute issue. But, please, bear with me.

Mr. Speaker, Sir, in October, 2007, KPC successfully applied to an arbitrating [**The Assistant Minister for Energy**]

tribunal to have Kenol/Kobil ordered to deposit the disputed amount into an escrow account, but the latter appealed to the High Court against this ruling and the case is yet to be determined.

Mr. Speaker, Sir, we all acknowledge that the situation as it is now is unacceptable, as the refusal by the Kenol/Kobil Group of Companies to pay the revised fees has negatively impacted on the smooth running of KPRL, KPC and KPA. The Ministry is also negatively affected as the money charged by KOSF at Kipevu is remitted to the Ministry of Energy to partly finance its recurrent and development budgets.

The failure to pay the two organisations for services rendered has also created an uneven playing field for other oil marketing companies and oil players competing in the same market. Efforts are also being made to explore all available legal channels to ensure that the pending arbitration is brought to a speedy end.

In conclusion, Mr. Speaker, Sir, my Ministry considers what is happening as regards to those two groups imprudent and inconsistent with sound industrial harmony, which my Ministry has continued to enjoy with other players in the industry.

I thank you, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Members! I will give hon. Members some time to seek clarifications but Assistant Minister, note that we directed you to take five minutes but you have lasted 15 minutes. Leader of Government Business, will you please prompt your Ministers! We had a workshop not very long ago and we said a lot of time is lost on very lengthy answers and statements.

Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Speaker, Sir, if I am not wrong, there are 33 oil companies. For only two companies to hold the Government to ransom is unfortunate. I want the Assistant Minister to clarify the following issues: In his response he has said that the Government does not award tenders. The three companies involved that is Kenya Petroleum Refineries Limited (KPRL), Kenya Ports Authority (KPA) and Kenya Pipeline Company (KPC) are 100 per cent owned by the Government and they are also strategic companies. So, when you say that the Government does not award tenders, has the Government sold its interest in these companies to other people?

Secondly, why are you dealing with companies which have refused to pay taxes to the Kenya Revenue Authority (KRA), processing fees and other fees to the three companies I earlier mentioned? Why are you awarding them contracts? They won the contracts for January and March. Why are you continuing to deal with these companies?

Mr. Speaker, Sir, with your permission I wish to table a document which comes---

Mr. Speaker: Provided the document is authentic.

Mr. C. Kilonzo: Rightly, Mr. Speaker, Sir. This is a memo from their own Government and

Permanent Secretary which clearly states the position. I wish to table it.

(Mr. C. Kilonzo laid the document on the Table)

Mr. Speaker: Very well! And finally?

Mr. C. Kilonzo: Mr. Speaker, Sir, I wish just to refer to one line in that document I have tabled. This is issued by the PS. With your permission, can I go ahead?

Mr. Speaker: Very well!

Mr. C. Kilonzo: Mr. Speaker, Sir, it says:-

"These two companies have looked for any pretext not to pay or to delay payments".

These are Kenya Petroleum Refineries Limited, Kenya Pipeline Company and Kenya Ports Authority. Just to continue awarding them contracts even those for March is wrong because they are not paying taxes to KRA. They are refusing to pay you anything. At the same time, they are collecting this money from the consumers and not remitting anything to you.

Could the Assistant Minister clarify exactly what the position is?

Mr. K. Kilonzo: Mr. Speaker, Sir, I want the Assistant Minister to clarify the following issues: One, why is it that this company's licence has not been withdrawn after it took the Government to court and refused to pay taxes and yet it has continued dealing with the Government?

Secondly, how many former and current Government officials are involved with these companies because that is where the problem begins?

Mr. Chanzu: Mr. Speaker, Sir, could the Assistant Minister clarify what measures they are putting in place to promote the independent private petroleum companies which was originally the policy of the Government?

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, as regards the first request about tenders, we indeed, mentioned that we co-ordinate the open tender system and we do not award the tenders. We do not actually pay the companies to deliver services to us. However, I have mentioned that these companies have got running contracts with companies of Government. That is, KenGen and Kenya Power and Lighting Company (KPLC). It is true that we have tenders with them.

Mr. Speaker, Sir, as to why we continue dealing with them, I mentioned that there is a court order which told us to maintain the *status quo*. Our hands are tied.

With regard to the issue of withdrawal of their licence, I think this company has gone to the courts and the Ministry's hands are tied. We tried a lot and I mentioned in my statement that they have been to a lot of courts like the High Court, the tribunal and many places. So, our hands are tied.

Mr. Speaker, Sir, I am not sure whether there are Government officials who are involved with these particular companies but suffice it to say that I agree with the hon. Members that some people have interfered a lot with the activities of our Ministry.

I beg to submit.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I do not know whether you heard the Assistant Minister say that they are dealing with these two companies because there are specific court orders to that effect. I am not a lawyer but I know very well that there is no court or law which can force you to trade with somebody you do not want. So, could the Assistant Minister table that court ruling because there is nowhere in the world where you can be instructed by the courts to continue trading with this person if you do not want?

Mr. Speaker: Mr. Assistant Minister, could you clarify that one very briefly because I think it is easy?

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, I wish we were able to stop dealing with these people because we did that and, in fact, the matter is in court and we shall

not interfere with them at all. The documents which the hon. Member gave are---

Mr. Speaker: Order, Assistant Minister! That is very easy to deal with. You have said that you are continuing to deal with this company or companies because the court has so ordered. Can you indicate to the House where that order is and what the contents thereof are? It is easy!

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, I do not have the court order now, but what I have is an injunction which was issued by Justice Azagalala in March 2006 requiring that the *status quo* of the 1999 Transport and Storage Agreement be preserved pending the solution of the dispute between KPC and the Kenya Kobil. The injunction is in force to date pending termination of the application reference.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Mr. K. Kilonzo since this matter must come to an end as we do not have much time?

Mr. K. Kilonzo: Mr. Speaker, Sir, you will appreciate that this is a very important matter because this is one of the reasons why this country has been having a fuel crisis. Mr. Speaker, Sir, would I be in order that in the event the Assistant Minister has said that he does not have the court order, to defer this matter until such a time that he comes up with that court order so that we can interrogate him further? This is a deliberate excuse by the Ministry to continue dealing with this company which is defrauding the Government.

Mr. Speaker: Mr. Assistant Minister, just before you rise to the microphone, you have said that there is a court order which says that you preserve the *status quo*. What is the *status quo*?

Does it include contracts which have been entered into already and extend to this period? If you can clarify that, then perhaps, the matter can rest. If you cannot, then I am afraid I will have to defer it.

The Assistant Minister for Energy (Eng. Mahamud): Mr. Speaker, Sir, the first *status quo* was not to allow the increases in the charges at KPC and at KRA.

Mr. Speaker: Order, Assistant Minister! I do not think you are doing very well. You have said that the court issued an order to preserve the *status quo*. What was the *status quo* as at the time the order was issued? Does the *status quo* cover continuing business with these companies?

The Assistant Minister for Energy (Eng. Mahamud): No, Mr. Speaker, Sir. The *status quo* related to the increased charges at both the companies but if you say so---

Mr. Speaker: Order, Mr. Assistant Minister! In those circumstances, the explanation you are offering is not satisfactory on that particular aspect. I will, therefore, defer this matter restricted to the effect of the court order which you must come with, table before the House and understand and explain to the House the content and effect of that court order.

The Assistant Minister for Energy (Eng. Mahamud): I am most obliged, Mr. Speaker, Sir.

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

Mr. Speaker: Order, Mr. Chanzu! This matter must rest. I am afraid it must rest. If you have any other issue pertaining to the clarification that you sought, we may allow it as a supplementary when the court order is made available.

COMMUNICATIONS FROM THE CHAIR

PRESIDENTIAL MEMORANDUM ON ON THE FISCAL MANAGEMENT BILL

Mr. Speaker: Order, hon. Members! Hon. Members, you will recall that on 10th December, 2008, the House passed the Fiscal Management Bill (2008).

Upon presentation to His Excellency the President for his assent on the 12th February, 2009, His Excellency the President declined to assent to it. Pursuant to Sections 46(3) and (4) of the Constitution, His Excellency the President has recommended that the Bill be amended as follows:-

"Clause 4(2)(e) of the Bill specifies the following as one of the functions of the proposed Budget Office:

"Advise on appropriate organizational arrangement for planning, managing and co-ordinating Budgetary policies and activities". Although the proposed function is advisory in nature, it is nonetheless an unnecessary intrusion in the mandate of the Executive which should have the powers to determine its own organizational structure independent of Parliament. For the foregoing reasons, I propose that the Bill be amended in Clause 4(2) by deleting Sub-paragraph (e).

Secondly, Clause 5(1) and (h) of the Bill provides the following in relation to the functions of the Departmental Committee of the Kenya National Assembly responsible for economic and budgetary matters:

"(h) perform such other functions relating to the national Budget and economy as may be assigned to it by the Kenya National Assembly".

The provision empowers Parliament to assign unspecified powers relating to the national Budget and economy to the relevant Departmental Committee.

This provision is similarly inappropriate since the contemplated functions are generally within the realm of the Executive. For the foregoing reasons, I propose that the Bill be amended in Clause 5(1) by deleting (h).

Thirdly, Clause 6(2) which specifies the principles of fiscal management does not address the challenge posed by the conflict between various arms of Government in the Budget formulation and management process and in accounting for use of public resources. To cater for this, I propose that Clause 6(2) be amended by inserting the following new paragraphs immediately after (g):

"(h) Observance of the doctrine of separation of powers by ensuring that Parliament does not get involved in the management of public resources."

Hon. Members, I direct that copies of the memorandum be issued to all hon. Members of the House. Section 46(5) of the Constitution provides that the National Assembly shall reconsider a Bill referred to it by the President taking into account the recommendations of the President and shall either approve the recommendations with or without amendments or reject in total and approve the Bill in its original form by a resolution supported by votes of not less than 65 per cent of all Members of the National Assembly excluding *ex-officio* Members.

Hon. Members, I request the House Business Committee to allocate time for the Committee of the whole House to consider the Presidential Memorandum. I order that copies of the Memorandum be circulated hereafter to all Members of Parliament.

CHAIR TO ENFORCE RULES DURING CENSURE MOTION

Hon. Members, I have this second communication in light of the ensuing Order. As you are all aware, Order No.7, which we are about to take, touches on the conduct of one of us in the House. Motions of this nature have in the past elicited strong emotions and passions among hon. Members.

I, therefore, wish to assure the House that the Chair will facilitate the debate in conformity with all pertinent rules. Consequently, the said rules shall be enforced to the letter throughout the debate. I, however, request hon. Members to debate the matter with decorum, use respectful and temperate language and be relevant so as to avoid sideshows. I further urge hon. Members to endeavour to preserve the integrity of the House and, indeed, their own respectability individually, severally and jointly.

Hon. Members, the rules of the House will apply without fear or favour. I thank you.

(Applause)

Order, hon. Members! Matters pertaining to the Presidential Memorandum, as far as the Chair is concerned, are very clear and are expressly provided for in the law. I do not intend to revisit that matter.

Next Order!

MOTION

CENSURE OF MINISTER FOR AGRICULTURE: MR. SAMOEI

Dr. Khalwale: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, being deeply concerned with the conduct of the Minister for Agriculture in the manner he has mishandled the purchase, storage, sale and distribution of maize from the National Cereals and Produce Board (NCPB), leading to the current unprecedented high cost of maize meal coupled with the scarcity of the commodity that has resulted in a national disaster where some Kenyans have succumbed to death and left a further 10 million starving; considering his disregard of the provisions of the Public Officer Ethics Act in particular, Section 12(4)(c),(d); Section 17 and Section 19 and related regulations in the discharge of his duties; this House censures the Minister and resolves that it has no confidence in him and demands that he resigns with immediate effect.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, as I move this Motion, I would like to thank the Clerk of the National Assembly for receiving my notice of Motion. I would also like to thank the Speaker for approving the Motion and the House Business Committee for putting it on the Order Paper. More importantly, I would like to thank thousands of Kenyans who have constantly been in communication with me, giving me information, including documents that have made this Motion credible.

Mr. Deputy Speaker, Sir, I would like to point out that the reason why this Motion is very important is because there are sufficient provisions in the current statutes of the country, which were deliberately contravened by the Minister. The Minister contravened the Standing Orders of the House, the Powers and Privileges Act, the Public Officer and Ethics Act and the National Cereals and Produce Act. In so far as the Standing Orders are concerned, I would like to point out that the Minister deliberately misled Parliament on maize holding at the National Cereals and Produce Board (NCPB) and purported to have sacked managers at the Board.

Mr. Deputy Speaker, Sir, I have heard an hon. Member ask which sections were contravened. The Public Officer and Ethics Act, Section 12(4), says:-

"Notwithstanding any directions to the contrary under Section 3A, a public officer shall not award a contract or influence the award of a contract to a business associate, a corporation, a partnership or any other body in which the public officer has an interest."

Section 17 states:-

"A public officer shall not practise nepotism or favouritism."

Section 19 states:-

"A public officer shall not, knowingly, give false or misleading information to members of the public or to any other public officer."

Mr. Deputy Speaker, Sir, today's Motion is the third such Motion to be moved in the history of this country. The first Motion was moved by Mr. Makokha, who was the then Member of Parliament for Mt. Elgon West, in 1965. The Minister then was the late Paul Ngei. The Motion was moved because the country had become insecure in connection with food, two years after Independence.

The Members of Parliament then, upon listening to Mr. Makokha, found that it was dangerous to allow the Strategic Grain Reserves (SGR) to go without food. They censured Mr. Paul Ngei and, in spite of his having been very close to the late Kenyatta, whom he served a sentence with at Kapenguria, the President asked him to step aside and he stayed out of Government for one year until 1966 when he was reinstated.

The second Motion was in 1979, when Mr. Onyango Midika moved a Motion against Mr. J. Osogo, who was then the Minister for Agriculture. Again, Parliament found that it was dangerous for SGR to go without food. A Member of Parliament that day moved an amendment, which led to the current status of the NCPB, but because Mr. Onyango Midika had been talking about serious matters, a few years later, due to the process of re-organising NCPB, there was famine in this country and Mr. Moi, then President, brought in yellow maize.

Before I talk about the third Motion, may I remind hon. Members that such Motions have generated experience outside Kenya. In Europe, in other Western countries and the United States of America (USA), food security, after the 2nd World War, led to serious riots. Those riots are the reason why all the Western countries are food secure. They learnt from it.

In fact, in France, it led to a riot, which resulted in a revolution. So, those who love the Republic of Kenya, and also know that we want a future for our children, should learn from history, so that we do not wait for food riots to visit our country with a revolution, because matters of hunger affect all of us.

Mr. Deputy Speaker, Sir, today, I move the third Motion in this country, 20 years after Mr. Osogo left the Ministry. I submit that Mr. Samoei must go home, and remain away from that Ministry, because he has abated this maize scandal and for gross incompetence in running the docket. To do what I am saying will not depend on my word, the House will have to take a vote. Mr. Deputy Speaker, Sir, as we take the vote, hon. Members should not be mistaken and think that there is a war between the Mover of the Motion and the Minister who is being censured. The vote being taken is a vote on welfare: the welfare between a Minister keeping his job and the welfare of the hungry Kenyans. Mr. Deputy Speaker, Sir, already famine has a face in this country and it is captured here. It will be a vote between the welfare of the Minister and the starving, who are represented here by Nangole from Rift Valley Province. Hon. Members will use the truth to vote for Mr. Ruto or vote in favour of the starving Nangole.

*(Dr. Khalwale displayed pictures
to the House)*

Mr. Deputy Speaker, Sir, the face of this famine is represented by this little child---

*(Dr. Khalwale displayed a
photograph)*

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. These pictures that the hon.

Member is showing here are cuttings from newspapers. I do not know whether newspaper cuttings are admissible here, when they are not properly authenticated.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the second face of famine in this country is a little girl of five years, and her name is Patricia Muhanga---

Ms. Odhiambo: On a point of order, Mr. Deputy Speaker, Sir. As a child rights advocate, is it in order for the Mover to be misusing children's pictures? It is totally out of order!

Mr. Sirma: On a point of order, Mr. Deputy Speaker, Sir. I think Mr. Ruto wanted a clarification or a ruling from the Chair. Could you rule on these cuttings so that we can move forward?

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. If Dr. Khalwale would like to lay documents on the Table of this House, there are procedures in the Standing Orders that he must comply with; he should not pick up placards as if he was campaigning on the ground!

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir, as you give your ruling on this matter, could you also make a ruling as to the date when those pictures were taken and where?

Mr. Deputy Speaker: Order! Dr. Khalwale, I understand; I know that, and the House knows it also, you are an old Member of this House, and that newspaper cuttings are inadmissible in the House and cannot be laid on the Table of the House. If you, indeed, intend to lay them on the Table, give them to the Clerk and let the Chair look at them. Even if you think they are authentic use the right procedure.

Dr. Khalwale: Mr. Deputy Speaker, Sir, with all due respect, I will lay them on the Table so that you can verify and comment.

(Dr. Khalwale laid the documents on the Table)

Mr. Deputy Speaker, Sir, as you look at them, I beg to continue.

Mr. Deputy Speaker: Proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, may I reassure Ms. Millie Odhiambo that matters of children are very clear at the back of my mind. This is because I am a doctor of medicine.

Mr. Deputy Speaker, Sir, as we take this particular vote, we have to be guided by the genesis of the maize scandal. This started with an Executive order to import three million bags of maize and then the game began. Only 1.5 million bags of maize were imported. The Minister told the House that he paid Kshs3,750 per 90 kilogramme bag for this import. It immediately forces me to ask Members to ask themselves: Why this figure of Kshs3,750? Was this figure because the tender was through single sourcing?

Mr. Deputy Speaker, Sir, hon. Members should ask themselves why only 1.5 million bags were imported if the order of the Executive was that they import three million bags. The House should ask itself, what was the quality of maize that was imported?

The House will be reminded that, indeed, right now we have 6,500 tonnes of maize still detained at the Port of Mombasa because of queries of quality. Why did the Minister allow this scandal to take place? This is a scandal where the maize that was imported by the Government for subsidy was then handed to middlemen. The middlemen who should have bought the maize at Kshs1,750 went and sold it at Kshs2,500. The difference they made is the money which the Minister told the Republic of Kenya that no money was lost. Yes, he is right because the National Cereals and Produce Board (NCPB) received Kshs1,750. However, the taxpayer and the consumer lost because this extra cost of Kshs2,500 was then passed to them by the millers.

Mr. Deputy Speaker, Sir, in this country, when I turn in my place of standing; when I turn left, turn right, turn backwards, whichever way I turn, I see only hungry and angry Kenyans who are asking questions. The questions they are asking are many. Kenyans even asked questions on a national day. If we cannot use the Parliament of the Republic of Kenya to answer these Kenyans or ask the Minister or

force the Minister to give answers, then we will be failing.

Mr. Deputy Speaker, Sir, if the Minister wants us to believe that he is not an accomplice in this maize scandal in spite of the overwhelming evidence, could he tell us whether he, indeed, thinks he is competent? If he thinks he is competent, where is the maize? If he is competent, where is the cheap maize that was supposed to be sold to poor Kenyans at Kshs52 per bag? If he thinks he is competent, has maize ever been sold at Kshs130 per packet in his lifetime? So that I may not forget, Mr. Minister, where is the fertilizer to prepare for tomorrow?

Mr. Deputy Speaker, Sir, if the Minister has nothing to hide, why did he mislead the House on the amount of maize in the stores? Why did he contradict none other than the Prime Minister on the export of maize to Southern Sudan?

Mr. Deputy Speaker, Sir, why has the Minister---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mention the name of the Right Honourable Prime Minister for the second time without substantiating and saying that maize has been exported to Southern Sudan? This House wants to know who exported the maize, the vehicles which were used and records from the Kenya Revenue Authority (KRA) to show this export.

(Applause)

Mr. Deputy Speaker: Dr. Khalwale, are you in a position to substantiate that information?

Dr. Khalwale: Mr. Deputy Speaker, Sir, we are not joking!

Hon. Members: Substantiate! Substantiate!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am prepared to substantiate---

Hon. Members: Do it now! Now!

Mr. Deputy Speaker: Order, hon. Members!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am prepared to substantiate everything on the hon. Minister.

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. We are also not joking! We are serious and this Tenth Parliament today wants to know the million bags of maize sent to Southern Sudan, the registration numbers of those tracks, the owners and business, by who and the records confirmed from the KRA at the border!

(Applause)

Mr. Deputy Speaker: Dr. Khalwale, the rules of the House are very clear. Whatever statements that a Member of Parliament makes, he or she has to be either in a position to substantiate or withdraw and apologise.

(Applause)

This is because you cannot impute improper motive on an hon. Member of the House without substantiation.

Please, proceed and substantiate!

Dr. Khalwale: Mr. Deputy Speaker, Sir, if I understand English, imputing improper motive would have been imputed at by the Prime Minister. I have not done that. I have only made reference. However, so that we can make progress, let us remove this part of my Motion from the discussion.

Hon. Members: Apologise! Apologise!

Mr. Deputy Speaker: Order, hon. Members!

Mr. Sirma: On a point of order, Mr. Deputy Speaker, Sir. With the admission of Dr. Khalwale that he has no evidence, we want him to withdraw and apologise.

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order, hon. Members! I am ruling on a point of order. Dr. Khalwale, indeed, the rules of the House are very clear if you make a statement of fact or what you assume to be a statement of fact, you must have the ability to substantiate or prove it. In the absence of that, would you, please, withdraw and apologise then proceed?

Dr. Khalwale: Mr. Deputy Speaker, Sir, the HANSARD will bear me out. I now apologise for the remarks on the Prime Minister.

Hon. Members: Withdraw! Withdraw!

Mr. Deputy Speaker: Proceed and withdraw!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I withdraw.

(Applause)

Mr. Deputy Speaker: Please, proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, why has the Minister---

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order, hon. Members! Allow the hon. Member ample time to move his Motion.

Dr. Khalwale, please, proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, if the Republic is watching, the people who are trying to interrupt the onward movement of this Motion are "who is who".

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

Mr. Deputy Speaker: Hon. Members, I think the point of order has been addressed. The hon. Member has withdrawn and apologised. Can you allow him to continue?

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

Mr. Deputy Speaker: What is your point of order, Mr. Ruto?

Mr. Ruto: Mr. Deputy Speaker, Sir, the hon. Member here is using threats. Is he in order to impute that when we ask him to substantiate, we are actually "who is who"? What does that mean, Mr. Deputy Speaker, Sir? The hon. Member is peddling lies on the Floor of the House and trying to mislead Kenyans! Falsehoods!

Mr. Deputy Speaker: Order! Hon. Members, I think time and again, we have said: Let us uphold the dignity and decorum of the House. Indeed, that means that we conduct ourselves in accordance with our rules.

Hon. Dr. Khalwale, do not make any statement that you are, indeed, not in a position to substantiate. Proceed on with the substance of your own Motion of Censure!

Dr. Khalwale: Mr. Deputy Speaker, Sir, as I move, I want to ask the Minister why he has declined deliberately to respond to the documents that were laid in this House. Those documents were not only laid in this House, but they are in public domain. Those statements had pertinent issues and queries which the public is begging to know. The Minister would do well to answer.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker,

Sir. The hon. Dr. Khalwale is referring to documents which were tabled here. On some of those documents, you ruled that they should not be part of the business of this House. Would I be in order to ask him, since he is moving this Motion, to table those documents so that the Minister could respond to the documents he has tabled?

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like to thank hon. Keter, with whom we joined Parliament at the same time, for trying to assist me on how to move a Motion. But if my memory serves me right, hon. Keter, you are yet to move a Motion in the Republic of Kenya. Thank you very much.

Mr. Deputy Speaker, Sir, the questions that were raised in those documents---

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Keter! You are out of order, hon. Keter! Proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, the documents---

(Several hon. Members stood up in their places)

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. You have just ruled that the hon. Member should use the correct language in the House. To that extent, he has used a very demeaning word against an hon. Member. Is that in order?

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order hon. Members! Hon. Dr. Khalwale, I think if you really want to seriously move a Motion, and you have a lot of substance, you would not want to waste your time with side-shows. Proceed and conclude your Motion.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am moving my Motion but I cannot believe the number of frivolous points of order that are being thrown at me.

(Messrs. Olago and Magerer stood up in their places)

Mr. Deputy Speaker: Order, hon. Olago! Order, hon. Magerer! Proceed, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, because my time has run out, may I conclude by saying that the National Cereals and Produce Board Act disallows appointment of millers as directors of the Board. The hon. Minister has contravened the Act and appointed one Mr. Mohamed Islam Ali as a Director, when he did so recently. The same Ali is the Managing Director of Mombasa Millers. That is a milling company that received the highest allocation of maize---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. I said that today we are in business. Mr. Mohamed Islam is from my constituency. He is one of the most reputable millers in this country. He owns Mombasa Maize Millers. Is it in order for hon. Dr. Khalwale to come to this House to tell us substantive issues concerning the Minister for Agriculture, Mr. Samoei, and then give us names of Kenyans who cannot defend themselves?

Mr. Aslam sits on the Board of NCPB representing major millers in this country.

(Applause)

Dr. Khalwale: Mr. Deputy Speaker, Sir, I advise the hon. Member to just take a slight little time to go and familiarise himself with the NCPB Act.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Dr. Khalwale has been consistently insulting hon. Members since he stood up. Is it in order? Can he not tame his language, if he is serious?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. For the last ten minutes, Dr. Khalwale has not been able to contribute and table facts before this House because he is being interrupted. Now, he has less than two minutes. It might also happen to other hon. Members who might want to contribute to what some ears do not want to hear. I want guidance from the Chair and, at the same time---

Mr. Deputy Speaker: Order!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Let me finish this, Chair, please. Lastly, now that you can see what is happening, we are begging for your consideration that any Member who will propose, you give one against him so that this debate can be balanced, and Kenyans can judge us well.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Members, the Chair is going to use its discretion and the most judicious judgements or consideration in terms of who is going to catch the eye of the Speaker. You have not gone into a division for us to know the Ayes and Noes before you came to debate this. But nonetheless, I implore and plead--- The Chair usually does not plead. Hon. Members, let us conduct ourselves in a dignified manner. When a Member of Parliament comes on to make a presentation, give him time to present. Let Members of Parliament also confine themselves to the substance of the Motion itself. Do not deviate from the Motion and invite unnecessary points of order.

Proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Criminal Investigations Department, on the word of the Minister himself, is now there at NCPB. So is the National Security Intelligence Service (NSIS), Kenya Anti-Corruption Commission and the special forensic audit that has been ordered by the Prime Minister to go on with the case.

If, indeed, these bodies are there, Mr. Deputy Speaker, Sir, this is all the more reason why the Minister should step aside. He should not fear that he is being sacked. You are merely stepping aside to allow the law to take its own course. We have already demonstrated in this country through the Motion of censure against hon. Kimunya, that Ministers can come back. It is through the Motion of Kenyatta that Paul Ngei came back. So, the Minister should step aside. In so doing, he should do so alongside with the following officers:-

The Managing Director of NCPB, his Personal Assistant, Sales and Marketing Manager and the Chief Accountant of NCPB. All of them should go home to allow for those investigations to bear fruits. That way, we can have food on the tables of Kenyans. Kenyans can afford to go to the supermarkets and buy food at a realistic price.

Mr. Deputy Speaker, Sir, this Motion has been very difficult to move because I am continuously being interrupted. But I will continue soldering on by reminding hon. Members that I know the ruling of the Speaker. The ruling of the Speaker---

With those few remarks, I beg to move the Motion and ask Dr. Eseli to second.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. I would like to thank Dr. Khalwale for allowing me to second this Motion. My reason for seconding this Motion is because of the threats I

have received.

I wish to ask that you give protection to both Dr. Khalwale and I. The threats that I received made me decide to second this Motion.

Mr. Deputy Speaker, Sir, hunger and starvation are not things that need to be played with.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. Did you hear my friend, the hon. Member, say that he is seconding this Motion because of the threats which he has received?

Dr. Eseli: Mr. Deputy Speaker, Sir, it seems like there is, indeed, a concerted effort to make sure that this Motion does not move.

Mr. Deputy Speaker: Order!

Dr. Eseli: Mr. Deputy Speaker, Sir, I am going to say just a few things that suggest why we say the Minister should step aside.

Hunger and starvation are very difficult things to deal with as a nation. One of the most agonizing deaths you can suffer is to die from starvation. That appears to be facing many members of our nation.

The Minister misled this House when he give his Personal Statement and stated that he was going to sack the managers of the National Cereals and Produce Board (NCPB) for abetting the crime of trading in maize arbitrarily. The Minister misled the House because any sackings that went on were as a result of a previous audit done in the NCPB, but not as a result of the maize scam.

Earlier on we passed a Motion of censure on a Cabinet Minister mainly because of misleading the House. If--

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. If we refer to the HANSARD, when the Minister was responding to the Ministerial Statement, indeed, he said that the sacking was as a result of an audit report. Is it in order for Dr. Eseli to say that the Minister misled the House by saying that he was going to sack managers of NCPB as a result of the audit report? That was the position.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Members, the Chair has time and again said that we eliminate these many points of order and allow other Members to participate in the debate properly.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): I am sorry, Mr. Deputy Speaker, Sir. It is an addendum. I remember when the hon. Member started to speak, he said that his life was in danger because he had been threatened. Could he, please, substantiate, if it is a matter of life and death?

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Deputy Speaker, Sir. There is a man here who is saying, aah!

(Laughter)

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Bifwoli, that is out of order!

Dr. Eseli, indeed, a threat on the life of a Member of Parliament is something to be taken very seriously by the Chair. So, indeed, if it is a well-founded threat, the Chair would be willing to make sure that the Member is not under threat.

Proceed!

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. I know that it is unparliamentary for me to name Members, but would you like me to do so?

Hon. Members: Yes!

(Mr. Deputy Speaker)

*consulted with the
Clerk-at-the-Table)*

Mr. Deputy Speaker: Dr. Eseli, if it is a matter of life and death, the Chair would be willing to meet you in the Chair's Chambers.

Proceed with the substance of the Motion!

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. That is quite a relief because the threat was made within the precincts of the House.

Mr. Deputy Speaker, Sir, I was stating that the Minister said that he was going to sack the management of the NCPB for perpetuating the maize scam, but it transpired that eventually those who were sacked, were sacked not because of the maize scam, but because of a previous report.

I believe that, that was misleading to the House. We have set a precedent before, that a Minister who actually was thought to have misled a House Committee, was actually asked to step aside and censured by the House. I believe we should not apply double standards over such issues, because censure is a very weighty matter. It is not a matter to be taken lightly. If we could allow it to happen on one, then we should allow it to happen across the board.

Mr. Deputy Speaker, Sir, it has been very strange, indeed, that we, as leaders of this country, have actually chosen to ride roughshod over the hunger of our voters. The way this Motion has been handled in this House is very sad, indeed. Indeed, if we are to handle the welfare of the Kenyans who voted us into this House in that manner, then I fear that we might not be doing justice. The Executive has been accused of not fighting corruption enough.

Sometimes, it has been accused of abetting corruption. I ask my fellow Members of the House: Are we ready to join and be collectively accused, together with the Executive, for abetting corruption or failing to fight it? I think it is time we took seriously what we are doing.

In this case, there is no escaping the fact that, indeed, maize has been mishandled, as one proud businessman declared for all and sundry to hear, that he did get 100,000 bags and made Kshs85 million shillings out of it. This proud businessman is a prominent farmer in the North Rift, who harvests thousands of bags of maize every year. He refused to sell them to the NCPB but accepted 100,000 bags from it, and we call that trading. Does it mean that the NCPB can trade on subsidized maize that is supposed to feed the hungry of this country?

Mr. Deputy Speaker, Sir, at the beginning of last year we were aware that we were going to have a food shortage in this country. Because of the post-election violence, we knew that most farmers had not planted and that we were going to have a food shortage. However, any imports of maize did not happen until August; several months after we were very aware that we were going to have a food shortage. Is it not the Minister who failed to import this maize on time? That is what we are asking him. This is because we were aware that we needed that maize, but we failed to take action on time to avert the hunger that we have visited upon our citizens.

Despite the negative innuendos and comments from my colleagues, I will stand by my words and say: We will all be judged by our voters. If we stand here to posture and pass comments and threaten, I think then this House has fallen to the lowest level possible.

With those few remarks, I beg to second.

(Question proposed)

Mr. Deputy Speaker: Hon. Members, will I have ten minutes? If you take less than that, you will allow more hon. Members to contribute to this Motion; this is what the Chair prefers. But the Government side, the Minister, will have 20 minutes, just like the Mover.

Mr. Mututho: Mr. Deputy Speaker, Sir, I rise as the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources. I have full mandate and, in democratic

terms, opinion views were expressed here by ten of our hon. Members, I included, and only one was against it. So, when I speak, I give the voice of the Departmental Committee on Agriculture, Lands and Natural Resources. The Committee system is established under our Standing Order No.151.

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Deputy Speaker, Sir.

Hon. Members: Aaah!

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Deputy Speaker, Sir. I think hon. Members should allow an issue to be raised if it is critical. Should Mr. Mututho speak as the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources when it has not presented its report? I think that is a very fair question!

Mr. Deputy Speaker: Mr. Mututho, you are not tabling a report of the Committee itself. You are contributing to a Motion of Censure. Proceed and do not invoke the name of your Committee!

Mr. Mututho: Mr. Deputy Speaker, Sir, I stand corrected!

As a Member for Naivasha, I want to say that I oppose this Censure Motion.

(Applause)

I am one of the strongest admirers of my friend, Dr. Khalwale, but this is one time when we are behaving like a system in engineering terms called "cut-off switch". Engineers are very clever in design, and they install that gadget, so that every time there is power interruption, it switches off a system, but it does not bother to fix the problem. It does not even bother to check on what happens.

Mr. Deputy Speaker, Sir, I am a Catholic and I am declaring that under Standing Order No.75. I am a Roman Catholic and in 867 AD, the then Pope - I stand to be chased out of the Catholic faith and will join any other denomination if I say this, but I better say it - who was running the world at that particular time, ordered his troops to go all the way to Israel and execute people who were practising Judaism. They arrived there and since he was the Commander-in-Chief of all the armies in the world, he killed all of them. They were all killed and at 1.00 p.m. poor Muslims, who were worshipping, 3,000 women and children were doing their thing and it was ordered by the commander, who was on the ground to just go and execute them because they were not Catholics. They were all slaughtered and that is the genesis of conflict between Christians and Muslims, which exists until now.

I need to understand, as Member for Naivasha, very clearly that the issues which have been brought here--- I seek indulgence under Standing Order No.160 to disclose some information, which has come to me by way of my position, I will respond and say this: I have interviewed Mr. Samoei, a man I do not like, and he must forgive me for that, for 12 hours cumulatively. I have interviewed Dr. Shaban for 46 hours and I have interviewed all the Permanent Secretaries. I have interviewed a lot of people! I still stand to be corrected; I am the most qualified agriculturalist in this House, and I understand agricultural systems.

My opinion is that, as the Member for Naivasha, I know that we need 36 million bags of maize per year. That is the amount of *ugali* we take. The maize in dispute is about 100,000, which went to one Kibor. That amounts to 0.3 per cent of the total quantity that we require in the country. Are we so vulnerable that 0.3 per cent of our national stocks can cause famine?

Even if we took the whole 350,000 bags, standing here upright and facing the cameras and the public, at the risk of being voted out by my detractors, not Naivasha people, I will say that 1 per cent is not significant enough to cause famine.

(Applause)

There are issues to do with policy, long term and short term solutions. There are omissions

and commissions, and in particular there is that *ad hoc* Cabinet Committee dealing with famine management. I am opposing this Motion because the maize we are talking about here, even if it was made available today, it would feed Kenyans for three days. What happens after that?

I am standing here to oppose, because I am privy to the fact that as we sit here, the millers do not want to buy - and it is a shame - 525,000 tonnes of maize, because they do not want to sell maize meal to Kenyans at Kshs72 per packet. It is there in the National Cereals and Produce Board (NCPB) and I have seen it. It is there! They would rather import theirs and then sell it expensively. It is not about one Minister. We cannot be used in this House to come and prosecute people that Mr. Mututho does not like. We should be here to make laws and regulations and guide this country to prosperity and food security.

(Applause)

Mr. Deputy Speaker, Sir, I am here to oppose because I am proud to be the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources and we will be tabling a report when the time comes. We shall give Kenyans full facts, figures and everything to show what happened and what went wrong.

With those few remarks, I beg to support.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I stand to support this Motion. At the outset, I want to, first of all, congratulate my brother, Dr. Khalwale, and remind Kenyans and him, in particular, that when it came to Golgotha and the son of man was to be crucified, the same people who were with him in jubilation at Cana of Galilee, because he had converted water into wine, were there to crucify him. When Jesus healed the blind and they received their sight, those people were there. Those people were even there when he raised Lazarus of Bethany, yet at the end of the day, they said that they wanted to crucify Jesus and release Barabas.

Mr. Deputy Speaker, Sir, the crucifixion of Jesus Christ did not mark the end of the spread of the Gospel in the world. It is as a result of the crucifixion of Jesus Christ that we have the day of the pentecost. The disciples filled with the holy spirit, continued to spread the Gospel. I am a student of religion and history. I am an authority on biblical matters. We have given the other side time. We have listened to Mr. Mututho without interruption, but because what we are saying here is not pleasing some hon. Members, they want to stand on points of order. We have been in this House for a long time.

In my own view, the public confidence in the public institutions of this country is very low. Over time, we have not allowed important matters, as the one we are raising here today, to be resolved conclusively. In this House, we debate Motions which are connected to the big questions of governance and economic crimes. However, we never address them exhaustively in this House. We vote and go home, but the question of governance, economic crimes and the relevant laws are never addressed.

Mr. Deputy Speaker, Sir, what should Kenyans expect of us when investigations on matters of public interest take too long to be determined in our courts?

When prosecutions of suspects are hardly resolved, and when matters that touch on Kenyans continue to be derailed to the extent that when the leadership of this country was being considered, some individuals who were already suspected by Kenyans ended up being in the Government? This has happened time and again, not only in this Government, but also in previous Governments.

People of questionable character, who have not been given a chance to clear their names in court, are serving in the Government. You consider such persons innocent until proven guilty. Cases are still in court. They have not been cleared, but they are serving in the Government. I say this because, as a Kenyan, I have a responsibility and a future in this country. What would Kenyans think of us when we come here, as we did last week, and vote that we have no confidence in our

institutions?

Mr. Deputy Speaker, Sir, how would you expect Kenyans to believe in us? Where do we expect them to get justice from, if we, as Members of Parliament, say we have no confidence with our institutions in this country? What do we expect of our people when their representatives have been accused of being bribed to vote for Motions, and we do not bother to clear those kinds of allegations from the public?

The Assistant Minister for Agriculture (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to cast aspersion on the integrity of hon. Members of this House and on the institution of Parliament?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, he is my friend. I clearly used the word "allegations". I did not say that Members of Parliament are bribed. I am talking about allegations doing the round out there, which we have not bothered to clear.

Mr. Deputy Speaker, Sir, how do we expect to fight corruption in this country when even the common *mwananchi* out there is also happy bribing and receiving bribe? We, as a nation, are looking at the leadership of this country. That leadership is here with us. We cannot argue that we have lost the war against corruption in this country. There is always time and place to begin a war. I am happy today that Dr. Khalwale has chosen this House to be the place, and now as the time to begin this war.

Mr. Deputy Speaker, Sir, if the time and place is here with us today, then we must fight this war. We must fight this war, not because we are fighting individuals in this House, but we are fighting to regain our moral authority, which we are losing every day. Kenyans are watching us today. Kenyans have read about maize. They can read. They can ask their friends to read for them. They know the law. Today they can see who is shaming the country. They can judge who will defend corruption in this House.

We have the authority to lead Kenyans, and give them hope and confidence. That is why today---

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Kipkorir): On a point of order, Mr. Deputy Speaker, Sir.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): If you do not want to hear what I am saying, you can sit down! You will get your time!

Mr. Deputy Speaker: What is it, Mr. Kipkorir?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Kipkorir): Mr. Deputy Speaker, Sir, is it in order for the hon. Member to give the impression that already somebody has been declared guilty of corruption and, therefore, we are here to defend corruption? The issue before us is the Motion of Censure of Minister for Agriculture. So, I think it is out of order for the hon. Member to claim that we are here to defend corruption.

Mr. Deputy Speaker: Mr. Kiunjuri, please, make your submission within the confines of the rules of the House.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, that is exactly what I am doing. I have said clearly that members of the public can also judge. They can read newspapers. They can access all manner of information, including the Public Officer Ethics Act. They can judge for themselves. So, they are judging us as we speak here today.

When the issue of Mr. Kimunya came up before this House, I stood here and said categorically that I could read conspiracy and decided that we should not---

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. I have been listening to the hon. Member speak. He quoted Jesus Christ at length. I want to declare the fact that I am a Christian.

As such, I felt offended when he attempted to allude, through the story of crucifixion of Jesus Christ, that Dr. Khalwale is apparently being punished, or is being crucified in the same way Jesus Christ was crucified. This allusion is heresy in our religion. Bishop Margaret Wanjiru is here. She tried to catch the eye of the Chair in vain.

Mr. Deputy Speaker: Order! Order, Mr. Ruto!

Mr. Ruto: Mr. Deputy Speaker, Sir, is it in order for Mr. Kiunjuri to play with religion?

Mr. Deputy Speaker: Order! Order, Mr. Ruto!

Proceed, Mr. Kiunjuri!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I and Mr. Ruto, will have chance to face Jesus Christ. He will judge both of us to determine between him and I, who is sincere.

Today, I stand here because of one thing: I will vote for the thousand of Kenyans who are hungry today. I will vote for the woman whose photograph we have seen here. I will vote for the Turkana, Kikuyu, Kalenjin and all other tribes of this country who are hungry today. I will vote to wipe the tears from their eyes. I am very sure that those of them who have had the opportunity of watching these proceedings are now crying, because of the way we are conducting ourselves in this House.

Mr. Deputy Speaker, Sir, those Kenyans will suffer for the next one month or so. The donor community cannot contribute to the famine relief kitty despite the President having declared hunger as a national disaster until the issues of corruption are sorted out.

Mr. Deputy Speaker, Sir, ambassadors and donors said clearly they will not release a penny to this Government until the issues of corruption are sorted out. Today, Kenyans are still dying, and we cannot receive any help, because this Government, which I serve, has refused to take action against corruption.

Hon. Members: Resign! Resign!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, lastly, I will vote for those people who are turning in their graves, having died of hunger, and who can "hear" Members of Parliament here shout "shame" and they died of hunger! I will also vote for those people who will die because of hunger. Those people will one day shame us and we will receive judgement.

Mr. Deputy Speaker, Sir, having said that, I want to urge the hon. Members, who are of my school of thought, to make sure that we call for a Division, so that Kenyans tomorrow can read in the newspapers and see for themselves who will have voted for corruption and who will have voted against it.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support the Motion.

Mr. Deputy Speaker: Order, hon. Members! The pictures that were tabled by Dr. Khalwale are all essentially newspaper cuttings. As per the Standing Orders of the House, they are inadmissible and shall be expunged from the HANSARD.

Yes, Mr. Omingo!

The Assistant Minister for Trade (Mr. Omingo): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion of censure. I oppose it for two major reasons. I have been the Chairman of the Public Accounts Committee in 2003/2004 and at no time did I pretentiously tell the House that I am investigating an agenda that never was, using that position to come to the Floor of the House and talk falsehoods.

For sure, I detest and hate corruption. Even when we investigated the Anglo-Leasing scandal, the Motion to censure a Minister here was defeated. I lost in tears; I went home. Time came of reckoning and time is a healer. That came to pass. Anglo-Leasing was condemned. I have never been a participant of this kind of scam. I hate and detest corruption. We must redeem the image of this House.

Mr. Deputy Speaker, Sir, we will not be bloodthirsty. I respect my brother, Dr. Khalwale, and I like his contribution, but this time round, he cannot afford to do that. We cannot be taken for granted. Secondly, the Kenya Anti-Corruption Commission is already in that building investigating. The Departmental Committee on Agriculture, Lands and Natural Resources is investigating the

matter. Part of the issue of people shedding crocodile tears in terms of looking clean--- I am a new Member of the Cabinet. I am aware of collective responsibility. At the appropriate time, we shall make a major statement upon correcting the ills within the Government. If you are dissatisfied with the ills you cannot correct them, you had better step aside. Do not tell us that you are serving a Government which you are opposed to. That is why we are bringing a vote of no confidence in ourselves. You are spearing yourself and crying foul.

The Government which I want to support now, lost a fundamental Motion; the Constitution of Kenya (Amendment) Bill. We are still in that Government trying to cry and smile at the same time. What we should address today are institutional failures. What happens when we vote them out and they come back? What have we corrected? Today, this House should be discussing policy issues and the famine issue. We would be good enough to try to do a profile here to be a leader of a particular non-existent forum. We should not do that. Today, we should be talking about agricultural production.

I was in Iran about a week ago and I noted that they have one-third arable land and they receive half of the rainfall that Ukambani receives. Forget about the Kisii highlands where God's bathroom is. Despite this, they have greens in every meal on their table. What are we talking about? We are trying to look good. I hate corruption but if our institutions were working today, Mr. William Ruto should not even resign. He should be in jail with the laws that we make here and try to shoot them down at will. We must give back dignity to this House.

Mr. Deputy Speaker, Sir, this House deserves respect. This House has been degenerating by the day. It is high time, we voted and brought sanity into this House. I am not saying that Mr. William Ruto is clean. In fact, I am saying that I do not know why you are paying KACC and the Commissioner of Police. Why do you not leave Mr. William Ruto to his conscience and use other institutions to lock Mr. Ruto in because I know Mrs. Ngilu was locked in while she was a Minister of Government. There is nothing to stop us from doing it. Give us the issues and the facts. Today, let us bring back sanity.

In my vernacular we say, lightening does not strike a tree twice. It hits once and goes. If you hit and you do not want to leave the game because you are trying to look good, this time round, you do not have that chance. Give us institutions, policy guidelines and issues and the laws that have been broken in this country. I tell you Kenyans are suffering. I sympathise with millions of Kenyans who are dying. How will we correct that now with this populist kind of thing that we are talking to the gallery? Some of these wars are not simple wars. These are 2012 political wars.

I cannot authoritatively say this because I do not sit in Cabinet but we do hear vibes within Cabinet instead of being cohesive enough. Let us bond together as Kenyans and address the issues facing Kenyans in terms of participatory management.

In the interest of his nation, President Obama has had a job freeze and salary reduction. We should be magnanimous Kenyans to have our salaries cut voluntarily and not baying for people's blood simply because we do not like them so that they can pave way for your agenda. This time round, this Parliament must stand for what it is made of. I have no fear of contradiction. We will be able to address the issues as they appear. At the end of the day, time is a healer.

Mr. Deputy Speaker, Sir, thank goodness, we got a public broadcast of our proceedings in Parliament. Some of us have been here for seven years and we have grown gradually. Some of us are running too fast to self-inflicting positions. Within no time, Kenyans will decide who to listen to and who not to bother listening to. Give us issues and positions. Let us not confuse the country. You saw it here; people anticipating debate. I cannot understand why this happened. People anticipated debate of a Motion in this House. Somebody goes to a funeral and says: "Ho! *Mulembe Mwesi* come and vote for this Motion." It is a shame! You are bringing a tribal divide and yet Kenyans need to heal and be one. I propose, *Mulembe* seconds the Motion. What are you talking about? Give us an idea and issues. I want to challenge them; if I am guilty or Mr. William Ruto is, lock us in tomorrow. Let us be sensible and reasonable.

Some of us have got time to live here. Some have outlived their usefulness. Why do we not take a bit of patience and reflect because I know where somebody wants to go, you will get there nonetheless. Can you get there using sanity and decency? Do not bay for people's blood.

Mr. Deputy Speaker, Sir, I oppose.

Mr. Chachu: Thank you Mr. Deputy Speaker, Sir. I rise to oppose this Motion. There are issues that the Mover raised. Most of those issues were not substantiated. This country has been facing drought almost every five to six years. In 1982 and 2002, we had drought. This year, we are also having famine. Can you attribute all those droughts to Mr. William Ruto? This is cyclical. The drought is there because we lack structures to prepare for, mitigate and manage droughts.

Mr. Deputy Speaker, Sir, issues were raised about middlemen who are buying maize. In most parts of this country including the region which I come from, North Horr Constituency, we do not have stores for NCPB or those that are run by the Government. Our people get maize through middlemen and that is true for most parts of this country.

On the issue of contracts being given to business associates, this issue was raised again and again, yet the Mover is yet to substantiate that the Minister gave contracts to his business associates. You cannot raise such substantive issues without proving beyond any reasonable doubt that actually, that is the case. To say the least, the Minister is a very hard working Government officer.

Mr. Deputy Speaker, Sir, today, the National Cereals and Produce Board (NCPB), where I once served as a director, will not be an ailing State corporation through the funds and loans that this Parliament will approve very soon. It will be one of the State corporations that will have enough funds to do what it was established to do by this Government!

Mr. Deputy Speaker, Sir, if there is anyone who has misled this House, it is Dr. Khalwale, when he argued here that the Public Accounts Committee (PAC), in which I serve as a Member--- It is actually politics! As far as I know, and I am a Member - in fact a very active Member of that Committee - we have never had any substantive debate or audit of the maize saga.

Mr. Deputy Speaker, Sir, if there is somebody who needs to be censured, it is Dr. Khalwale!

(Applause)

Mr. Deputy Speaker, Sir, when he mentioned names of widows who are working so hard to raise their families in this House---

(Applause)

Mr. Deputy Speaker, Sir, if we are going to bring dignity to this House and prove that we are leaders who are willing to take this country forward, let us discuss issues and the substance. If there is corruption, let us deal with it like men and women of honour. But let us not drag names of honourable individuals into such issues without any proper substantiation!

With these few remarks, Mr. Deputy Speaker, Sir, I beg to oppose this Motion!

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, I rise to support the Motion and focus on the issues.

(Applause)

Mr. Deputy Speaker, Sir, the role of Parliament is to be a watchdog. The role of the Government is to serve the people. Parliament audits the Government. It is, therefore, the duty of the Government to account to the people through Parliament. When a query is raised relating to a Ministry, we, Ministers, must not take it as a challenge.

We should fully account to Parliament, especially when we have nothing to hide. It is,

therefore, not for the Mover of the Motion or the public, who are asking so many questions, to provide the truth. It is sufficient to raise the query that the subsidized maize was not distributed or handled in a proper manner. It is, therefore, then, the duty of the Minister to---

*(Maj-Gen. Nkaisserry crossed the
Floor behind the Clerks)*

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Mr. Deputy Speaker, Sir. Did you see Maj-Gen. Nkaisserry crossing the Floor behind the Clerks? Is he in order?

Mr. Deputy Speaker: Who?

The Assistant Minister for Medical Services (Mr. Mungatana): Maj-Gen. Nkaisserry just walked behind the Clerks?

Mr. Deputy Speaker: Order, Maj-Gen. Nkaisserry! That is out of order!

*(Maj-Gen. Nkaisserry bowed
to the Chair)*

(Laughter)

Proceed, hon. Minister!

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): I was, therefore, saying that unless we, as the Government, forget our roles, when the public raises the slightest query, it is our duty to explain to the satisfaction, either of the National Assembly or the members of public out there asking.

Mr. Deputy Speaker, Sir, it cannot be proper that when we are questioned, we start looking for diversions. We are politicians and, therefore, this is the House of politics. There will be 2012 and there will be 2017 after 2012. Politics have been with us.

It does not mean, because we are expecting either to defend our seats or to run for higher seats, that we shall never be asked questions because we will be pledging: "This is politics!" Politics aside, when questions are directed to us as the Government, we must account to the people!

Mr. Deputy Speaker, Sir, it is not on the basis of criminality that we answer. It is on the basis of political responsibility. I want to refer hon. Members to Section 22(3) of the Constitution, which is the basis of that responsibility:-

"Where the Vice-President or any other Minister has been charged with responsibility for a department of Government, he shall exercise general direction and control over that department and, subject to that direction and control, every department of Government shall be under the supervision of a Permanent Secretary."

Although the Permanent Secretary is the day-to-day person, he or she is subject to the general direction and control of the Minister. In other words, the Minister is the one responsible to answer. Therefore, a Minister must answer satisfactorily to the House and to the public. By answering, it does not mean that a Minister is guilty.

It is only criminal investigations that can prove whether one is guilty or not. But you can be guilty of political responsibility. You may be asked to take responsibility for wrongs done in your department, even without investigations. That is the basis under which Ministers step aside. They do not step aside because they have been convicted. That is why a Minister who has stepped aside can come back to the fold, if he or she is not guilty.

Mr. Deputy Speaker, Sir, in this National Assembly, we passed the Public Officer Ethics Act. Are we, as hon. Members of Parliament, going to stay ignorant of a law that we have passed? We are

the ones who gave that high threshold!

Mr. Deputy Speaker, Sir, we are coming from a very dark past. Governance is a major issue in Kenya. Unless with cool minds, we agree to raise the bar of accountability; that I can be questioned and I can calmly answer and, if Parliament is not satisfied, I can even step aside to facilitate Parliament to investigate.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. The hon. Minister contributing on the Floor of the House is the Minister for Justice, National Cohesion and Constitutional Affairs, where the Kenya Anti-Corruption Commission (KACC) is directly under her. Is she in order to expect this House to do what she is supposed to be doing under KACC? Could she lay the Report of KACC on the Table?

(Applause)

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Once again, I urge hon. Members to read and understand the laws and also to understand the responsibilities of Ministers.

Mr. Deputy Speaker, Sir, yes, administratively, and as far as answering in Parliament is concerned, KACC is under me. I am aware that they have launched investigations. Therefore, we are not talking of criminal responsibility because investigations are yet to be concluded. I do understand that the investigations may also be together with the Police Department. I am talking about political responsibility and pegging it on the Constitution.

Mr. Deputy Speaker, Sir, it is, therefore, the duty of us, as Ministers, to get to know the working of our departments. We say it is reform time. How can we reform if we do not understand the---

Mr. Kutuny: Jambo la nidhamu, Bw. Naibu Spika. Waziri anayezungumza amesema kwamba ikiwa Waziri yeyote anaweza kushindwa na kazi, achukue hatua ya kuwajibika kisiasa. Hivi majuzi, Bunge liliweza kufutilia mbali na kuzamisha katika kaburi la sahau, hatua ya Serikali ya kubuniwa kwa jopo la kuchunguza maafa ya kisiasa. Mswada huo uliletwa na afisi yake. Yeye, kwanza, angechukua hatua ya kujuzulu kisiasa. Hiyo itakuwa ni kuwajibika kisiasa ndani ya Serikali!

(Applause)

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Bring the Motion and it will be debated!

Mr. Deputy Speaker, Sir, I am also saying this, and I am begging hon. Members to quietly listen and not use diversionary tactics! I urge the Chair to exercise his authority to ensure that there is proper debate in this House.

Mr. Deputy Speaker, Sir, Parliament must take responsibility for its actions. My Ministry passed with flying colours by bringing the Motion to Parliament. My single vote as the hon. Member for Gichugu cannot pass a Motion! The moment a Motion is before Parliament, it is yours to pass or to do as you please with it.

Mr. Deputy Speaker, Sir, to continue, there is therefore, the issue of political responsibility and it appears that we as the National Assembly are not well versed with it. Could we acquaint ourselves with it so that we are able to hold the Government to account and to make Ministers take political responsibility?

Mr. Deputy Speaker, Sir, you held a seminar for us at Safari Park Hotel the other day and a Minister from Ghana indicated to us that they have a law that can actually make a Minister criminally liable and go to jail for causing loss or for negligently performing duties. That is what we need here so that we Ministers do not only enjoy flying the flag. We must also be seriously diligent in the

performance of our duties.

Mr. Deputy Speaker, Sir, when a Member raises an issue, let us as Members, stop vilifying that Member. If the issue is rejected or accepted by Parliament, this is the House of debate. If we cannot accept the rules of debate, then why should we have a National Assembly? I think the issue here is subsidised maize, which maize got to brokers who then sold it at a higher rate to the millers, thus passing on the cost to the consumers. The Government, by setting aside the money to subsidise the maize, wanted the benefits to go to the hungry Kenyans. This is a moral issue. I do not know how other Members are facing their constituents. We have hungry constituents and none other than---

Mr. Langat: On a point of order, Mr. Deputy Speaker, Sir. The Minister has said that the imported maize went to brokers. Can she show evidence of the maize going to brokers and define the word "brokers"?

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, that is a fact already accepted within Government circles. I can say that as a Member of the Cabinet, the Ministry and Committee concerned admitted that because of the menace of brokers, we have to find other ways. I will not go beyond that because of the rules regarding secrecy but I am saying with authority, standing here that the word "broker" has come from both the Ministry and the Committee.

Mr. Deputy Speaker, Sir, I will also say that it is in the public domain. At least, one honest Kenyan, honest in terms of giving information, has admitted that without moving, they were able to sell maize to a third party. I begun by saying that when questions are asked of a Ministry, it is not the questioner who must prove. This is not a criminal trial; this is political responsibility. It is the Minister who must prove; it is not the person who is asking.

Mr. Deputy Speaker, Sir, what is the role of Parliament, if Parliament cannot audit Ministers? This is because when we go to our tribal cocoons or our friendship clubs, Kenyans are watching. To Kenyans, I am saying if we are unable as a Parliament to rid of ourselves of the culture of diversionary tactics whenever a hard question is posed, then we are spelling doom to the country and Kenyans must observe us and decide what type of leadership they want.

Mr. Deputy Speaker, Sir, the Executive and mainly the President and the Prime Minister have the final card not on criminal liability but on political responsibility but Parliament too has a role. Even if the Departmental Committee on Agriculture, Lands and Natural Resources is investigating, the hon. Dr. Khalwale has the right to bring a Motion just like any other Member. The fact that it is being investigated cannot stop Parliament from going on. Let us get serious! Even if we want to support a person, support them in a way that can be convincing.

I beg to strongly support the Motion.

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, at the outset, I want to say that deep down in my heart, I share the moment of shortage of food with many Kenyans. I have had occasion to go hungry. I remember very well in 1980 when I was in Standard Seven, I went hungry and I know how it feels to sleep without food.

Mr. Deputy Speaker, Sir, as the Minister responsible for agriculture, I have taken time. I have been waking up at 5.30 a.m. in the morning every day and being in the office at 6.00 a.m, every day ever since I was appointed to this Ministry to work hard so that we can change what this country has been.

When I arrived at the Ministry of Agriculture, I asked as my first brief, to know the food situation in the country. The information I got is as follows: One, that the Strategic Grain Reserve (SGR) was at four million bags which is a very low figure that was agreed upon almost 20 years ago. Two, I was told that because of the post-election violence, 3.5 million bags of maize were destroyed. I was also told that because of escalating farm inputs, that is, fertiliser and fuel specifically, many farmers did not manage to go to the farms. Four, in the brief that I got, I was told that about 30 per cent of land that would normally be under production was not under production because either farmers could

not afford or the farmers themselves were holed up in camps as Internally Displaced Persons (IDPs).

Mr. Deputy Speaker, Sir, I was also told that farmers had not been paid for the crop that they had delivered in 2007 and that was a whole one year later. Information available in my office also indicated that there was a serious world food problem occasioned by shortage of cereals, escalating fuel costs and the competition for farms between production of bio-diesel and production of food.

I took urgent steps and I want to inform this House because my competency and handling of the Ministry is being questioned--- I think I want to thank the hon. Member who has brought this issue to this House so that you can afford me the platform to tell the country some of the highlights that I have done as the Minister for Agriculture. It is for the Kenyan public and this House to judge whether I have done what I should have done as Minister or I have not.

Mr. Deputy Speaker, Sir, I moved with speed and ordered the farmers to be paid and they were paid within two weeks. I had discussions with the President and he was kind enough when I brought to his attention, that part of the problem we have in this country is that we have a very small SGR and whenever we have famine or problems like those ones we had in January, we quickly degenerate into a crisis. The President was kind enough that on 6th May, just one month after I took office, he announced formally that the Government was going to increase the SGR from 4 million to 8 million bags. The Ministry of Finance was asked to factor the money for the purchase of that maize into the budget.

Mr. Deputy Speaker, Sir, I took the next step and moved to the Cabinet and I am going to table here the first Cabinet memo that I sent to it, informing it of the food situation in the country and requesting it that 3 million bags of maize needed to be imported urgently into the country. This Cabinet memo was in the first ever Cabinet meeting of the Grand Coalition Government.

In that first Cabinet meeting of the Grand Coalition Government which was held on 15th May, 2008, I tabled the first Cabinet Memo touching on food security in this country. In that meeting, the Cabinet directed that three million bags of maize be imported. The Cabinet further directed the Prime Minister's Office to immediately constitute and handle Food Security Committee comprising of the Ministry of Finance, Ministry of Agriculture, Ministry of State for Special Programmes and other Ministries to be incorporated. Understanding very well the seriousness of the food situation, the Cabinet took upon itself to constitute a Committee involving others beyond my Ministry to take charge of the situation in the country.

Mr. Deputy Speaker, Sir, I think it was a very wise decision by the Cabinet. We had the first meeting of that sub-committee on 23rd May, 2008, and we started to grapple with the issue of food security in the country collectively. That first meeting was chaired by the Prime Minister. Hon. Kimunya, Dr. Naomi Shaban and I were present. Also present were our Permanent Secretaries. To demonstrate to this House that, indeed, the Government was seized of this matter of food as early as the first month when I took office as the Minister for Agriculture---

Mr. Deputy Speaker, Sir, so many things have been said here about the Strategic Grain Reserve (SGR). I want to put it in proper perspective so that hon. Members can understand. The SGR does not fall under the Ministry of Agriculture. It is managed under a special gazette notice that was issued by a board of trustees who report to the Office of the President. There is a Minister of State for Special Programmes responsible for all matters including maize. With regard to the sale, purchase, pricing, and distribution, there is a Ministry that is responsible and it is not the Ministry of Agriculture. An erroneous impression has been created because of the people who want to look for people to fight that this SGR is under my Ministry.

Mr. Deputy Speaker, Sir, as a responsible Minister of Government, I did not want to disown it because of collective responsibility and because my Permanent Secretary is a trustee, together with the Permanent Secretaries in the Ministry of State for Special Programmes and Ministry of Finance. That is why I am answering questions here on the SGR. However, if you want political responsibility, there is a Minister responsible. There is a substantive Minister of State who is responsible. So, those who are

asking for political responsibility should direct their questions to the right place.

Mr. Deputy Speaker, Sir, matters were raised in this House about maize being removed from the SGR without authority. The hon. Member raised issues about maize being released without authority. I laid on the Table, all the authorities obtained from the Board of Trustees by the NCPB from December, 2007, all the way to the last bag that was released.

All the authorities obtained from the Office of the President are here, the Ministry of State for Special Programmes to be specific and as is required of the law that governs the SGR.

Mr. Deputy Speaker, Sir, issues of maize being sold to Southern Sudan have been raised. I repeat here that as somebody responsible enough and understanding my duties, when farmers started to harvest maize in Kenya, I took the liberty, on my own motion, to gazette the ban on export of maize from Kenya. That was on 3rd October, 2008. Here is the gazette notice that gave legal backing to the police and Government agencies to stop anybody from exporting maize from Kenya. It was my responsibility and I discharged it.

When subsequently, requests came from Southern Sudan and the Government of Southern Sudan wrote to the Government of Kenya addressed to me, I replied on 28th November. I told them that there was no maize that Kenya was going to sell to them as Kenya did not have enough maize. Again, as somebody responsible, I took the interests of Kenyans before the interests of citizens of any other country.

Mr. Deputy Speaker, Sir, hon. Members should not drag the name of the Prime Minister into these issues. Hon. Members have even gone ahead to say that the Prime Minister sacked people.

Mr. Deputy Speaker: Order, Mr. Minister! If you have laid the documents on the Table, could you, please, pass them on to the Clerk?

*(Mr. Samoei laid the documents
on the Table)*

The Minister for Agriculture (Mr. Samoei): Thank you, Mr. Deputy Speaker, Sir. A lot has been said about the hike of prices of maize, especially during the months of October and November in 2008. There was a time when the price of maize went up from Kshs80 to about Kshs120. The explanation that we got from the trustees is that on 17th October, 2008, a meeting of the trustees was held where the trustees stopped selling maize to millers and traders. They asked them to go and buy maize from farmers. The millers and traders went to buy maize from farmers at a higher price than they were buying from the NCPB. They transferred that high price of Kshs2,300 per bag to the consumers. That is why the price of maize flour went up. That is according to the explanation of the trustees of the NCPB.

Mr. Deputy Speaker, Sir, when that happened, there was hue and cry in the country. What did I do? As the Minister responsible, there were allegations that were made that the hike in price was occasioned by brokers and persons who were sold maize and they were non-deserving. I went out of my way and instructed my Permanent Secretary to write to the KACC. I did not go to hold a rally. I asked my Permanent Secretary to write to KACC. That was on 27th November, 2008.

Here is the letter. Please allow me to read the contents of this letter so that hon. Members can understand that we really wanted this issue to be dealt with properly.

"It has been alleged that some high ranking Government officials and politicians have been involved in the sale of the Strategic Grain Reserve (SGR) by directing the NCPB management to sell maize to individuals by writing letters to NCPB. I am requesting you to investigate this matter. Who are the particular officials and politicians? How did they influence the SGR maize by NCPB? How much maize and what value did they cause to be sold? What are the consequences of their influence on this matter?"

Mr. Deputy Speaker, Sir, this letter does not come from a person who wants to cover up or

condone corruption, or who wants profiteers and traders to make money. Further, the Treasury, on its own Motion, instructed its Internal Audit Department to go and audit all sales of the Strategic Grain Reserves (SGR) maize held by the National Cereals and Produce Board (NCPB).

I lay on the Table of this House, the report of the Internal Audit Department of the Treasury showing clearly that the increase in the cost of flour at that point in time was because the SGR Trustees had stopped selling maize to millers, and, therefore, millers had gone to buy maize from farmers and transferred the high cost to the consumers. Let me lay the report on the table together with the letter to Kenya Anti-Corruption Commission (KACC).

*(Mr. Samoei laid the documents
on the Table)*

Mr. Deputy Speaker, Sir, the Committee of the Cabinet responsible for food security informed the Cabinet of the escalating prices, and the Cabinet took a decision on this matter on 27th November, 2008 and directed the Trustees to change their decision and continue selling maize to millers. On that 27th November, 2008 we told the NCPB, as the Food Security Committee, to sell maize only to millers and nobody else.

The NCPB informed us that the last time registration of millers was done was in 1993. Ordinarily, millers did not buy maize from the NCPB. They bought it directly from farmers. Therefore, we asked the NCPB to register millers afresh, because there were no registered millers ever since the maize market was liberalised.

I am laying on the Table of this House, legal Gazette Notice Nos.412, No.413 and No.410, which removed price controls on maize, wheat and scheduled agricultural products, and, therefore, made superfluous the registration of millers.

*(Mr. Samoei laid the documents
on the Table)*

If anybody could buy or sell maize, then there was no point any more for the NCPB to continue to register millers. Therefore, since 1993 when the Minister then signed the gazette notices, no millers were registered. Therefore, what the NCPB did was to advertise on 4th December, 2008 in both the *Daily Nation* and *The Standard* newspapers which had not happened since 1993. On the basis of that registration, only registered millers were given maize from that time onwards. No other person was sold maize.

Mr. Deputy Speaker, Sir, there are serious allegations that have been in the public domain about a loss of Kshs850 million. This has really fuelled this debate about maize. This loss is not reported anywhere. It is not reported in any police station or in any letter from any office but is in the Press. Since it was in the Press, the NCPB tried to respond through the Press. There are two statements here, which I want to lay on the Table.

It was alleged that 480,000 bags of maize, which was alleged to have been given to millers, was instead sold in Southern Sudan, and the value attached to the 480,000 was Kshs850 million. That is the figure that has been circulating in the Press. I have a statement from the Ministry of State for Special Programmes, confirming that the 480,000 bags were sold to millers; 400,000 bags were sold to big millers and 80,000 bags to small millers.

Mr. Deputy Speaker, Sir, I have a statement from the millers themselves confirming that they received, paid for and collected the 400,000 bags that was alleged to have been taken to Southern Sudan.

Mr. Deputy Speaker, Sir, I also have a statement from the small millers confirming that they received the 80,000 bags.

Mr. Deputy Speaker, Sir, it has been stated here by an hon. Member that I misused my office

and gave to a company associated with me a contract to supply gunny bags. For the records, let me state that AMACO, a company in which I own shares did not apply, tender, supply or procure gunny bags and has no financial dealings with the NCPB; it has no relationship of whatever nature with the NCPB. That is the correct position. The companies which submitted applications--- I am laying the documents on the Table. The ten companies---

(Mr. Samoei's time lapsed)

Mr. Deputy Speaker, this is a Motion against me and I want to ask for more time.

Mr. Deputy Speaker: Proceed! You have an additional five minutes.

The Minister for Agriculture (Mr. Samoei): The companies that tender supply of the gunny bags were ten and were foreign, mostly from India and Bangladesh. Three companies were finally awarded contracts. The three lowest bidding companies were Hora Mills Company Limited, Alterban Industries Limited and Mulnidar and Ratanlal Exporters Limited; they were awarded the contracts. Each company was given a contract to supply one million bags, because none of them could supply the 3 million bags within the time the bags were required. I also Table the documents relating to these contracts.

*(Mr. Samoei laid the documents
on the Table)*

Mr. Deputy Speaker, Sir, Dr. Khalwale, in his very eloquent way, told this House that I misled the House about the status of the SGR. Let me read the statement that he gave to this House. This is the HANSARD and I quote:-

"The Minister told the House that he had 1.6 million bags of maize in SGR as at 30th June, 2008. The truth on the ground is that the Minister was deliberately misleading the House because SGR was at 2.6 million bags of maize."

The figures that Dr. Khalwale himself laid on the Table show, first, because he was in a hurry to fix me, that maize stock holding as at 20th June, 2008 but he was talking about 30th June, 2008. Secondly, his own statement shows that as at 20th June, 2008 SGR was not at Kshs2.6 that he is alleging. His own statement shows the SGR had 1.939 million bags. I have taken the liberty to get the difference between 20th and 30th June, 2008.

I have asked the NCPB to give me the difference, and to whom the maize in the SGR was sold. I have attached the statement from the NCPB. It shows 262,000 bags and the individuals who bought the maize. So, my figure of 1.6 million bags of maize as at 30th June, 2008 is the correct figure. I was not misleading this House but Dr. Khalwale was.

To back up my figure of 1.6 bags, I have also brought to this House the Annual Report and Financial Statement of the NCPB for the year ended 30th June, 2008. This is the official report of the NCPB confirming my figure of 1.6 million. Dr. Khalwale could actually do this country, and the public, a favour if he uses correct figures.

Mr. Deputy Speaker, Sir, allegations have been made here that subsidised maize was sold to brokers. I want to inform this House, on behalf of SGR, and in my capacity as the Minister who is bound by collective responsibility - the Minister responsible could be in a better position to answer this matter - that the maize that was bought between January and October, 2008 was from farmers at Kshs1,300 and sold to traders and millers at Kshs1,700. At no time before the imported maize came did the NCPB sell maize at a loss.

Mr. Deputy Speaker, Sir, I took the liberty because some hon. Members believed that maybe, there was something fishy. I am laying on the Table, the list of all the millers who bought the 1.7 million bags that we imported. The first people who bought this maize did so in October and their

names are here.

Mr. Deputy Speaker, Sir, 94 per cent are big millers, 5 per cent are small millers, 0.8 per cent are schools, Non-Governmental Organisations (NGOs) and other institutions. The rest of Kenyans who bought one or two bags comprise 0.3 per cent which is 3,646 bags.

Mr. Deputy Speaker, Sir, I lay the document on the Table.

(Mr. Samoei laid the document on the Table)

Mr. Deputy Speaker, Sir, finally, Dr. Khalwale also told this House that his Committee was investigating the maize scam. This is falsehood. I mean, a man who wants to come before this House to judge others, should at the very list use the truth.

(Applause)

Mr. Deputy Speaker, Sir, I am laying on the Table, a letter from Dr. Khalwale's Committee talking about Accounts and Funds for the year 2003/2004, yet he was telling this House that he was investigating the maize scam in 2008. Honestly, how low can we go?

(Mr. Samoei laid the letter on the Table)

Mr. Deputy Speaker, Sir, let me thank you for the indulgence that the House has shown. In conclusion, the last statement the hon. Member made here was about my appointment of a Mr. Islam to the National Cereals and Produce Board (NCPB). Let me tell the hon. Member that the National Cereals and Produce Board Act clearly states that, and I will read for him, the Minister must appoint two people; one person representing consumers and another representing millers. That is the law! In fact, Mr. Islam was given to me by the Cereal Millers Association (CMA). He was not my appointee. I kept faith to the law. I, therefore, think it is fair that the hon. Member uses facts whenever he is making allegations.

(Applause)

Mr. Deputy Speaker, Sir, let me then conclude by saying that I am prepared, as I said before, to take political responsibility when I am called upon to. I have discharged my responsibility as the Minister for Agriculture to the best of my ability and in the best way possible. If there was reason for me to resign, I would not spend one day or one minute waiting. I would do that honourably.

However, as I said, it would be unfair on my dignity to dignify the falsehoods that have been peddled around. They are clearly engineered. You know when allegations are made in the media that you must demonstrate political responsibility, what about if those allegations are engineered by the very people who want to bring you down? Are you supposed to succumb?

Mr. Deputy Speaker, Sir, I want to end by saying that I rest my case and leave the rest to the good judgement of this House.

(Applause)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to support this Motion.

Mr. Deputy Speaker, Sir, I speak as a person who has been associated with this scandal. As

you know, I was one of the 15 Members of Parliament who were listed for writing notes to people so that they could be allocated maize which they never got. Today, I went to the Kenya Anti-Corruption Commission (KACC) to write a statement and say that I am ready to be investigated just as much as I am asking for others who have been associated with this scandal to be fully investigated. I also speak as a Member of Parliament.

Mr. Deputy Speaker, Sir, this matter of resignation sometimes is not about evidence. If we follow examples of established democracies that we pretend to copy, we know very well that just a mere mention or suspicion of wrongdoing by a person entrusted with public office leads to their resignation. It is also about integrity. It is not about Mr. Ruto. Unlike Mr. Mututho, I will not say---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. Am I in order to ask the hon. Member that because he is just from the KACC to take the first political responsibility by resigning from the Government?

(Applause)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I do not run a Ministry. I do not oversee any Ministry. I am only one of those who are suspected.

Mr. Deputy Speaker, Sir,---

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order, hon. Members! Dr. Kilemi Mwiria will be heard in silence! Proceed, Dr. Mwiria!

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I think Mr. Duale has been luxurious in terms of his interventions.

Mr. Deputy Speaker, Sir, it is not about Mr. Ruto. Unlike Mr. Mututho, I will not say I do not like Mr. Ruto. I have no reason not to like Mr. Ruto. He is a young man of brilliant political promise.

Mr. Deputy Speaker, Sir, it is not about the fact that he is not entirely to blame like he has explained. It is clearly not Mr. Ruto entirely to blame for the mess in which this country finds itself. It is about integrity and Kenyans are asking for some direction from this Government. We should not wish the matter away because we have not seen any resignations in this country for the last 20 years to 30 years when people have been associated with criminal behaviour and corruption.

Mr. Deputy Speaker, Sir, we should not wish the matter away because there are people who have enriched themselves and continued to sit in Parliament and occupy bigger and more powerful positions in Government.

We should also not wish the matter away because people step aside and are returned back to their jobs. We should think about the point at which we are now where Kenyans are saying enough is enough, especially the youth of this country.

Mr. Deputy Speaker, Sir, Mr. Ruto is one of the youthful Ministers in this country and he has a very large following. I think Mr. Ruto---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Listening to Dr. Mwiria talk and from the beginning of his statement, he said that he wrote letters and he was denied maize. Is it in order for me to conclude that because he was denied maize, he wants to fix the Minister?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I never wrote the letter to the Minister. The Minister never refused to give me any maize. So, I cannot blame him for that. If I ask him and he refuses, that will be another matter.

Mr. Deputy Speaker, Sir, I said that because it was a false implication. I just wanted to clear

the air and say that there was nothing given as a result of all the notes that were written.

Mr. Deputy Speaker, Sir, before I was interrupted, I was saying that Mr. Ruto has a following. It is the right time that we got people like him and others to step aside in a situation like this because they can only get a larger following. Kenyans are looking for examples.

Mr. Deputy Speaker, Sir, the Minister has said that he did his best. He has also said how much he has done as a Minister. The Government, however, seems to have not acted on some of the recommendations. Sometimes people also resign because they have been let down by the Government. It should just be on record that, "I have done my best but the Government has not taken the action it should take."

There are a few questions related to this matter. Is there any scandal associated with this matter? I would say yes. Have Kenyans suffered because of what has happened? Yes, although it is not entirely the reason for that. Has Government lost credibility because of this happening? Yes, indeed. Have we lost the income because some people who have made money have not paid their taxes through the maize trading? Yes, that has been the case. Have there been inconsistencies in the way those things have been explained from the offices of the Ministry? Yes, there have been serious inconsistencies. Therefore, there are many reasons that would lead hon. Members to ask these kind of questions.

Mr. Deputy Speaker, Sir, I would like to say this. We have to avoid being partisan in terms of our political parties and ethnic groups. When the vote on hon. Kimunya was being taken, all hon. Members of Parliament, irrespective of which political party or ethnic group they belonged to, took a position because they believed that, that was the principled position to take.

I would like to say also that we have to be very careful because I heard this morning that there were threatening notes in some parts of this country, threatening certain communities. Unfortunately, the targeted are always the wrong ones. I urge Kenyans to remember that those youths who were used during the ethnic clashes are either dead or in jail. The people that used them or motivated their use are sharing power. They are sharing power! Those other guys are either dead or are in jail.

Mr. Deputy Speaker, Sir, there is need for Kenyans to say enough is enough and decide to kick us out---

*(Several hon. Members stood
up in their places)*

I am saying that it is high time we took action before Kenyans decide that they are fed up with us and go with all of us.

*(Mr. Kapondi stood up
in his place)*

Those who have been associated with corruption and those who have not Bwana Kapondi--- I also call upon them to act against tribalism and forget about tribal boundaries when they are dealing with these kind of matters. They should not try to defend positions of their politicians because they come from---

Dr. Monda: On a point of order, Mr. Deputy Speaker, Sir. Some few days ago, names of hon. Members of Parliament were tabled here in this House. Consequently, people talked about them. Is it in order to allow somebody who has come from the Kenya Anti-Corruption Commission to come and censure a Minister in this House?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, it is in order precisely because I had the courage to go to KACC and come here.

Mr. Deputy Speaker, Sir, I just wish to say that we need to act for the sake of those others

that we lead, and those who are going to see between the ethnic ploy and ask them whether the matter is not one of defending politicians from their ethnic groups, but to rethink of defending the people that they represent who are the majority---

Ms. Odhiambo: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to allude to ethnic alliances when people have been supporting and opposing across ethnic divide? Is he in order?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): I am precisely in order because I am not talking about this particular Motion. I am talking about how we must have touched the roots of our ethnic support right from last year when we had ethnic clashes. The ethnic clashes were about ethnicity. That is what I am talking about. I am saying that it is not enough for Kenyans to just complain.

Mr. Deputy Speaker, Sir, it is important for Kenyans to realise that their enemy is not the people that they target; the poor of Rift Valley who, irrespective of their ethnic group, are suffering like others. Their enemies are the politicians who are sharing power and who, when they were being killed and massacring each other, they were enjoying cocktails, enjoying themselves and making decisions on how to share power. The people who are under-privileged are the ones who suffer from these kind of things---

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

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): I am about to complete, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of order, Member for Kamukunji.

Mr. Mbugua: Mr. Deputy Speaker, Sir, is the hon. Member of Parliament in order to lecture this Parliament? Instead of debating, he is lecturing Parliament. Is he in order?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): It is important for us to get Kenyans to focus on their problems, and to realise that by taking ethnic positions and supporting politicians who take ethnic positions and forget the other wrongs that they have done, they are not doing this country any good. So, I am saying that it is not enough for Kenyans themselves to complain. It is important for Kenyans not to vote for people who steal from the public. They should not glorify thieves and believers in tribalism. If we do that---

Mr. Joho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to ask the hon. Member, because I am following his debate and making nothing out of his lecture, to declare his personal interest in the matter, given that he was denied that maize?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, the hon. Member is not following the debate because this point was made earlier on.

I would like to conclude by saying that it is up to all of us---

*(Several hon. Members stood
up in their places)*

So that I can give no other people the opportunity to raise more points of orders, I will stop there by supporting.

Mr. Deputy Speaker: Order, hon. Members! Hon. Kiraitu Murungi!

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir---

Mr. Deputy Speaker: Mr. Murungi, you have exactly seven minutes.

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I want to state from the very outset that I oppose this Motion.

(Applause)

Mr. Deputy Speaker, Sir, when we were in a high school, we read a play by Shakespeare. There was a play called "Hamlet". I remember a phrase there saying: "Something is rotten in the State of Denmark." There is something rotten about this Motion---

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Mr. Deputy Speaker, Sir. Is hon. Murungi in order to use unparliamentary language? Is "rotten" a parliamentary language?

Hon. Members: It is not!

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, the hon. Member should read the dictionary. The Motion is being supported on the basis of the doctrine of taking political responsibility. That doctrine is not defined in the Kenyan Constitution, laws or our Standing Orders.

Mr. Deputy Speaker, Sir, in my own experience of that doctrine, the doctrine of political responsibility as implemented in Kenya today means the doctrine of political irresponsibility and the political lynching of hon. Members of Parliament.

Mr. Deputy Speaker, Sir, I have been here for many years as a Member of Parliament and have a sixth sense. My sixth sense tells me that this Motion is not about fighting corruption.

We are all very serious about fighting corruption. But this Motion is not about fighting corruption. Somebody somewhere has sat down and imagined some evil political scheme which is being implemented through this Motion.

(Applause)

This Motion is a gross abuse of the procedures and the dignity of this House and, as hon. Members, we should not allow ourselves to be used!

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Mr. Deputy Speaker, Sir. We are very aware that every Motion that comes to this House is cleared by the Speaker of this House. It is signed and brought here. How can the hon. Member assert that this is a Motion which is a gross abuse of House discipline and that it is an evil scheme? He is totally out of order. He is actually encroaching on the dignity of this House!

Mr. Deputy Speaker: Hon. Minister, the Motion is in line with the rules of the House. Proceed!

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I am giving my own opinion based on my own personal experience.

Mr. Deputy Speaker, Sir, I have through implementation of this doctrine of political responsibility, been subjected to endless pain and agony, because of allegations of corruption which were never proved. You remember about Anglo Leasing.

I was interrogated in this House by the Public Accounts Committee, chaired by hon. Omingo. I was also taken to the Kenya Anti-Corruption Commission (KACC) on the allegations that I had interfered with the KACC investigations by one Mr. John Githongo. I was cleared of all those allegations. But I can tell hon. Members of Parliament, that despite my being cleared, after staying at home for nine months, I still carry the cross of Anglo Leasing.

The political responsibility has never ended, even after the investigations ended and found me clean. Even if you watched television last night, it was "Anglo Leasing, Kiraitu Murungi." Everyday in the newspapers, it is "Kiraitu Murungi - Anglo Leasing." Every evening it is "Kiraitu Murungi - Anglo Leasing." Those Indians and the people who were the main architects and beneficiaries of Anglo Leasing are never seen in the Press. It is the politician, Mr. Murungi, who carries the cross of Anglo Leasing up to date. I do not want my friend, Hon. Samoei, to carry this cross on the basis of a nebulous concept of political responsibility.

Mr. Deputy Speaker, Sir, there is a new world of Mr. Kiraitu. The person who released the

products to Devani is called Peter Mecha. You have never seen the picture of Peter Mecha in the Press. You have never heard his name mentioned in this House. Mr. Kiraitu Murungi who was far away and does not even know this Indian or Peter Mecha in person, is the one who is in the newspapers and on television every evening, because of political responsibility.

Hon. Members, somebody somewhere has sat down and planned that, this Mr. Samoei, is becoming too powerful, growing horns and, therefore, it is time for him to go, and the route for him to go is through this Motion. Let the Criminal Investigation Department (CID) and the KACC investigate. If Mr. Samoei is found to be guilty, let him go to jail. But it is not our business as politicians to be used, through this nebulous concept of political responsibility, to sack him from the Cabinet. I am not going to support that.

Mr. Deputy Speaker, Sir, I think time has come for us, as this House, to stand firmly and refuse to be used. I would ask my friend, the bull fighter, the old question for whom the bell tolls. That time, the bell tolled for Kiraitu Murungi. *Akaenda nyumbani na akarudi*. The bell then tolled for Mr. Amos Kimunya. *Akaenda nyumbani na akarudi*. Now, the bell is being rang for Mr. William Samoei Ruto. He might go or not. But I want to tell hon. Dr. Khalwale: Never ask for whom the bell tolls, because it might be tolling for you.

(Laughter)

Time has come for us to stand firmly in defence of the Constitution, justice and the rule of law. Let this Parliament not convert itself into a criminal investigation agency, or court of law for sentencing people, to be sacked from the Cabinet.

I can tell you that it is a very painful process from my own personal experience, when you sit down for breakfast with your children in the morning, and they are reading the newspapers and asking you: "Daddy, have you stolen Kshs7.6 billion?" It is a very painful process that you have to account to your friends every time you go for a drink. They ask you: "*Mheshimiwa, hii pesa yote ya Anglo Leasing imeenda wapi?*"

Mr. Deputy Speaker, Sir, this is a more painful process than even going to Kamiti. I would not like any Member of Parliament, whether he is from PNU or ODM, my friend or enemy, to be subjected to that process.

In the United States, they used to call it McCarthyism. You remember Senator McCarthy. If he mentioned somebody's name, he lost the job and was in misery forever. We are appealing to our friend, Dr. Khalwale, that, please, do not be the McCarthy of Kenya; that if Dr. Khalwale mentions your name, you are finished. Mr. Kimunya can tell you from his experience. Let you not earn the reputation of being the McCarthy of Kenya.

Let us go for the rule of law and strict proof by facts and not rumours. We are unable to fight corruption because we have converted corruption into a blunt political instrument for beating down opponents and destroying the careers of those you do not like. We are not seriously fighting corruption. The Minister for Justice, National Cohesion and Constitutional Affairs, should tell us, instead of complaining in the Press, what practical steps she is taking to fight corruption.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. Is hon. Murungi, who has been mentioned in the oil scam in order to use me as a scapegoat while debating?

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. Since we have listened to both sides, will I be in order to request that the Mover be called upon to reply?

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, hon. Minister! The Chair is responding to a point of order! I will now put the Question.

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

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like to take this opportunity in responding to say the following.

Hon. Members, as we go to voting, people have been extremely Biblical this afternoon. It is not too late for us to make up our mind, so that we vote on this Motion of welfare, for the welfare of the starving Kenyans. It takes around seven days for somebody to starve to death. I am wondering, since these people who were starving were reported over several months ago, how many of them are still alive.

Mr. Deputy Speaker, Sir, as evidenced by the behaviour of some of the contributors, corruption is, indeed, very difficult to fight. Corruption is so difficult to fight that--- I did not want to say it, but Dr. Eseli has prompted me to; he talked of threats.

It is true that even I have been threatened, but, because I reported it to a police station, already the police are holding one person who attempted to threaten us. There is a lot of unity in the House. How I wish this unity will be seen in the outcome of the vote. If our unity will not be seen in our voting in support of the starving Kenyans, then it will be unity in corruption.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Dr. Khalwale seems to have an affinity to insulting hon. Members. He is grossly misconducting himself. I ask that, in the circumstances, you invoke Standing Order No.88(1) to declare him out of order and ask him to withdraw from the Chamber.

(Applause)

Dr. Khalwale: Mr. Deputy Speaker, Sir, those are called Standing Orders that are being quoted.

The Minister has made two cardinal statements; I listened to him carefully, and I want to comment on both. In the first statement he made was that the business of maize has nothing to do with him. It is, in fact, not under his docket. He said it! But if that is the case, how come that in the same breath, the same Minister then told us that he took action to stop export of maize? If it was not under his docket, how come that it was within his power to do that? How come that the same Minister, if it was not under his docket, was able to write a letter to the Kenya Anti-Corruption Commission (KACC)?

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, Dr. Khalwale should have taken time, again, to listen to me carefully. That is the problem he has and that is why he has the wrong figures and wrong information all the time. I said categorically that the Strategic Grain Reserve (SGR) is not under my docket. Maize that is grown in the country is under my docket, and that is why I can sign Gazette notice to ban the export of maize from Kenya. The law gives me that power!

Secondly, I instructed my Permanent Secretary to write to the KACC, because he is a Trustee of the SGR. That is the connection that exists between my instructions and the letter to the KACC.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Minister is trying to run away. You can run away but you cannot hide!

The second point that the Minister made this afternoon, and which, for the first, time I want to thank him for, was that he vindicated the documents I tabled in this House.

For the three companies that won the tender for the supply of the gunny bags, the Minister has read them out to us. One of the companies he has read is Alchampdany? Industries Limited of India is the same company that AMACO communicated with; I tabled documents here on this communication, which I were ruled out of order simply because the Chair set aside the new law on ICT. The moment

the new law on ICT is applied to this particular one, Mr. Samoei, you will be cooked!

With those remarks, I beg to move.

(Question put and negatived)

Hon. Members: Division! Division!

Mr. Deputy Speaker: Order, hon. Members! The Chair has noted that you stood up and supported the call for a Division. So, be orderly now!

Hon. Members, under the circumstances, as the House rules dictate, which is that if 15 Members of Parliament stand up and demand for a Division, then a Division will be. The Chair orders that there shall now be a Division.

So, could the Division Bell be rung?

(The Division Bell was rung)

Mr. Deputy Speaker: Order, hon. Members! Order! Hon. Members, please, be seated! Order! Hon. Members, I want to correct a Communication that I had made from the Chair. The requisite number for a division is 20 hon. Members, and we have the threshold of 20 hon. Members and not 15, as earlier indicated.

Hon. Members, since we are now beyond the interruption time, Standing Order No.17(3) states:-

"If, at the time appointed for the interruption of business, any division is in progress, or a question is being put from the Chair and a division results immediately thereon, such interruption shall be deferred until after the declaration of numbers."

So, our authority is drawn from that provision of the Standing Order.

Hon. Members, I now direct that the doors be locked and the Bars drawn. The list of the Tellers are:-

Ayes - Messrs. Affey and Mbugua.

Noes - Dr. Kones and Mr. Lekuton.

Hon. Members, the standard practice of the House is that the Whips give the names of the Tellers and not the other Members.

DIVISION

(Question put and House divided)

(Question defeated by 119 votes to 22)

AYES: Mr. Baiya, Dr. Eseli, Messrs. Gaichuhie, Gitau, Jirongo, Kamau J.M., Ms. Karua, Dr. Khalwale, Messrs. Kioni, Kiuna, Kiunjuri, Mungatana, Dr. Munyaka, Messrs. Muriithi, Mwangi, Mwathi, Dr. Mwiria, Messrs. Nguyai, Njuguna, Wambugu, Warugongo and Wathika.

Tellers of Ayes: Messrs. Affey and Mbugua.

NOES: Ms. Abdalla A, Ms. Abdalla S, Messrs. Abdirahman, Affey, Akula, Ali M.H, Prof. Anyang'-Nyong'o, Messrs. Anyanga, Bett, Chachu, Chanzu, Ms. Chepchumba, Messrs. Chepkitony, Cheruiyot, Messrs. Duale, Gabbow, Dr. Gesami, Messrs. Godhana, Haji, Imanyara, Joho, Kabando wa Kabando, Kaino, Prof. Kaloki, Prof. Kamar, Messrs. Kambi, Kapondi, Kathuri, Keter, Keya, Keynan, Khang'ati, Khaniri, Kigen, Kiilu, Mrs. Kilimo, Messrs. Kingi, Kipkiror, Kiptanui, Kivuti, Koech, Mrs. Kones, Dr. Kosgei, Mr. Kutuny, Dr. Laboso, Messrs. Lagat, Lankas, Langat, Lekuton, Ms. Leshomo, Messrs. Lessonet, Letimalo, Litole, Lugano, Magerer, Magwanga, Mbadi, Mbiuki,

Mbugua, ole Metito, Mututho, Mohamed I.E., Mahamud, Dr. Monda, Messrs. Mung'aro, Murgor, Murungi, Muthama, Mwadeghu, Mwahima, Mwaita, Mwakulegwa, Mwau, Mwiru, Ndambuki, Namwamba, Nanok, Ms. Ndeti, Mrs. Ngilu, Mr. Ngugi, Maj-Gen. Nkaisserry, Mrs. Noor, Messrs. Nyambati, Obure, Dr. Oburu, Messrs. Ochieng, Odhiambo, Ms. Odhiambo, Messrs. Ogindo, Ojaamong, Okemo, Omingo, Omollo, Ms. Ongoro, Dr. Otichilo, Mr. Otieno, Dr. Otuoma, Messrs. Outa, Pesa, Rai, Eng. Rege, Messrs. Ruteere, Ruto, Prof. Sambili, Messrs. Sambu, Samoei, Sasura, Dr. Shaban, Mrs. Shabesh, Messrs. Shakeel, Sirma, Maj. Sugow, Mr. Twaha, Bishop Wanjiru, Messrs. Washiali, Were, Yakub, Yinda and Zonga.

Tellers of the Noes: Mr. Lekuton and Dr. Kones.

ABSTENTIONS: Messrs. Bifwoli, Kamama, Konchella and Musila.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 19th February, 2009, at 2.30 p.m.

The House rose at 7.10 p.m.