

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 22nd January, 2009

The House met at 2.30 p.m

*[Mr. Speaker in the Chair]*

PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Report of the High Level Committee on the Prisons Crisis.

*(By the Vice-President and Minister  
for Home Affairs (Mr. Musyoka))*

Abstracts of Accounts of the County Council of Siaya for the year ended 30th June, 2006 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Kitui for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Embu for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Nanyuki for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Town Council of Sagana for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Ruiru for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Ruiru for the year ended 30th June, 2005 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the County Council of Wareng for the year ended 30th June, 2005 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the County Council of Wareng for the year ended 30th June, 2006 and the Certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Bungoma for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for  
Finance (Dr. Oburu), on behalf  
of the Deputy Prime Minister and  
Minister for Local Government)*

## NOTICES OF MOTIONS

### ADOPTION OF REPORT ON PRISONS CRISIS

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the report of the High Level Committee on the prisons crisis laid on the Table of the House today, Thursday, 22nd January, 2009.

### INTRODUCTION OF PUBLIC TRANSPORT BILL

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

THAT, in view of the fact that the public transport sector contributes significantly to the National Exchequer, aware that cartels have started creeping back into the industry, further aware that traffic police have failed to tame the actors in that industry, noting that there is a rise in public service vehicle accidents leading to deaths of thousands of Kenyan citizens, considering that a court of law ruled against the so-called "Michuki Rules", this House grants leave to introduce a Bill for an Act of Parliament entitled the Public Transport Bill to provide for an independent regulatory body that will oversee and streamline the public transport sector and for matters incidental thereto and connected therewith.

*(Applause)*

### INTRODUCTION OF EQUAL OPPORTUNITY BILL

THAT, in view of the worrying trend of entrenchment of nepotism favouritism and lack of fair, transparent and balanced recruitment of all cadres of all public service, bearing in mind that legal remedies for ensuring this balance are limited, this House grants leave to introduce a Bill entitled "The Equal Opportunity Bill" to provide for fair, transparent and balanced recruitment, devoid of nepotism, favouritism or unfair ethnic consideration to the public sector, and for matters incidental thereto and connected therewith.

*(Applause)*

### INTRODUCTION OF SACRED FORESTS AND MONUMENTS BILL

THAT, this House grants leave to introduce a Bill for an Act of Parliament entitled "The Sacred Forest and Monuments Bill" for purposes of identifying, registering, protecting and preserving all sacred sites, including Kaya Forests, Mau Mau Caves, Cultural Monuments and all the neglected places across this country.

## ORAL ANSWERS TO QUESTIONS

*Question No.475*NON-PAYMENT OF COMPENSATION  
TO MERCY WANJIRU

**Mr. Mwathi** asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that five-year old Mercy Wanjiru was attacked by stray elephants in Bibirioni village on 22nd

August, 2004 and sustained serious injuries, but no compensation has been paid;

(b) whether he could explain the failure to pay compensation and state when the same will be paid; and,

(c) what measures the Ministry has put in place to generally ensure timely compensation to victims of human/wildlife conflict.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Speaker, Sir, I beg to reply.

Yesterday, there was an issue in the House, about a cheque. The House wanted to know where the cheque was, and when it was delivered. I am glad to inform the House that payment has been made and delivered to Kiambu West District Commissioner. The cheque number is 000682, dated 21st January, 2009. An official receipt number is quoted here.

*(Laughter)*

I know why my colleagues are laughing. I want to sincerely apologise to the House because the answer I had received from my officers was in anticipation of Parliament being reconvened in March. Therefore, when they said that the cheque was ready, they did not know that Parliament would be recalled in early January. That was a mistake on the part of my officers. I identified the officer who gave me the wrong information and disciplinary action will be taken against him. I apologise.

**Mr. Speaker:** Order, Mr. Minister! You have done very well as far as providing information called for by the House is concerned. However, you have failed to offer an explanation as to why you were not here yesterday afternoon, notwithstanding the fact that you had indicated on Tuesday that you would be available yesterday afternoon to furnish this information.

**Dr. Wekesa:** Mr. Speaker, Sir, I apologise again. I was unwell and could not turn up in Parliament. My Assistant Minister was in Uganda, therefore, I could not use his services. I apologise.

**Mr. Speaker:** Mr. Minister, I just want to re-emphasise to the Front-Bench that the directions of this House must be taken seriously always, all the time.

**Mr. Mwathi:** Mr. Speaker, Sir, I have heard the Minister well. He has said that the answer was prepared in anticipation of Parliament opening in March. However, I want to draw the attention of the House to the fact that the same answer was given on 18th December, last. As of yesterday morning, the cheque had not been received despite the fact that the Minister had indicated that the payments had been forwarded to the DC's office. That was clear misleading of the House. Would I be in order to request that this matter be deferred so that I can first confirm if this cheque has been delivered?

**Dr. Wekesa:** Mr. Speaker, Sir, if I remember very well, the hon. Member indicated, last year, that the answer he received had not been signed. I said that, that was not a property of the House. However, I have documents here that I may lay on the Table just to prove that, indeed, our receipt from the District Commissioner from Kiambu West and the cheque number is on this document. The receipt number from the DC is also here. There is no need to defer this matter.

**Mr. Speaker:** hon. Members, in view of the information now available to the House, this

matter is sufficiently dealt with. Hon. Mwathi, you may access those documents and, equipped with them, go to the relevant District Commissioner (DC) and ask him what the fate of this money is. This is because the District Commissioner, indeed, has acknowledged receipt of that money. So, it is, as a matter of fact, with the DC. So, that matter is sufficiently dealt with.

*Question No.573*

SUPPLY OF CLEAN/SAFE WATER  
TO NYATIKE CONSTITUENCY

**Mr. Anyanga** asked the Minister for Water and Irrigation what steps she is taking to supply adequate, clean and safe water to Nyatike Constituency from Lake Victoria and River Kuja, to avert potential outbreak of water-borne diseases.

*[Mr. Speaker left the Chair]*

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

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

My Ministry, in collaboration with other Government institutions, has been undertaking short-term measures to improve water supply to Nyatike Constituency. These measures include construction of 40 boreholes, 30 water pans, 10 shallow wells and 4 springs. My Ministry has also undertaken the following studies aimed at offering long-term measures for adequate clean and safe water for Nyatike Constituency.

(i) Feasibility study for Karungu Water Project, sourcing water from Lake Victoria.

(ii) Feasibility study for the stalled Macalder Water Project, sourcing water from River Kuja, and Muhuru Water Supply sourcing water from Lake Victoria.

(iii) Feasibility study conducted in collaboration with the World Vision for a gravity water supply to Nyatike Divisional Headquarters sourcing water from River Kuja at the Goro Falls.

Funding proposals for the above projects have been finalised and submitted to potential financiers for consideration.

**Mr. Anyanga:** Mr. Temporary Deputy Speaker, Sir, I am happy with the Minister's response. However, there are some issues which I think the Minister has not addressed. Could she tell us the exact locations and the current status of the 40 boreholes, the 30 water pans and the 10 shallow wells? As far as I am concerned, whatever she has stated are proposed projects. They do not exist on the ground.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, I do not know when the hon. Member toured his constituency last. However, I can assure him that I will visit these places with him. Maybe, he is not happy with the sizes of the projects, but I can offer to go and show him round instead of telling him where the 40 boreholes are located.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, whereas we appreciate the efforts of the Minister in streamlining the operations of her Ministry, her answer fails to get to the heart of the Question. She has said that the Ministry has engaged in short-term measures. For purposes of long-term measures, the Ministry has simply engaged the services of potential donors. What is she doing to solve this problem? This is important because the problem is not only in Nyatike Constituency. This applies to all the constituencies around Lake Victoria, including Kisumu Town

West Constituency. It is a shame!

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, I said that these are the short-term measures that we have taken. However, we will factor these projects in the 2009/2010 Financial Year. So, there is no cause for alarm. This will be done.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I do not have a problem with the hon. Member because I know that he was in his constituency just recently. We had some very nice treatment there and I witnessed that he was there. I want to find out from the Minister about the boreholes that she is talking about. Most of the boreholes that were dug by the Lake Basin Development Authority in the early 90s are not working. Does the Ministry have in place a mechanism of servicing these boreholes, so that they are in a working condition?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, as I said, I have commissioned feasibility studies and I am waiting for the report. I have also committed to factor in resources in the next financial year.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Please, let her finish explaining. I will allow your point of order later.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, I have commissioned feasibility studies. Once I get the report, water will be supplied. In particular, I am talking about Nyatike Constituency where water will come from River Kuja. I am sure the hon. Member knows that river. When I get the reports, I will implement it because I am the one who commissioned it.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My question was not on the long-term measures that the Minister is proposing. I was asking about the boreholes that are supposed to be operational. Most of those boreholes are not operational. Is there a mechanism of servicing the boreholes that have been dug? I am not asking about the feasibility study on what she proposes to do.

**Mrs. Ngilu:** I have identified all the boreholes that have not been equipped. Here, equipping means putting a generator and a pump in each borehole. Some of them have water while others do not have water. Those that have water will be equipped and we will supply water from them. There are many such boreholes around the country and not just in the hon. Member's constituency.

**Mr. Anyanga:** Mr. Temporary Deputy Speaker, Sir, the Minister has not been advised properly by the Ministry personnel. Therefore, I would like to welcome her to accompany me to Nyatike Constituency, so that she can see what is happening there. Could she, please, inform the House when she will go with me to Nyatike Constituency?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, I will offer to accompany the hon. Member to his constituency after April. At the moment, I must attend to the Arid and Semi-Arid Lands (ASALs) before I can attend to his constituency.

*Question No.137*

MECHANISMS TO ATTAIN  
HEALTHY ECONOMY

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

- (a) what the current rate of inflation in Kenya is;
- (b) what mechanisms he has adopted to attain a healthy economy with desirable or acceptable rate of inflation; and,
- (c) whether he could explain how the current high rate of inflation has affected the

living standard of the average Kenyan.

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

(a) The month on month overall inflation rate for December, 2008, was 27.7 per cent, from 29.4 per cent in November, 2008. For the months of November and December, the underlying inflation which excludes food items and fuel prices due to volatility of their prices, was 10.6 per cent in December, 2008, compared to 12.3 per cent in November, 2008.

(b) The Government is aware of the hardships Kenyans are experiencing as a result of high inflation that has negatively impacted on the cost of living. Consequently, the Government has:-

(i) Increased investments in agriculture, infrastructure and energy. This will help to curb the supply side constraints.

(ii) Subsidized farm inputs, namely, fertilizer and farm seeds, and there are efforts to provide affordable credit.

(iii) The Government has zero-rated value Added Tax (VAT) on basic food commodities, which include wheat flour, milk and maize flour.

(iv) The Government has provided money for maize imports to improve availability and stabilize the prices.

(v) The Government has used monetary policy, including lowering the base rate from 9 per cent to 8.5 per cent in December, 2008.

(vi) The Government has also reduced the cash ratio by the Central Bank from 6 per cent to 5 per cent in December, 2008.

(c) The high rate of inflation has affected the living standards of the average Kenyan in some of the following ways:-

(i) Increased transport cost, particularly commuter and freight costs.

(ii) Escalated prices of consumer goods and services, especially food prices.

(iii) High cost of fertilizer and other farm inputs.

(iv) High building and construction costs due to higher cement, steel and other input costs.

(v) Negative interest rates which is a disincentive to higher savings.

(vi) Higher housing and mortgage costs.

(vii) Higher rents.

(viii) Unemployment due to slow growth in investments, coupled with an expanding population and lay-offs due to closure of firms.

**Mr. Lekuton:** Mr. Temporary Deputy Speaker, Sir, Tanzania and Uganda have 12.3 per cent and 14.2 per cent inflation respectively. Even Nigeria, with its record, has 15.2 per cent inflation. Our inflation is higher than what the Minister has told us. The consumer price index that we use is based on urban population, particularly, the Nairobi consumer index. This does not take into consideration the rural consumer index, which makes people suffer there. About 75 per cent of our population live there. If he include the consumer price index based on the rural population, what are the inflation rates today?

**Mr. Oparanya:** Mr. Temporary Deputy Speaker, Sir, I am sorry I do not have the figures for other countries that the hon. Member has stated. In answer to "a" above, I have said that due to volatility of fuel and food prices, inflation in Kenya was 10.6 per cent in December, 2008, and 12.3 per cent in November, 2008. The hon. Member has said we use the Nairobi consumer price index. That is wrong. We use all the figures that we collect throughout the country to calculate the consumer price index.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, it is interesting that the Minister is answering this Question a bit casually. In fact, he is talking about energy, without telling Kenyans the estimated effect of the crisis of Triton, which is worth Kshs7.6 billion. The cost of energy is so high

while the "thieves" are walking free. Having said that, I want the Minister to note that every Kenyan you talk to says that the cost of domestic goods keeps going up.

**The Temporary Deputy Speaker** (Mr. Imanyara): Ask a question!

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, could the Ministry and [Mr. Midiwo] the Cabinet consider suspending the part of the Constituencies Development Fund (CDF) Act that prohibits the usage of the CDF money for Recurrent Expenditure, so that the Members of Parliament and the CDF Committees could use the money, just for this time, to provide farm inputs to our farmers for the long rains?

**Mr. Oparanya:** Thank you, Mr. Temporary Deputy Speaker, Sir. I have nothing to do with the issue of Triton. That is an energy matter. It is not within my purview. That is under the purview of the Ministry of Energy and I do not want to comment on that. But on the issue of the Constituencies Development Fund (CDF) Act being changed - because we have to operate within the Act as passed by this House - at the moment, the Act has not been changed. I would be happy if hon. Members or any hon. Member brought a Motion to amend the CDF Act. However, as I promised last year, I am constituting a task force to look at the entire CDF amendments and CDF environment, so that we can come up with comprehensive amendments to cover the entire CDF environment.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Thuo:** Thank you, Mr. Temporary Deputy Speaker, Sir. In his response, particularly to part "b", the Minister singled out fuel as being one of the biggest contributors of inflation. Now, if that is the case, what is he doing, in view of the fact that, one, fuel prices did not come down in November, despite the movement in international crude oil prices. That is because in the absence of any action on the part of the Government, it means that we will sit here and, day in, day out, blame the fuel, but we will not have declining inflation! What is the plan?

*(Applause)*

**Mr. Oparanya:** Thank you, Mr. Temporary Deputy Speaker, Sir. I thank the hon. Member for that question. As hon. Members are aware, we have no control over the prices of fuel. As you know, our economy is a free economy. It is determined by supply and demand. However, the Government has noted the impact of fuel prices against the standards of living of Kenyans. That is why I isolated the inflation rate excluding the food prices and the fuel prices. What the Government is now doing is providing more budget provision. I hope the Ministry of Finance will make a budget provision within the Supplementary Estimates, so that the National Oil Corporation of Kenya (NOCK) can have a substantial market share. That way, they can use that to control the prices.

**Mr. Thuo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is being a bit dis-ingenuous. If you think about his answer, he is, on the one hand, saying that the Government has the ability to subsidize inputs like fertilizer, and assuming that fuel is not an input! That is number one. Number two, when the Minister states that we have a free economy and we have freed any subject to control, he dismisses the fact that his colleague has said here before that they are looking at price controls. Thirdly, when the Minister comes and runs away from my question--- My question was: What is he doing specifically with fuel and not the lack of things as he is now trying to tell me?

**Mr. Oparanya:** But, Mr. Temporary Deputy Speaker, Sir, I have clearly said that with oil, the Government has decided that it must have a substantial share of the fuel market. That is why there will be more provision in the Supplementary Estimates to make sure that NOCK is expanded, so that it is able to control a substantial share. It will be used to stabilise the oil prices. That is what I have said.

**Mr. Wambugu:** Mr. Temporary Deputy Speaker, Sir, I believe the issue of inflation comes in with the high cost of fuel and corruption. This country has been going through that system for a long time, especially with the food prices. What is the Minister doing to curb the problem that we have

presently, of theft of maize in this country? That is why we are going through this big problem.

**Mr. Oparanya:** Mr. Temporary Deputy Speaker, Sir, that is not within my purview, please! That particular question is for the Ministry of Agriculture. I do not deal with the movement of maize at all. I track the economic indicators or trends.

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, Mr. Lekuton!

**Mr. Lekuton:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Minister is very good with numbers. I would like to assure him that the numbers I gave on Uganda, Tanzania and Nigeria are accurate. However, I would like the Minister to tell us, regarding the maize scandal, what are the percentages most likely to drive the inflation up by? As well as that, being the Ministry of Planning and National Development, it plans for this country's future. We are now asking for up to Kshs37 billion to buy food. Instead of having food, why can the Ministry not have irrigation projects? So, instead of buying food, which we will consume all at once, we should have that planning. What are you doing about that, Mr. Minister?

**Mr. Oparanya:** Mr. Temporary Deputy Speaker, Sir, you know the current inflation, especially for food prices, is due to various factors beyond our control. One, there was the drought and two, there was the post election violence which affected production. But let me assure the House that what is happening now is for our future plans. The Government is planning to support---

**Mr. M. Kamau:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We have a problem in this country because of inflation and the weather, which is creating all sorts of things. I think that it is the business of this Ministry to do the planning! We have a problem in this country because we have been doing the same things all the time and doing them the same way all the time! What will you do, Mr. Minister, to make sure that we do not have the problem?

*(Applause)*

**Mr. Oparanya:** Mr. Temporary Deputy Speaker, Sir, I do not plan for drought. It is very difficult to plan for drought because it is an unexpected natural circumstance that I have no control over as a Minister. But let me assure the---

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to avoid answering the question, which I will repeat? It is obvious that, in the region where I come from, Ukambani, there is always drought. Is he in order to avoid the question? The question was very simple. Why can he not plan, having in mind that there is always drought in most parts of this country and provide money for irrigation?

*(Applause)*

**Mr. Oparanya:** Mr. Temporary Deputy Speaker, Sir, I have always drawn the attention of hon. Members to read Vision 2030. If you read the Vision 2030 Booklet, which is available and has been circulated to all of you, you will notice that we have provided for all these issues that you are raising. One issue that we are planning for Ukambani, if you want me to answer you directly, is that we want to irrigate one million hectares by the year 2030. I hope that your constituency is involved. The Minister here can confirm.

*(Loud consultations)*

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



*[Mr Deputy Speaker took the Chair]*

**Mr. Deputy Speaker:** Next Question!

*Question No.304*

CONSTRUCTION OF OPERATION THEATRE  
AT IGUHU SUB-DISTRICT HOSPITAL

**Dr. Khalwale** asked the Minister for Medical Services:-

- (a) whether he is aware that Iguhu Sub-District Hospital is the only Government facility serving the people of Kakamega South District; and,
- (b) when the Ministry will construct a surgical theatre and supply the other necessary equipment for the hospital.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Iguhu District Hospital is not the only facility serving the people of Kakamega South District. Within the district, we also have Shibwe Sub-District Hospital, two health centres, Kilingili and Kiseso and three dispensaries, Savane, Imulama and Shihalia. Outside the district, Vihiga District Hospital, ten kilometres away from Iguhu, and Kakamega Provincial Hospital, 15 kilometres away, are also accessible to the people of Kakamega South. Besides these public facilities, the district is further served by a number of faith-based health facilities, including Iregi, St. Pius, Musoli and Bushiangala health centres.

(b) The Ministry gazetted the former Iguhu Health Centre as the district hospital for the new Kakamega District in August, 2008. This followed the split of the former Kakamega South District into three districts. The gazettelement signified the intention of the Ministry to progressively upgrade the facility to a district hospital status as funds become available. Construction of a theatre and supply of equipment are expected to commence between 2009 and 2012. In the meantime, residents of Kakamega South District have access to established facilities within a radius of 15 kilometres.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that answer, and I also want to thank the Government for building the new district hospital for the people of Kakamega South. Since new districts were created in the country, the need for more district hospitals is more urgent. Could he confirm that, since I am the first in the new districts to ask for an operating theatre, when allocations for construction of surgical theatres will be done, again, I will be the first to be considered? Could he confirm that?

**Mr. Mungatana:** Yes, Mr. Deputy Speaker, Sir, I will give Dr. Khalwale my undertaking that I will grant him that request.

**Mr. Litole:** Mr. Deputy Speaker, Sir, I want the Assistant Minister to tell the House what the normal standard distance is between health facilities in this country. I am asking this because in areas like my district, health facilities are far apart; about 30 kilometres apart. What is the normal stipulated distance between health facilities? What is he going to do about a district like mine?

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, ordinarily, we do not go by the distance as such. There is no standard distance. It is the population size, how many people get sick, the bed capacity and the problems within the area. But I understand what the hon. Member is trying to raise. In some districts of this country, health facilities are very far from each other, and also very far from the population centres. This is a challenge that we have. What we have been doing in the past is to co-operate with hon. Members to put up facilities where the Government is taking too long to reach; from our side, we try to equip them. So, the hon. Member can work with us in the Ministry to try and

reduce the distances. We cannot have a proper solution now but we can reduce the problem if we work with him, as he makes use of his Constituencies Development Fund (CDF).

**Mr. Gabbow:** Mr. Deputy Speaker, Sir, on the same question of sub-district hospitals, in my constituency, Wajir North, there are two sub-district hospitals and none of them has staff, an ambulance or a maternity wing. Could the Assistant Minister kindly assure me that these facilities will be running to full capacity? There is no use of having sub-district hospitals when all those facilities are not there.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I want to assure the hon. Member that there is a plan to reach all those places because when we gazette a facility, it means that we have an intention to progressively bring that facility to the standard that is required. So, I want to give him that assurance, but we also have to do the necessary follow up with the Ministry Headquarters.

**Mr. Deputy Speaker:** Dr. Khalwale, my assumption is that you are satisfied with the answer, or do you still have a last question?

**Dr. Khalwale:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Please, proceed!

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, for the last five months when the hospital has been operational, it has been receiving drug supplies that are meant for a health centre. Could the Assistant Minister confirm that with effect from this month, the drug shortage that is occasioned by that low supply of drugs will be improved to district status?

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I confirm that. Probably, the problem has been the distribution networks of KEMSA, but I give him my undertaking that we are fixing that problem; we will do it properly.

Thank you.

*Question No.217*

STALLING OF IRRIGATION  
SYSTEM AT SONDU MIRIU

**Mr. Ochieng** asked the Minister for Energy:-

- (a) whether he was aware that the contractors who were supposed to concurrently undertake the Sondu Miriu Hydroelectric Power Project and an irrigation system are currently leaving the site without undertaking the latter part; and,
- (b) whether he could indicate when the construction of the irrigation project will commence.

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

(a) The development of Sondu River was undertaken in 1985 by the Japanese International Co-operation Agency (JICA), which recommended a multi-purpose development, comprising of Magwagwa Dam, Sondu Miriu Hydroelectric Power Plant and Kano Plains Irrigation Project. Due to the high capital outlay needed to undertake the entire development, the Government decided to develop a 60-megawatt Sondu Miriu Project since the Japanese Government had provided funding for it to the tune of US\$200 million. The contract for Sondu Miriu was, therefore, for the power plant and not for the irrigation scheme. I believe, however, that the other projects have not been abandoned and ranking them was undertaken. So, the contractors on site were concerned with the 60-megawatt power plant and that is what they have completed. However, for the other projects, I was there with the hon. Member and they made provision for the irrigation project to be undertaken; so, I think it is the Ministry in charge of that which will take up that

issue.

**Mr. Ochieng:** Mr. Deputy Speaker, Sir, the Assistant Minister should clarify a bit, because when the project was being mooted initially, the population there was told that the direct benefit that they would get from that project was the irrigation system, which has not been put in place up to now.

I am now shocked to learn that it is being shifted to another Ministry and not the same one that was doing the power project down there. Could he clarify, please, why there is a change of mind?

**Mr. Keter:** Mr. Deputy Speaker, Sir, there is no change of mind. I clearly said that it was a multi-purpose project concerning the Magwagwa Dam Hydroelectric power plant and irrigation. Magwagwa Dam, as I am speaking, has not been done. We are looking for funds, as the Ministry of Energy, so that we can build the dam to sustain the 60-megawatt project. However, the irrigation project cannot fall under the Ministry of Energy. But we are saying that if there are funds, it can be undertaken through the relevant Ministry, because we have provided the infrastructure for it.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, this House cannot be used by Ministers shirking responsibility when we know that the Cabinet has collective responsibility to the House. So, the Ministry of Energy cannot insist that the Ministry of Agriculture has not done its work. The Ministry of Energy, in particular, is notorious. If the House can recall, in the early 1990s, Turkwel Gorge Dam was constructed and there was also another phase for irrigation. Up to now, the irrigation project has not been implemented. The Sondu Miriu Hydroelectric project and the irrigation system might face the same fate. Could the Assistant Minister confirm to this House that the Sondu Miriu project will not suffer the same fate as the Turkwel Dam? When will they do both of them?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I want to assure the hon. Member that Sondu Miriu Project will not face the same fate. Since it is in Nyakach Constituency which borders my constituency, it is also going to assist me. We fully funded the construction of a primary school and also water points, and the hon. Member knows that. We also drilled 20 boreholes to assist the communities which are there. So, we are conscious so that whatever happened those years regarding Turkwel is not repeated again. But I want to assure hon. Ethuro that we also look into the social responsibilities concerning people when we are undertaking projects.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has given an undertaking on Sondu Miriu on the basis that he is a neighbour. Am I in order to ask the appointing authority that next time the Minister for Energy should also be my neighbour so that the Turkwel Gorge Irrigation Scheme can be completed?

*(Laughter)*

**Mr. Keter:** Mr. Deputy Speaker, Sir, Mr. Ethuro is a very close friend of mine. On that basis, I will do the needful.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister owes this House an apology. He should assure this House that he is not going to run the business of Government on the basis of being a neighbour or friend. We want a very clear answer from the Ministry. Is this why we are having problems with this Government to the extent that they are messing up everything?

**Mr. Deputy Speaker:** Hon. Assistant Minister, the proximity to your constituency or friendship is not a criteria for the development of constituencies. Could you clarify to the House that, indeed, you have a responsibility to the whole country?

**Mr. Keter:** Mr. Deputy Speaker, Sir, indeed, I do have responsibility for the entire country. That is why we have been visiting all the projects not only in my neighbouring constituency or my friend's constituency but also in all constituencies, including Chepalungu Constituency.

**Mr. Langat:** Mr. Deputy Speaker, Sir, we have read elsewhere that this project has not been able to take off because of the goings-on in the Mau area. Could the Assistant Minister confirm whether there is any relationship between what is going on in Mau and the reason the project has not been able to take off?

**Mr. Keter:** Mr. Deputy Speaker, Sir, we have not only commissioned the project but we are generating 60 megawatts which the project was intended to achieve. So, the issue of Mau affecting the project does not arise. The next phase of the project is Magwagwa Dam. After its completion, we will expand the project to generate more power.

**Eng. Rege:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House when the Sondu Miriu Hydro-electric Power Generation Plant will be launched, so that all the irrigation schemes around the lake can also be accomplished?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I wish to inform the hon. Member that we made the request and we are waiting. The project will be launched anytime soon. Eng. Rege and I were there and we witnessed what is happening in Sondu Miriu. As I have said, currently we are generating 60 megawatts out of the project. The only part which is remaining is ceremonial, which is the official handing over of the plant to the Kenyan Government by the Japanese Government. I want to assure the House that, that will be done as soon as possible.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister if the Ministry is going to serve Kenyans equally, because I think that they are biased. They only serve some places. My constituency has five projects which have been "hanging" for the last five years, while they completed projects in "opposition" areas simply to try and look for votes. Now, my people are suffering because I have been with them. We have no power even in schools.

Could the Assistant Minister stop being biased and do some work in my constituency?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I want to assure the hon. Member that we, in the Ministry of Energy, are not biased. We do not favour any constituency. The hon. Member has said that projects have been hanging for five years, and yet he was a Minister in the Government at that time. So, to say that his constituency has been left out is not true. As I speak, there is a project which is ongoing and the hon. Member will benefit from it. So, let us be fair to one another. The Ministry of Energy has distributed funds equally to all the 210 constituencies, just like the Constituency Development Fund (CDF). So, hon. Konchella, we will take note of that and speed up projects so that you get to know that we are not biased.

**Mr. Deputy Speaker:** Last question, Mr. Ochieng!

**Mr. Ochieng:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that by delaying this irrigation project he has actually created the shortage of food that this country is experiencing at this particular time?

**Mr. Keter:** Mr. Deputy Speaker, Sir, we are not delaying the project. We are looking for funds and as soon as we get them, the project will commence.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. I want to thank the Assistant Minister for the answer that he has given. But I only want to request him to confirm that during the launch, he will invite the Prime Minister, hon. William ole Ntimama, hon. John Michuki and the Minister for Water and Irrigation, to confirm that Sondu Miriu Plant has been launched without any reference to Mau?

**Mr. Deputy Speaker:** How is that a point of order, hon. Ruto?

Next Question, hon. S. Abdalla!

*Question No.598*

POSTING OF MEDICAL STAFF TO

## FAZA HEALTH CENTRE

**Ms. S. Abdalla** asked the Minister for Public Health and Sanitation:-

(a) whether she could explain why the Government has not provided doctors or clinical officers in Faza Health Centre in Lamu East Constituency and state when she will post the same;

(b) considering that the constituency has neither a maternity facility nor an ambulance vehicle to ferry patients, including expectant mothers to other hospitals, what measures the Government will take to solve the matter.

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Mr. Deputy Speaker, Sir, I beg to reply.

(a) A doctor was posted on 22nd June, 2007, to Faza Health Centre in Lamu East Constituency and he had to be redeployed on 1st November, 2007 due to under-utilization of his services. It should be noted that for the three months that the doctor was in the station, he attended to five patients only. My Ministry, through the Public Service Commission, is in the process of recruiting clinical officers this Financial Year, 2008/2009, and Faza Health Centre will be considered along with others when this recruitment process is finalised.

(b) The District Medical Officer of Health in Lamu District has been instructed to provide a motor boat ambulance to ferry emergency cases to the district hospital. The Government, in collaboration with the development partners, will provide a motor boat ambulance to Faza Health Centre before the end of this year. Maternity services are provided at Faza Health Centre and the Government, through the Ministry, has launched a campaign to encourage mothers to utilize the service. My Ministry, in collaboration with the Red Cross, is also in the process of building and equipping a theatre at Faza Health Centre.

*[Mr. Deputy Speaker left the Chair]*

*[Mr. Speaker resumed the Chair]*

**Ms. S. Abdalla:** Mr. Speaker, Sir, while I appreciate that the Assistant Minister has tried to answer the Question, it is not true that the doctor was re-deployed due to lack of utilisation of the service. I held a medical camp last year in August and 1,900 patients were treated in two days. The doctor was re-deployed because there are no facilities and medicine. The doctor gave a three-page list to the Ministry to either equip the health centre or he would not be in a position to give his service there. I can even give the Ministry the same list. Who is going to fuel that boat, is it the Ministry or the patients? The major problem is the transport aspect. It is very expensive to hire speed boats. It costs about Kshs20,000. To use normal boats, it takes four hours. This is a very serious issue and I want the Ministry to take it very seriously. If he takes the statistics of people who die as a result of the maternal problems and the patients who have to be transferred to the district hospital---

**Hon. Members:** What is your question?

**Ms. S. Abdalla:** Mr. Speaker, Sir, there are only three nurses and there is no laboratory technician. I am surprised that the Assistant Minister says that the health centre has maternity facilities. How do you ascertain that somebody is pregnant if there is no laboratory technician?

**Dr. Gesami:** Mr. Speaker, Sir, I have already indicated that the doctor who was posted to this facility was under-utilised. When I talk about under-utilisation, it means that there are no facilities for the doctor to work with. As a Ministry, we are saying that until such a time that we shall have a theatre, a laboratory and a maternity wing, the doctor's services are under-utilised. This was very clearly assessed by the Provincial Medical Officer (PMO), Coast Province, and the doctor was posted

to Mpeketoni Sub-district Hospital.

Mr. Speaker, Sir, as far as the motor boat is concerned, the Government, through the Ministry of Health, the Red Cross Society and the World Fund Programme, have donated money to buy it. They will also continue servicing it.

**Dr. Eseli:** On a point of order, Mr. Speaker, Sir. The hon. Member who asked this Questioner asked specifically for the Assistant Minister to confirm how they can confirm pregnancy without a laboratory. I believe the Assistant Minister is also a medical doctor. So, he can inform the hon. Member how he can confirm pregnancy without a laboratory.

**Dr. Gesami:** Mr. Speaker, Sir, I think Dr. Eseli is also a doctor. He can tell us how he can confirm pregnancy without a laboratory. We cannot!

*(Laughter)*

**Dr. Eseli:** Mr. Speaker, Sir, since the good doctor has refused to answer the question, I will say that, yes, you can after about eight weeks by doing a virginal examination.

*(Laughter)*

**Mr. Gunda:** Mr. Speaker, Sir, the Assistant Minister was asked a question which he is trying to avoid. When is the Ministry going to put up the facilities so that the people of Faza can enjoy them?

**Dr. Gesami:** Mr. Speaker, Sir, the Lamu East Constituency Development Fund has already provided Kshs2 million for equipping of a minor theatre at Faza Health Centre. Currently, the maternity services are provided at the health centre. However, mothers have a culture of delivering at home. I am encouraging the people of Faza to encourage mothers to deliver in hospitals. **Mr.**

**Speaker:** Last question, Ms. S. Abdalla!

**Ms. S. Abdalla:** Mr. Speaker, Sir, could the Assistant Minister tell us when he will post doctors to that health centre? If possible, we would like that health centre upgraded to a sub-district hospital since it is the only one serving 35,000 people.

**Dr. Gesami:** Mr. Speaker, Sir, I did not get the question. Could she kindly repeat it?

**Ms. S. Abdalla:** Mr. Speaker, Sir, when is a clinical officer or a doctor going to be posted to Faza Health Centre? It is the only health centre which serves Lamu East Constituency with a population of 35,000 people.

Secondly, could the Ministry upgrade the health centre to a sub-district hospital?

**Mr. Speaker:** Order, Ms. S. Abdalla! Ask one question at a time!

Dr. Gesami, please, proceed!

**Dr. Gesami:** Mr. Speaker, Sir, currently, the facility has three nurses. It, however, requires the services of a clinical officer who, as I said, will be posted after being recruited by the PSC.

Mr. Speaker, Sir, the catchment population for the facility is about 8,500 with an average of 36 outpatients per day and basically one or two deliveries. I, therefore, feel that a clinical officer and the three nurses should be able to provide the services to cover this constituency.

**Mr. Speaker:** Next Question!

*Question No.238*

MEASURES TO SUSTAIN QUALITY OF  
EDUCATION IN PUBLIC UNIVERSITIES

**Dr. Kones** asked the Minister for Higher Education, Science and Technology what steps he has put in place to ensure that the quality of education is not compromised through the parallel degree programmes in public universities.

**The Assistant Minister for Higher Education, Science and Technology** (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply.

Mr. Speaker, Sir, the criteria states that one needs to have a minimum of a C plus in the Kenya Certificate of Secondary Education (KCSE) before he or she is admitted to a university. For specific degree programmes, the entry is determined by various cluster subjects. This has to be followed.

The second criteria to ensure quality is the insistence by the Government that where possible, both the regular and fee-paying students are taught together except in situations where that is not possible, for example, where the students are undertaking evening or weekend classes.

Mr. Speaker, Sir, there are also internal quality assurance mechanisms which include setting of examinations that are approved by lecturers and the senates, respectively, as well as the use of external examiners for both examinations and dissertations.

Mr. Speaker, Sir, finally, we are working with the Commission for Higher Education (CHE) to put in place specific quality assurance mechanisms that will be a requirement for all universities including public universities.

**Dr. Kones:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for that answer. However, I would like to know whether the Ministry has got a clear criteria on approving the necessary physical infrastructures which are required for putting up a campus or a satellite of a university.

**Dr. Mwiria:** Mr. Speaker, Sir, I did not get him.

**Dr. Kones:** Mr. Speaker, Sir, does the Ministry have a clear criteria for approving setting up of satellite campuses as opposed to a situation where every other building has a room for a college or a university?

**Dr. Mwiria:** Yes, Mr. Speaker, Sir, that is a concern. We do not want to encourage universities to be opening up campuses anywhere without the institutions having the relevant facilities. That is why we have strengthened the Commission for Higher Education. We give them more resources, both human and physical, to ensure that from now on, if a campus has to be set up, it has to have the minimum requirements for it to be qualified to be a university institution. We are doing our best in terms of strengthening the CHE.

**Mr. Magerer:** Mr. Speaker, Sir, does the on-going appetite for consumption of middle level colleges mean that we are soon not going to have diploma training colleges in this country? Nearly all middle level colleges have been promoted to offer degree courses.

**Dr. Mwiria:** Mr. Speaker, Sir, it is not true that all the colleges have been promoted to campuses of universities. Yes, we have a good number of colleges that have been upgraded. However, because we realise that we also need middle-level technicians with diplomas and so on, we are insisting that any newly promoted diploma college also offers diploma certificate courses alongside university degrees. It does not, therefore, mean that we are going to give up those courses. We are just expanding by allowing for degree courses to be offered in colleges that can offer them. At the same time, we are allowing those that can only do diploma courses to undertake them and upgrade themselves within the same institution.

**Dr. Laboso:** Mr. Speaker, Sir, when will the Ministry increase funding towards university education so that the universities do not have to rely on the parallel programmes? If funding is increased, the staff in the universities will not have to undergo moonlighting which means, for example, one can teach in the parallel programme in Kisumu in the morning and teach in Nairobi in the afternoon.

**Dr. Mwiria:** First of all, I would like the hon. Member to tell me why she thinks that we have

not increased funding for our public universities before I answer her question.

*(Laughter)*

**Mr. Speaker:** Order, Mr. Assistant Minister! You are certainly out of order in the manner you have responded. Could you, please, answer the question?

**Dr. Mwiria:** Mr. Speaker, Sir, she seems to have had the answer. You know, there are what we call rhetorical questions. I did not expect the hon. Member will ask that quickly.

However, we have actually put more money in public universities. In fact, this financial year, an extra Kshs2.5 billion was voted for the expansion of those universities. The reason that expansion is possible is because these resources are being availed. I agree that we are not giving as much as we would like to see happen. If the lecturers are moonlighting, it is not because there has not been an increment in the funding. In fact, two years ago, lecturer's salaries were raised. Of course, they would like to have more money like the teachers. If you need more money, you have to do an extra job. So, sometimes, they moonlight because they also want extra cash. However, I agree with you and we will continue putting in resources for research and for teaching facilities. This is because we realised that we cannot expand without providing more resources, but that will depend on how much money is available to support university education relative to other sectors.

**Dr. Kones:** Mr. Speaker, Sir, now that parallel degree students also benefit from the Higher Education Loans Board (HELB), is there still need to categorise students as parallel and regular?

**Mr. Speaker:** Order, Dr. Kones!

**Dr. Mwiria:** Mr. Speaker, Sir, the categorisation is not really necessary. However, whether we make it official or not, it will be clear who has been admitted through the Joint Admissions Board (JAB) and who is coming in as a privately-paid for student. That is why we are saying that there is no need to separate them when it comes to attending classes. The hon. Member is quite right. That distinction would be necessary only with regard to who gets more support than the other. Some students, on the basis of their qualifications, would require more support. Also, on the basis of need, there will always be that difference.

**Mr. Speaker:** Very well!. That brings us to the end of Question Time. We will now take Ministerial Statements. There are three of them in line. Let us try, as much as possible, to be brief. For those seated in the Front Bench, please, ensure that your Statements are in summary form. Those who want to seek clarifications should similarly ensure that they are brief. We will now begin with the Minister for Agriculture.

## MINISTERIAL STATEMENTS

### ACUTE SHORTAGE OF FOOD IN KENYA

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, this House requested a Ministerial Statement on maize and the current food situation in the country. I beg to present the same.

The country is currently facing very serious food shortage, especially of maize which is the main staple food. Approximately 10 million people are now food insecure and a large proportion of them will have to rely on famine relief. This problem has been compounded by a total crop failure in the eastern part of our country in the last two months. The current food situation is one of the severest in the last ten years. This situation is attributed to a combination of factors that include poor long and short rains in 2008; unprecedented high food and fuel prices; effects of the post-election violence early last year and high cost of farm inputs.



Mr. Speaker, Sir, in 2007, a total of 32.5 million bags of 90-kilogrammes, of maize were harvested in the country. In 2008, 25.2 million bags, of 90-kilogrammes, of maize were harvested. The big drop in production is attributed to a massive crop failure and high cost of farm inputs. The big drop was further enhanced by the proportion of maize destroyed during the post-election violence and which is estimated to be 3.5 million bags.

For the year 2009 season, farmers have approximately 9,673,000 bags of maize which they continue to sell and some kept for their use. The amount of maize sold to the NCPB during the same year is 599,577 bags - that is as of Monday, this week. In the 2007/2008 season, NCPB bought 371,198 bags of maize from the farmers. There is an estimated 3 million bags with farmers awaiting sale to NCPB or willing buyers. The current recommended sale price of maize by farmers is Kshs1,950 and the factors underlying the recommended price are cost of production and transportation.

The status of importation of maize is as follows:-

We imported 44,732 bags of 90 kilogrammes from Tanzania. The buying price in Tanzania was Kshs1,665. The cost of transport and handling was Kshs1,091, thus making the total landed cost in Nairobi to be Kshs2,756. From South Africa, the Government imported 1.5 million bags of 90 kilogrammes at a cost of Kshs2,531 plus the cost of handling and transport of Kshs1,210, thus making the price that landed in Nairobi to be Kshs3,741 per 90 kilogramme bag. Of all the above imports, no GMO maize was imported.

Mr. Speaker, Sir, allegations or claims of irregular purchase of maize by politicians and their companies from NCPB have been made. In order to authenticate the claims of irregular sale of maize, I invited the Kenya Anti-Corruption Commission (KACC), the Inspectorate of State Corporations and the Criminal Investigations Department to carry out investigations. I want to pledge to this House that any person found guilty will be dealt with firmly and in accordance with the law.

Prior to liberalisation, the NCPB was registering millers and allocating maize as they were legally bound to source the maize from the Board.

Mr. Speaker, Sir, after liberalisation, millers and other interested parties could buy directly from the farmers or any other source. Following the current food shortages, it became imperative to register millers as a management tool for allocating the limited quantities of maize available. So far, 23 major millers and 74 small and medium scale millers have been registered and have been purchasing maize from the National Cereals and Produce Board. The current stocks held at the NCPB are as follows:-

Strategic grain reserve and famine relief - 784,113 bags of 90-kilogrammes. Under the special programmes arrangement, we do not have any stocks. The National Cereals and Produce Board commercial stocks are not there also. The stocks stored by private traders and millers stand at 3,134,625 bags. Comparatively, the price of purchasing maize vis a-vis other African countries that we have imported from is as follows:-

We are now buying local maize at Kshs1,950. For farmers who deliver to the National Cereals and Produce Board depots, we pay an extra Kshs100 for transport. The price of maize we bought from Tanzania was Kshs1,665. Transport and handling costs came to Kshs1,090 per bag. The price of maize from South Africa is Kshs2,531, and the cost of transport and handling is Kshs1,210 per bag.

Mr. Speaker, Sir, the prices of maize in the international market have since come down. The order we are placing at the moment of the 2 million bags will average about Kshs2,200. The price of maize landed in Nairobi will be Kshs2,800. The higher purchase prices of maize from the two African countries than the local one is due to the cost, freight charges and transportation to Nairobi. To mitigate against further adverse effects of food shortages, the Government has declared the looming famine a national disaster and made an appeal to donors and development partners. I wish to add - because there has been a raging debate - that the Kshs200 that we paid or was charged by millers to mill the "Government feed the nation flour", was agreed on in a meeting of the Strategic Grain

Reserve Committee comprising the Permanent Secretary, Treasury, Permanent Secretary, Ministry of State for Special Programmes and the Permanent Secretary, Ministry of Agriculture and the millers. It was subsequently approved by the Sub-Committee of the Cabinet on food security. I wish to state also that, as part of my responsibility, after realizing the shortages of food in the country, vide Legal Notice No.123 of 3rd October, 2008, the Government banned the export of maize from the country. I attach the Legal Notice.

Mr. Speaker, Sir, I also wish to state that the Minister for Finance and Economic Planning of the Government of Southern Sudan wrote a letter to me on 29th October, which letter I have attached to this Statement, requesting to import some 7,500 metric tonnes of maize from our country. I wrote a letter on 28th November, informing the Government of Southern Sudan that the Government of Kenya was not in a position to send maize to Southern Sudan. I have, herewith, attached the list of all the companies that were allocated maize from 1st January last year to now, for the verification of hon. Members. The list is here and hon. Members can verify. I have also attached a list, as requested in the Ministerial Statement, of all the registered millers, big and small. I have categorised them. We have registered 23 major millers. The list of the other small scale millers, 76 of them, is also attached, as requested in the Ministerial Statement.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Clarifications, we will limit them to five. Mr. Mututho!

**Mr. Mututho:** Mr. Speaker, Sir, I think the Minister for Agriculture has given a very comprehensive answer. But towards the end, he mentioned Kshs200 for milling. What was to be milled? There was 150,000 bags of maize that were to be milled and were given to six large-scale millers. Out of the 150,000 bags which were given to those millers, only 42,000 bags have been said to be accounted for. Could he further clarify that, that is the position? Out of 150,000 bags that were actually given out, only 42,000 can be accounted for.

The small scale millers made a lot of noise and a further 80,000 bags were allocated to them. Could he further confirm that out of that, some of the so-called small-scale millers are actually non-existent or misrepresented? For instance---

**Mr. Speaker:** Last clarification!

**Mr. Mututho:** Mr. Speaker, Sir, my final clarification is: Why is it not possible to buy maize locally if, indeed, the local maize is costing that low?

**Mr. Kioni:** Thank you, Mr. Speaker, Sir. I would like the Minister to clarify whether the Milling Corporation of Kenya is still operational. It was allocated 12,000 bags of maize in December. Two, on the allocation to Busec Company Limited which was registered on 3rd May, 2006, that one is a transport company in Mombasa. The directors are Zedekia Bundotich and Diana Bundotich. On that, they were allocated 18,400 bags of maize. On 24th August, they were allocated 3,000 and on the same day, they were allocated 7,000 from Loitokitok. That is a transport company.

**Mr. Jirongo:** Mr. Speaker, Sir, I also want the Minister to clarify how long the 784,113 bags will last in this country. Apart from the 23 main millers and the 76 others, do we have any other company that has purchased maize from the National Cereals and Produce Board (NCPB) above one bag, because legally, anybody can buy one bag from the NCPB? Is there any other company which has bought more than a bag? Secondly, has the Minister tried to find out from the Kenya Revenue Authority (KRA) whether there has been any export of maize to Southern Sudan?

**Mr. Imanyara:** Mr. Speaker, Sir, the Minister has given a very comprehensive answer---

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, may I respond to those clarifications first?

**Mr. Speaker:** Order, Mr. Minister! I said that I would allow five hon. Members to seek clarifications. We have so far done three.

**The Minister for Agriculture** (Mr. Samoei): I thought that I should respond to those ones

first.

**Mr. Speaker:** That will take too long. Take note of the clarifications sought. You may have to respond to points of order.

**Mr. Imanyara:** Mr. Speaker, Sir, while giving the Ministerial Statement, the Minister has talked about investigations by the Kenya Anti-Corruption Commission (KACC), the Criminal Investigations Department (CID) and others. Could he tell us the status of those investigations, and whether any prosecutions are intended, and if so, how soon can we expect to see people in court?

**Mr. Thuo:** Mr. Speaker, Sir, my clarification is on the issue of the rationale behind importing maize at fairly astronomical prices compared to the current ones. Why would you not offer our farmers, who are said to be holding stocks of maize, a discount of up to 30 per cent or 40 per cent against the imported maize? Are we cutting our noses to spit on our faces?

**Mr. Namwamba:** Mr. Speaker, Sir, this matter is grave and one would have expected that the Ministerial Statement would have been very precise, and provided all the details sought. The Minister has provided a list of millers and companies that have been allocated maize in the recent months, but he has omitted the one element that is of great interest to the nation, and even to Members of this House. The absence of that information has led to speculation that is destroying the reputation of other people.

Mr. Speaker, Sir, I want to ask the Minister to add a third category and provide a list to this House of all individuals, including politicians and Members of the Government, who have been allocated any maize by the NCPB in the last 12 months. While at it, I would like to ask the Minister to indicate to this House a very specific date, when he can submit to it the forensic audit currently being conducted by the KACC, the CID and other state agencies. That audit should be tabled in this House in the shortest time possible, so that it can be seized of the full disclosure on this matter and bring to an end the destructive speculation going on right now.

**Mr. Speaker:** Mr. Minister, could you now respond?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, when this issue came up about two months ago, I presented a comprehensive list, and I have updated that list to include all sales until January. The list is here and it includes everybody who bought maize from the NCPB, including individuals. I invite hon. Members to go through the list, and if they have any queries, I will be willing to come back and shed more light on the matter. I want to state that, as the Minister for Agriculture, working in consultation with the Minister of State for Special Programmes---

**Mr. Speaker:** Order, Mr. Minister! Mr. Namwamba said if you will be ready with that list, then you will table it in the House. Now that you are ready with it, could you table it?

**The Minister for Agriculture** (Mr. Samoei): I will do that, Mr. Speaker, Sir.

**Mr. Namwamba:** On a point of order, Mr. Speaker, Sir. When I raised that issue, I was not aware that the Minister had the list. Would I be in order, in view of the great national interest in this matter, to request that he reads out that list before the House?

**Mr. Speaker:** How long is the list, Mr. Minister?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, the list contains about 3,000 companies.

**Mr. Speaker:** I will not allow you to read out the list, taking into account the amount of time available to the House.

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, the list is comprehensive. It clearly shows the date when the purchase was done, the name of the customer, the depot where the maize was collected, the receipt number, the quantity, the price and the amount paid. It is very comprehensive and it is here.

**Mr. Speaker:** Mr. Minister, so as to deal with the apparent anxiety in the air, are there any

names of politicians on that list?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, I would not say whether there are politicians or not, because these are companies. It would be for somebody to go to the Registrar of companies and look at the directorship of these companies to ascertain whether they are owned by politicians; but there is no politician listed here by name as having bought maize from the NCPB.

**Mr. K. Kilonzo:** On a point of order, Mr. Speaker, Sir. The anxiety which is in this nation is because Kenyans know that people who are involved in these cartels are very shrewd. They do not use their names but write notes to the Minister asking him that their companies or friends be included---

**Mr. Speaker:** Order! You have stood on a point of order! Can you quickly move to that point of order?

**Mr. K. Kilonzo:** Mr. Speaker, Sir, my point of order is that the Minister should clear this anxiety. Will he include the names of senior politicians who have written notes to him seeking his assistance for those companies, if, indeed, there are such notes?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, regarding the issue of notes, hon. Members write notes to Ministers. Let me give an example. Mr. Ngugi wrote a note to me that he wanted a depot of the NCPB in his constituency, and we complied because it was a request from an hon. Member.

**An hon. Member:** On a point of order, Mr. Speaker, Sir!

**The Minister for Agriculture** (Mr. Samoei): Can I continue? I remember very well that two hon. Members, one of them from Tharaka Constituency, wrote to me saying that they needed food relief in their constituencies.

**Mr. Thuo:** Mr. Speaker, Sir, being a very serious matter and I know that the Minister is aware how anxious this country is on this issue, would I be in order to ask him to be very specific? The matter he is being requested to deal with is not directly related to either the procurement of maize by those specific Members of Parliament for relief but for commercial purposes or for their companies, associates or anybody else. That is the point that he needs to address.

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, I have not received any note from any Member of Parliament requesting for commercial maize for themselves or their companies. This is because even if they did that, they would not receive my consent. Further, I have not written any note to anybody, including the National Cereals and Produce Board (NCPB), to instruct them to sell maize to anybody because it is not my responsibility to issue maize. My responsibility is to ensure the maize is there and approve quantities to be sold. Once you approve 500,000 bags, it is up to the NCPB together with the Committee set up under Strategic Grain Reserve (SGR), to allocate that maize to the millers and the persons concerned.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. It is quite clear that we are going round in circles and we know that the rules of this House require that when a question is taken to the Minister, he or she should be seen to be responsible for the accuracy and authenticity of the answer.

To allow this House to accept the list the Minister is tabling is to assume that he does not know what he is doing because he knows that the only authentic list that can give light to this House is not the one that he has given us. The only one that can shed light is that one that is contained on the authority to release maize. This list is normally signed by the trustees. Is the Minister telling this House that what he has given us has been signed by the trustees?

He should retract this list and give us the list that has been signed by the Permanent Secretary in the Ministry of State for Special Programmes, Permanent Secretary for Agriculture and the Permanent Secretary, Treasury together with the Managing Director of NCPB. Then on that list, the House will be able to see whether the companies mentioned by hon. Kioni are on it or not. Together with that, the House will also have an occasion to prove whether a company called Waso Millers belongs to Mrs. Rehema Galgallo, a girlfriend of one of the strong politicians in this House. The

House will also be able to confirm whether Mafuta Farm belongs to Mr. Jackson Kibor.

**Mr. Speaker:** Order, Dr. Khalwale! You stood on a point of order. Up to as far as you have come, you have not said to this House what was out of order with what the Minister had asserted and I, therefore, want to rule you out of order. This is because the common sense of what you are trying to present is this: If you believe and have reason to do so that the Minister tabled an erroneous list, then you should have come with an accurate list to challenge his position. I, therefore, rule you out of order!

Minister, proceed with your clarification!

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, I want to confirm that indeed, in this list, the companies that have been mentioned by hon. Kioni are here. I will take time and go through this list and ascertain whether the companies Members want are in it. I do not think it will serve any purpose for us to discredit this list. This list has been prepared by the trustees of the SGR because this list was not brought from my office. It was---

**Mr. Bahari:** On a point of order, Mr. Speaker, Sir. This matter is of grave national importance and the Minister has given us a list of 3,000 companies which are involved in this business. Would I be in order to request you to kindly allow us to study it and go to the Registrar of Companies, since Kenyans are waiting for us to unearth it and be able to come out and ask appropriate questions?

**Mr. Speaker:** Very well! That seems to make sense. However, Minister, before I make a ruling on that, could you respond to the balance of the clarifications?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, hon. Kioni asked about Buseki Company which already is in this list. If Buseki is not a miller and they bought the maize in contravention of the law, that is why we have the Criminal Investigations Department (CID), Inspectorate of State Corporations and the Kenya Anti-Corruption Commission (KACC), to ascertain that these people bought maize fraudulently so that they can face the law. The list is here and the names are there. So, I do not think hon. Kioni needs to worry about this.

Mr. Speaker, Sir, on the status of the investigations, I do not have control over when the investigations will be complete but we have given very clear indications to the investigators on the urgency of this matter and the anxiety to which it brings to the country, for them to conclude the investigation with speed. This is because on the basis of those investigations, I intend to take serious structural changes in the NCPB if it is proved that there was indeed complicity either on the side of the management, trustees of the SGR or the companies that are listed here.

Mr. Speaker, Sir, let me also respond to the issue that was raised by hon. Thuo as to why are we paying our farmers Kshs1,250 per bag and paying more for maize that we are importing from outside the country. Let me answer it this way: The money we are using to buy maize is taxpayers' money and if we want to spend taxpayers' money to buy maize from outside and enhance our maize in the country, that is why we are going this extra mile. We would not be spending a coin if we had enough maize in this country. I have taken due note. Immediately I moved into the Ministry of Agriculture, I found out that the reason why we ended up in this mess is because we only had 1.6 million bags of maize in June. That is all the maize we had. We did not have sufficient stocks. We did not have sufficient grains in the SGR and that is why the first business that I did in my first weeks at the Ministry of Agriculture was to enhance the SGR from 3 million to 8 million so that---

**Mr. Kuttuny:** Jambo la Nidhamu, Bw. Spika. Jambo la Nidhamu kwa sasa ni kwamba Waziri anasema kwamba bei ya kutoka kule nje itaongezwa kutumia ushuru ama mkopo kutoka nje. Sijui kama Waziri ana habari kwamba wakulima kwa sasa wamesusia kuuzia Serikali mahindi mpaka bei ya nafaka iongezwe. Hii ni kwa sababu Serikali inatafuta mkopo zaidi ya bilioni Kshs7.6. Kwa hivyo, nataka kusema kwamba---

**Mr. Speaker:** Order, Bw. Kutuny! Umesimama kwa jambo la nidhamu. Kufikia mahali umezungumza, hujaeleza chochote ambacho kinahusiana na mazungumzo ya Waziri ambacho

kimekosa nidhamu. Kwa hivyo, wewe mwenyewe umekosa nidhamu!

Standing Orders ambazo tunatumia zinasema kwamba ukisimama kwa jambo la nidhamu ambalo ni makosa, utakuwa umekosa nidhamu wewe mwenyewe na itafaa upatiwe punishment!

**Hon. Members:** Adhabu!

**Mr. Speaker:** Kwa hivyo, Bw. Kutuny, ukiendelea vile unavyoendelea, nitakuadhibu sasa hivi!

Endelea, Bw. Waziri!

*(Laughter)*

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, let me explain to hon. Members here. The reason why we are importing maize is not because we want to pay higher prices for farmers in other countries. We would rather pay our own farmers. The reason why we have to import maize is because we do not have enough maize in the country. My understanding is that contrary to the statement of Mr. Kutuny that farmers have refused to sell maize, we are buying on average between 20,000 and 28,000 bags of maize every day from farmers through our National Cereals and Produce Board (NCPB) buying centres. That programme is on. We have now bought 600,000 bags of maize as of yesterday. I want to confirm that the farmers of this country are patriotic enough to know that they need to sell maize at a price that we can supply to consumers at a price they can afford.

Let me conclude---

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

**Mr. Speaker:** The Minister will be heard. Mr. Minister, could you stick to the rules of relevance. Respond to the clarification raised.

**The Minister for Agriculture** (Mr. Samoei): That is exactly what I am doing. That is the reason why I was responding as to why we are paying a higher price. We are paying a higher price because we have no choice. This maize has to be brought in from outside and we cannot get it otherwise. If we decide to liberalise the market and buy maize from farmers at Kshs2,500 per sack, the net effect is that the price of flour and the inflation will go up. Do we really want to drive the price of flour to levels that the ordinary people in this country cannot afford? Is that what we want? I do not think so.

Mr. Speaker, Sir, it is good that hon. Members have brought this question to this House so that we can set the record straight. This will ensure that this debate on the sale of maize can be conducted on the basis of facts and not rumours. The NCPB has not lost the maize that Mr. Mututho said has disappeared. One hundred thousand bags of maize is 500 lorries. It cannot disappear. How can 500 lorries disappear? Let us face the facts. The reality of the matter is that no single bag of maize has been lost.

We went slow on the flour project because we experienced problems in the distribution. We needed to involve the private sector to make the distribution network more efficient and reach further places. That process is still ongoing. It will take time before flour is available in many parts of the country.

**Mr. Speaker:** Mr. Minister, have you completed your response? There is one that you have not dealt with; the one that was sought by Mr. Cyrus Jirongo with respect to the amount of strategic reserves that you have. Are you satisfied that that is sufficient to feed this country?

**The Minister for Agriculture** (Mr. Samoei): Mr. Speaker, Sir, the strategic grain reserve we

have is 700,000 bags as I said. We are buying maize from the farmers and we have bought so far approximately 600,000 bags. That puts us at 1.3 million. All things being even, that maize will come by 20th or 25th February. We have signed another contract to import another 2 million bags of maize. That contract is already in the works and we expect another 2 million bags of maize to be in the country by 20th February. We will request this House to approve another facility so that we can get maize from USA. We will not get any money from them but we will get maize directly from the USA so that we can boost our stocks and grains in the country.

**Mr. Thuo:** On a point of order, Mr. Speaker, Sir. If you will just indulge me for a minute, you have allowed the Minister to introduce a few debatable points. I will give an example. He has posed the question: Do we want to pay our farmers Kshs2,500 per sack with the attendant rise in the cost of flour for instance? That is debatable? Secondly, should the NCPB top brass remain in office while we continue to investigate their conduct? Thirdly, why should we not liberalise the importation now that the Government is importing at a higher price than they are paying our local farmers? Let our local farmers compete with those who are selling at Kshs3,000 and use Government funds to subsidise the flour so that we achieve the ends the Government wants. My point of order---

**Mr. Speaker:** Order, Mr. Thuo! It is not Question time, neither is it debate time. As a Chief Whip, you ought to know better.

**Mr. Thuo:** I was building up my point of order.

**Mr. Speaker:** No, you cannot build up for that long. You are out of order and you will have to resume your seat.

**Mr. Kioni:** On a point of order, Mr. Speaker, Sir. One of the clarifications I had sought was on the issue of the Milling Corporation of Kenya which closed shop on August, 2008, and was allocated 12,000 bags of maize in December by the Trustees. As the Minister is preparing to respond, he has admitted that he has called in the investigation arm into his Ministry. Has he also considered stepping aside so that this investigation arm can do their work?

**Mr. Speaker:** Order, Mr. Kioni! You stood up on a point of order. The first part is a valid point of order. The second part is out of order because you are asking a question which was not in the first clarification that you sought.

Proceed, Mr. Minister!

**The Minister for Agriculture** (Mr Samoei): Mr. Speaker, Sir, I am not aware whether the Milling Corporation of Kenya has closed shop or whether it is still there. I do not have any information whether it was allocated any maize. If it was allocated, the list is long. Mr. Kioni will have time to peruse through it. If they were in the list, they were allocated maize and they have closed shop, then the necessary course of justice will take place. That is why we have called in the investigators.

**Mr. Speaker:** Order! Order, hon. Members! We must now come to the end of this matter save for this; that given the level of interest that this matter has attracted and bearing in mind that the Minister has for the very first time laid before the House a list containing more than 3,000 names of persons who may have been allocated stocks of maize, I will defer this matter for further interrogation to Wednesday next week so that hon. Members have time to acquaint themselves with the contents of the list and ascertain the authenticity of those names.

Next, let us get a Ministerial Statement from the Minister for Energy!

#### ESCALATION OF FUEL PRICES BETWEEN DECEMBER AND JANUARY

**The Minister for Energy** (Mr. Murungi): Mr. Speaker, Sir, on Tuesday, 20th January, 2009, Mr. David Ngugi asked me to issue a Ministerial Statement on the fuel crisis and the alleged fraud of Kshs7.6 billion by Triton Petroleum Company. Before I respond to the specific issues raised by Mr.

Ngugi---

*(Loud consultations)*

Mr. Speaker, Sir, I beg your protection. Some hon. Members are consulting a bit too loudly.

**Mr. Speaker:** Order! Order, hon. Members! Can we lower the level of our consultations, so that the Minister can be heard?

**The Minister for Energy** (Mr. Murungi): Thank you, Mr. Speaker, Sir. Before I issue my Ministerial Statement, I beg your indulgence to briefly explain to hon. Members the current oil marketing system.

When the NARC Government came to power in 2003, it was concerned that the oil industry was dominated by foreign marketing companies. The Government was determined to assist small upcoming local oil marketing companies to enter the oil marketing business. Upcoming local oil marketing companies were unable to compete with the established oil marketing companies, because they were poorly capitalised and, therefore, lacked the necessary funds to import crude oil and other oil products.

Mr. Speaker, Sir, the local oil companies at that time brought crude oil from oil majors for processing at the Kenya Petroleum Refinery (KPR) Limited at a premium of US\$4 per tonne above the landed cost. These local companies also imported products from the same oil majors at prices which made it virtually impossible for them to grow financially and to compete effectively in the domestic oil market.

To address this situation, and so as to empower indigenous oil marketing companies to participate in the oil marketing business, the Minister for Energy then, under Legal Notice 197 of 2003, introduced what we call the Open Tender System (OTS) for importation of petroleum, both crude and other refined products. With the introduction of the OTS, small oil companies stopped paying the price premiums to oil majors for imported crude and other oil products.

Mr. Speaker, Sir, many oil marketing companies, including Triton, have imported petroleum products into Kenya through the OTS since it was introduced in this country in the year 2003, with very commendable results. The average total consumption of petroleum products in the country today stands at 3.7 million metric tonnes per annum. Seventy per cent of this product is imported through the OTS.

The local oil companies, among others, are required to access credit to import these huge volumes of petroleum products. To overcome this challenge, both the Kenya Pipeline Company and the local and international financiers developed what we call the Collateral Financing Arrangements (CFA) in the year 2004 to enable the petroleum companies to access credit for importing huge quantities of imported oil products.

Mr. Speaker, Sir, the CFA agreement enables oil importing companies to access credit from banks and international oil suppliers to finance importation of oil products. To cut a long story short, under the CFA, oil is held in trust by the Kenya Pipeline Company (KPC) for the financiers for an average of 30th days. It is only released to buyers upon written instructions of these financiers. Therefore, the KPC holds imported oil products in trust for the financiers until it authorises, in writing, release of those products to the importers.

Several oil marketing companies, including Kenol/Kobil, National Oil Corporation (NOC), Triton, Gulf Energy and other petroleum companies, have benefitted from the CFA since it was introduced in July, 2004. Simply, what has happened in this case is a serious crime of dishonesty and fraud. Some of the employees of the KPC colluded with Triton Petroleum Company, which is owned by one Mr. Jagnesh Devani, to release oil products held by the KPC in trust for Triton's financiers Triton Petroleum Company without written authority of those financiers.



Mr. Speaker, Sir, Triton Petroleum Company then sold those products, which were illegally released to them, to other local oil companies in the market. However, Triton Petroleum Company did not pay the money it borrowed from the financiers to import those oil products. This fraud enable Triton Petroleum Company to cheat its own financiers of a colossal sum of money represented in these products, which we estimate at Kshs7.6 billion.

The financiers and suppliers of Triton have now made claims against KPC for compensation for these products, which were released to Triton without the authority of the financiers. My Ministry is currently working with the financiers to verify these claims with a view to having them settled through out of court commercial settlement.

Mr. Speaker, Sir, I now beg to respond to the specific issues raised by Mr. Ngugi, the first one being the amount of fuel that was available in the country between October, 2008 and January, 2009. During this period, 480,000 metric tonnes of crude petroleum products were imported in fixed shipments of 80,000 tonnes for refining at the KPR Limited. In addition, another shipment of 80,000 metric tonnes of crude oil is scheduled to arrive on 24th January, 2009, which is two days from today.

Mr. Speaker, Sir, the crude oil so far processed has realized the following white products:-

Petrol, 37 million litres, diesel, 87 million litres and kerosene, 77 million litres. During the same period, the following quantities of liquid fuels were imported through the Kipevu Oil Storage Facility; 182 million litres of petrol, 433 million litres of diesel and 246 million litres of kerosene.

Mr. Speaker, Sir, in addition to the following imported products, more products are scheduled to arrive later this month. We expect 54 million litres of petrol, 37 million litres of diesel and 39 million litres of kerosene.

Mr. Speaker, Sir, the above quantities are adequate to meet domestic demands as the monthly domestic demand for these products, on average, is as follows: 42 million litres of petrol, 110 million litres of diesel and 96 million litres of kerosene.

Mr. Speaker, Sir, the country experienced fuel shortages in Nairobi and other upcountry areas in the months of December and January due to the challenges in the oil pipeline system. Those challenges are as follows:-

(a) There has been an engineering fault at Pump Station No.14, that is at the Kipevu Oil Storage facility in Mombasa, which defect is being rectified.

(b) There was also a devastating damage of an auto transformer at Pump Station No.2, which is at Samburu, which is one of the four pump stations. That is also currently under repair.

(c) There were also power blackouts caused largely by vandalism of power lines under which our distribution system, which, in aggregate, contributed to 72 hours of lost pumping time by Kenya Pipeline Corporation (KPC).

(d) There was also a shutdown of the Mombasa-Nairobi oil pipeline in order to connect electricity to the four new pumping stations, which resulted in loss of pumping time of 17 hours during that period.

(e) Lastly, during Christmas, there is usually some rush. Panic buying during Christmas period also contributed to the shortage of products which we witnessed in December and very early this month.

Mr. Speaker, Sir, on the status of Triton Company in relation to the fuel crisis and the alleged fraud of Kshs7.6 billion, I wish to state as follows:-

Triton Petroleum Company is a small company with a domestic market share in the petroleum sector of less than 0.5 per cent. The shares shrunk to about 0.5 per cent by December. Triton Petroleum Company signed a Collateral Financing Agreement (CFA) with the KPC in July, 2004. On various dates between November, 2007, and December, 2008, Triton Petroleum Company colluded with the employees of KPC and dishonestly and fraudulently obtained 126.5 million litres of fuel products which were held in trust for Triton's financiers, and then sold them without the approval of

those financiers.

Mr. Speaker, Sir, an interim report prepared by KPC Internal Audit Manager and presented to the Board revealed that the stocks allegedly released by KPC Operations Department to Triton, without the approval of Triton's financiers between November, 2007, and November, 2008, is as follows:-

Kenya Commercial Bank (KCB), about 31 million litres; Glencoe of UK, 38 million litres; Fortis of Netherlands, 15 million litres; Emirates National Oil Corporation, 42 million litres and the total amount alleged to have been released is 126.5 million litres. At an average cost of Kshs60 per litre, the value of those products is estimated to be Kshs7.6 billion. The accuracy of those figures is being verified by a team of auditors who are currently at KPC.

Mr. Speaker, Sir, on the involvement, if any, of the Ministry officials as the overseeing body or agency in the oil industry, I want to state as follows:-

The Ministry of Energy officials were not aware of that matter until Friday, 2nd January, 2009. On that day, the Ministry received a copy of a letter from the Managing Director of KPC suspending a Mr. Peter Mecha, the Operations Manager, from office with immediate effect. The grounds given for that suspension were two. One, stoppage of pipeline oil pumping on 31 December, 2008 for end of year stock taking without the approval of the Managing Director, while knowing that the country was then experiencing a shortage of diesel and petrol. Two, release of about 126.5 million litres of diesel, kerosene and super petrol held in trust by KPC for Triton's financiers to Triton Petroleum Company, contrary to the terms of CFA. So, that is the letter which brought the Triton matter to the attention of the Ministry.

**Mr. Speaker:** Mr. Minister, how much longer do you have to go?

**The Minister for Energy** (Mr. Murungi): Mr. Speaker, Sir, another four minutes or so.

**Mr. Speaker:** Try and stick to that.

**The Minister for Energy** (Mr. Murungi): Mr. Speaker, Sir, this letter was brought to my attention on 5th January, 2009, by my Permanent Secretary. I immediately summoned the Managing Director to brief me on the matter and after listening to him, I instructed him to call an urgent board meeting to deliberate on the matter. The Board met on Wednesday, 7th January, 2009, and briefed me on the same day in the afternoon. The following was the brief:-

The Board informed me that the Board itself was not aware that any products had been released to Triton. The Board also expressed its concern that the management had kept it in total darkness about the operations of the CFA with Triton and other companies. The Board, among other things, resolved that the Kenya Anti-Corruption Commission be asked to investigate the matter with a view to prosecuting all those involved and also, with a view to tracing and recovering any assets illegally acquired by Triton and others. The board also recommended that PriceWaterHouse Coopers be hired immediately to carry out a forensic audit of all product transfers at the Kenya Pipeline Company (KPC). The board, among other things, also directed the Internal Audit Department to audit all collateral financing agreements (CFA) products on a weekly basis.

Mr. Speaker, Sir, since the brief by the board, I have taken the following action. I have written to both the Kenya Anti-Corruption Commission (KACC), the Commissioner of Police and the Director of the Criminal Investigations Department (CID) requesting them to carry out thorough and comprehensive investigations and to interrogate all those involved, either in the KPC, M/s Triton or any other organisation, with a view to arresting and prosecuting all those found to have been involved in this fraud.

Secondly, the Managing Director has been sent on compulsory leave to pave way for comprehensive investigations, and a new Chairman and acting Managing Director have been appointed to streamline operations at the KPC and to facilitate those investigations. The Operations Manager and two of his employees, who were involved, have been suspended and are currently

under investigations by both the KACC and the CID.

My Ministry has also directed the KPC to appoint a team of competent commercial lawyers to work with financiers to analyze and verify their claims under the CFA and determine liability, if any, to the KPC. M/s PriceWaterHouseCoopers have been hired to carry out a forensic audit of the entire pipeline stock, and to review the CFA with a view to making it watertight against any future abuse.

Mr. Speaker, Sir, my Ministry is also facilitating discussions with stakeholders in the petroleum sub-sector with a view to reviewing the OPS and CCA arrangements, so as to incorporate financiers and to ensure their confidence in this system. It is our intention to give comfort to the financiers and suppliers of oil products in this country to ensure security of supply to Kenya and this region.

My Ministry is also painfully aware that the Triton case threatens the smooth operation of OPS and the CFA systems, and could have far reaching implications for the oil sector and, indeed, the entire economies of Kenya, Uganda, Rwanda, Burundi and Eastern DRC. My Ministry is, therefore, undertaking serious consultations with petroleum financiers and suppliers, with a view to reaching a mutually acceptable out of court settlement of the Triton-based claims and to ensure that such frauds do not occur in future.

My Ministry is also taking every step possible to resolve this matter amicably, so as to restore confidence and trust in the CFA systems, and to ensure availability of petroleum products in the market at reasonable and affordable prices.

Thank you.

**Mr. Speaker:** For clarifications, once again, we will limit them to just five. Hon. Members, please, be concise in the clarifications that you seek, beginning with Mr. Ngugi.

**Mr. Ngugi:** Mr. Speaker, Sir, I want to thank the Minister for giving such a comprehensive scenario on this matter, but let me, at the outset, say that the Minister for Agriculture mentioned my name, and it is true that I wrote to him to ask him to open a depot in my area.

**Mr. Speaker:** Order, Mr. Ngugi! We are dealing with a completely different matter and, please, get to the point: clarifications on the statement issued by the Minister for Energy.

**Mr. Ngugi:** Mr. Speaker, Sir, I thought that I would get the chance, but now that you have guided me accordingly, let me say this: With the amount of petrol that was in the country between October and January, we would have had no reason as to why we were being forewarned in December that there was some looming crisis, especially during the December festivities. However, the Minister has clarified that there were some challenges in the oil distribution. The factors that he has listed, including closing down the pipeline and---

**Mr. Speaker:** Order, Mr. Ngugi! If you look at your Standing Orders, they restrain you from being repetitive. We have all heard what the Minister said, and you need not recapitulate! Please, seek clarification and I allow you 30 seconds to do so.

**Mr. Ngugi:** Mr. Speaker, Sir, in that case, I will go straight to the clarification without dwelling on the basis. First of all, I would like to know from the Minister why the board of the KPC did not know about CFA, which had a potential liability of billions of shillings? Secondly, I would like to know, arising from the investigations that the Minister has conducted, what is the progress?

**Mr. Kombo:** Mr. Speaker, Sir, on the fight against corruption, the system has got to be decisive and make the cost of corruption high. The Minister has categorically said that there was a fraud. Suspending the officers involved in the fraud is not being decisive, because those officers will be in a position to influence the investigations. Why have those officers not been arrested, so that investigations can go on without any interference?

*(Applause)*

**Eng. Rege:** Mr. Speaker, Sir, it is amazing that such a complex engineering institution was

being operated completely manually. I would like to ask the Minister what steps he is taking right now to ensure that Mr. Devani does not return overnight to syphon out more oil while we are investigating on what exactly happened.

**Mr. Mbugua:** Mr. Speaker, Sir, Kenyans have lost faith in the KACC. Has the Minister identified other investigative authorities to make sure that, that matter is investigated thoroughly? Also, I believe that sacking, or interdicting Mr. Okungu was just cosmetic. What I believe in is that the entire KPC board and all workers should be sacked and the company overhauled. The whole system should be overhauled instead of just taking cosmetic measures, as we, Kenyans, usually do. I hope we will not---

**Mr. Speaker:** Order, Mr. Mbugua! You are now debating! So, you are out of order, I am afraid.

**Mr. Mbugua:** Only one more clarification!

**Mr. Speaker:** You had the opportunity to seek clarification, and you did it.

**Mr. Okemo:** Mr. Speaker, Sir, I wish to seek several clarifications from the Minister.

**Mr. Speaker:** Can I restrict you to three?

**Mr. Okemo:** Mr. Speaker, Sir, you know how important matter this is and it has grave economic consequences. Please, indulge me!

**Mr. Speaker:** Order, Mr. Okemo! We wish to utilise the little time we have optimally! You will seek three clarifications, because we have given you indulgence as a result of your being the Chairman of the Departmental Committee on Finance, Planning and Trade. Note that we are bearing that in mind!

**Mr. Okemo:** Thank you very much, Mr. Speaker, Sir, for your thoughtful--

*(Laughter)*

I would like the Minister to clarify the following to this House: The imports of oil either in crude or finished form will be stored by the Kenya Petroleum Refinery or Kenya Pipeline Company, respectively. We have never had a problem with the Kenya Petroleum Refinery storage arrangement, because we have an independent surveyor who actually verifies. He is an independent external auditor. But in the case of the Kenya Pipeline Company (KPC), we do not have that. Obviously, this problem was anticipated and it was going to come. Could the Minister assure this House that such an independent auditor will be stationed at the KPC to avoid future occurrence of such fraud?

Number 1(b), the collateral financial arrangement or agreement is between the KPC, supplier or importer and the financiers. Those are all the stakeholders in the collateral financial agreement. What measures is the Ministry of Energy putting in place to ensure that if there is a future collateral financial agreement, the Ministry gets directly involved and becomes the overall superintendent, to ensure that the KPC which falls under it, is doing what it is supposed to do? In fact, I am saying the Ministry of Energy was negligent and it cannot escape blame. This is because--

**Mr. Speaker:** Order, hon. Okemo! If you want clarification from the Minister to indicate whether or not the Ministry was negligent, then you have done well. You do not have to go further to explain or justify why you believe the Ministry was negligent. The Minister will do that.

Move to the next one!

**Mr. Okemo:** I thought it was for the benefit of the House.

**Mr. Speaker:** Order, Mr. Okemo! Move to the next one!

**Hon. Members:** Number 1(b)!

**Mr. Okemo:** Mr. Speaker, Sir, following your direction, could the Minister explain to this House why the Ministry of Energy, which receives daily stock levels from the KPC, did not know the

problem until it was actually brought out by the media? This is because from the stock sheet, you are able to know who owns what. I do not think that the Minister was very clear in his presentation as to who owns what stocks, because from there it would be very clear whether Triton was taking its own stocks or somebody else's stock.

Now, I come to point No.2.

**Mr. Speaker:** The last one! You have done "a" and "b." So, "c" will be number three. Proceed!

**Mr. Okemo:** Mr. Speaker, Sir, I have no option.

**Mr. Speaker:** It is logical! Proceed!

**Mr. Okemo:** Mr. Speaker, Sir, the other issue that I would like the Minister to clarify is that Triton had a joint supply contract to KenGen which is a State corporation. How is it that all the supplies that Triton got from the KPC, that went to KenGen, cannot be retrieved to minimise the amount of loss that we are talking about? This is a Government outfit and Triton supplied to them. I hope they were not paid cash.

Could the Minister clarify whether all the supplies that went to KenGen have been paid for and that money has already been received by Triton, because that is part of the money that could minimise the loss?

**Mr. Wambugu:** Mr. Speaker, Sir, I just want to ask for a clarification about this fuel issue. Immediately this issue came to light, we understand one Devani of Triton was sighted in India. Thereafter, a team or group of high-ranking officials of the Kenya Government were also sighted in India. I would like a clarification from the Minister whether the said officials had been sent there by the Kenya Anti-Corruption Commission to go and check whether, really, Mr. Devani was in India. Why did the Minister take very long to even say that the Interpol would do that? Could those officials who had gone to India been doing it on our behalf?

**Mr. Midiwo:** Mr. Speaker, Sir, the Minister has said that Triton had only half a per cent of the market share. We have also been told that Triton had access to 40 per cent of the total allocation of the KPC crude oil. Why did the Ministry of Energy not question why a company that owns only a half per cent of the market was getting 40 per cent?

I would also like the Minister to tell the House the role of Total Kenya in the Triton saga. It is very important that he also tells us very clearly whether he did not know until 2nd January. He cannot tell us that the Ministry did not know, because we know that it knew.

Secondly---

**Mr. Speaker:** Finally!

**Mr. Midiwo:** Mr. Speaker, Sir, the Minister has said - and the then Managing Director had said - that we had a problem of lack of power due to damage to transformers. What was the amount of this damage to transformers and what did he attribute it to?

Mr. Speaker, Sir, finally---

**Mr. Speaker:** Order, Mr. Midiwo! The Chair did direct that the clarification you sought last was the final one. So, we must stop there!

I am afraid that these clarifications now will have to stop even though I know that there is a lot of interest.

Mr. Minister, could you respond to those issues?

**The Minister for Energy (Mr. Murungi):** Mr. Speaker, Sir, I would like to respond to the clarifications sought by the Members.

Mr. Ngugi wanted to know why the Board did know or was not involved in the CFA. The information - and I was present when the Board came to see me - was that the management had not involved or informed the Board about the CFA with Triton and other companies. Therefore, the Board was in the dark because it was not informed by the management. The role of the Board is at

policy level. This is an operational management matter. I think that is why the Board did not know.

Secondly, Mr. Speaker, Sir, Mr. Kombo said that the suspension is not enough and asked why officers have not been arrested. We have instructed both the Commissioner of Police and the Kenya Anti-Corruption Commission (KACC) to investigate this matter and interrogate all the officials and other persons involved. I think that is as far as we can go. We have provided all the necessary information in our hands. If I had powers of arrest, myself, I would have arrested these people. However, we have to leave the work of investigation to the investigation agency. My friends will remember that I was at home for nine months allegedly for interfering with corruption investigations. I do not have intentions of going back again!

*(Laughter)*

Mr. Speaker, Sir, Eng. Rege wanted to know what plans we are putting in place to ensure that the products currently in the pipeline are not stolen as these investigations go on. We have instructed the new chairman and the Managing Director to monitor these products very closely. As I speak, an audit is going. This is being done by Pricewaterhouse-Coopers. I think there is a very close watch, so, there is no possibility of these products being stolen as investigation goes on. I am also aware that the financiers are keen in monitoring what we are doing at the Kenya Pipeline Corporation (KPC).

Mr. Speaker, Sir, I am not aware that Kenyans have lost faith in the KACC. We know that the Commission has limitations in terms of prosecution. That is why we have gone for a joint investigation by both the KACC and the Criminal Investigations Department (CID). The CID can then prosecute without having to wait for too long.

Mr. Speaker, Sir, we are also carrying out a restructuring of the KPC internal management system. After the audit has been done by Pricewaterhouse-Coopers, we intend to carry out a thorough restructuring of all the departments of the KPC to ensure that the TFA system is strengthened and there is integrity in the pipeline system.

Mr. Speaker, Sir, Mr. Okemo asked for many interventions because he is a former Minister for Energy. However, I would like to remind him that even when he was there, there was fraud at the KPC and he knows the challenges that are there. I want to agree and accept his suggestion that we introduce an external auditor for the products in the pipeline like we have done in the refinery to ensure that the products are properly taken care of while on transit.

Mr. Speaker, Sir, we are also consulting with the financiers and the Ministry with the intention of introducing regulations under the Energy Act (2006) so as to make the provisions of the CFA tighter and also part of the law governing the industry. So, the Ministry is involved in improving the CFA system.

Mr. Speaker, Sir, it is true that we receive daily stock sheet from the KPC. The Permanent Secretary receives them and even today, he received some. However, in this particular case, the Operations Department generated false information which it shared both with the bank and the Ministry. It was, therefore, not possible for the officers in the Ministry to detect that there was loss of stock to Triton Oil Company. This was a fraud and because it also involved forging of documents, it was not possible for us to detect it in time. In fact, even the external auditor was not able to detect it during that period.

Mr. Speaker, Sir, regarding the joint contract to supply KenGen, it was a joint contract between Triton, Total and KenGen. They were supplying fuel for our emergency power plant. However, from my understanding of it, Triton only imported the products and supplied them to Total. Total then supplied KenGen. Therefore, KenGen made their payments to supplier, who was Total. KenGen did not pay any money directly to Triton. It paid to Total.

Mr. Speaker, Sir, I would like to inform my friend, Mr. Wambugu, that I do not know the

whereabouts of Mr. Devani. In fact, investigations are ongoing. I have no information whatsoever whether or not he has met any Government officials or Ministers wherever he is. The investigations that are being carried out will enable us to know this.

Mr. Speaker, Sir, regarding haulage allocation. It is true on the face of it Triton seems to have an unfairly large allocation compared to its small market share of 0.5 per cent. However, I would like to explain to House that when haulage allocation is being done and it is done by the private sector committee currently shared by Shell, they, first, set aside haulage for products that are required for electricity generation. This is not computed among the haulage that is distributed to the marketers for their commercial operations. So, the allocation given to Triton is given because it had won the contract together with Total for the supply of fuel for emergency power. If another company, and that is likely to be the case, wins that contract that haulage will be allocated to that company. So, as far as the marketers are concerned the allocation of haulage to Triton is 0.5 per cent. Indeed, because Triton is no longer in operation, that haulage is now going to be zero.

Mr. Speaker, Sir, I understand the damage to the transformers in the pipeline system was caused by vandalism.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Very well!

Hon. Members, the Ministerial Statement that was expected from the Minister for Transport is deferred to Tuesday, next week. This is because we have run out of time and so we must proceed to the next Order but before we do that, I have the following ruling to make with respect to Order No. 7.

### CONSIDERED RULING

#### MOTION ON APPROVAL OF SESSIONAL PAPER No.1 OF 2009 IS PROPERLY BEFORE THE HOUSE

**Mr. Speaker:** Hon. Members will recall that yesterday, Wednesday the 21st January, 2009, some hon. Members raised pertinent issues regarding Sessional Paper No.1 of 2009 laid before the House by the Acting Minister for Finance, Mr. John Michuki, on 20th January, 2009, pursuant to the provisions of Section 5(2) of the Guarantee (Loans) Act (Cap.461, Laws of Kenya). The issues raised were *inter alia*:-

1. The approval being sought from the House is for a sum of US\$100 million being an equivalent of Kshs7.9 billion whereas Section 3(3) of the Guarantee (Loans) Act sets the limit at K£350 million, which is an equivalent of Kshs7 billion. To this extent, Messrs. Otieno Ogindo and Gitobu Imanyara argued that Sessional Paper No.1 of 2009 is illegal as it is inconsistent with the provisions of the Guarantee (Loans) Act;

2. Whether the hon. Attorney-General had been consulted by the Acting Minister for Finance before laying the Sessional Paper before the House.

3. When the President will appoint a substantive Minister for Finance; and,

4. Whether there is an appropriate accounting system that will ensure proper utilisation of money borrowed by this country.

Hon. Members, I undertook to give direction on the foregoing issues this afternoon, which I hereby proceed to do.

With respect to the first issue, I have carefully considered the provisions of Section 3(3) of the Guarantee (Loans) Act. The import of Section 3(3)(b) of the Act is to limit the total contingent liability of the Government in the case of covenants expressed in currency other than Kenyan currency to the sum of £350 million. As per the Central Bank of Kenya Act, Section 19(2), Kshs20 shall be equal to

one Kenyan pound. Please, note that!

However, Section 3(b) of the Act which states, "The National Assembly may, by resolution, approve the increase of the limit of any contingent liability specified in Section 3 or Section 3(a)", allows the National Assembly, by resolution, to approve the increase of the limits of the contingent liability specified under Section 3(3)(b) of the Act. By ordinary and express interpretation, the total contingent liability may be varied to increase the ceiling notwithstanding the provisions of Section 3(3). Parliament did this by its resolution of 8th July, 1993.

Hon. Members, I have established that on the aforesaid date, the House, pursuant to Section 3(b) of the Act, approved a Motion to increase the contingent liability of the Government of Kenya from the equivalent of K£2,000 million to the equivalent of K£4,000 million in cases of covenants expressed in currency other than Kenyan currency.

Hon. Members who are at the bar may now come in. This is going to take a while.

*(Several hon. Members walked  
into the Chamber)*

Hon. Members, in effect, the contingent liability was increased from Kshs40 billion to Kshs80 billion. It, therefore, follows that the current limit of contingent liability imposed under the Act is the sum of K£4,000 million which is the equivalent of Kshs80 billion. Perusal of Sessional Paper No.1 of 2009, laid before the House by the Minister indicates that the current contingent liabilities of the Government of Kenya in respect of guarantees given under the Guarantee (Loans) Act amount to Kshs40.9 billion, which is well below the ceiling of Kshs80 billion as resolved by the House on 8th July, 1993. The Acting Minister for Finance is, therefore, within the limits of the Act in asking for approval for the sum of Kshs7.9 billion.

Hon. Members, with respect to the second issue on whether the Acting Minister for Finance consulted the Attorney-General on preparation of the Sessional Paper, I wish to state that pursuant to Section 26(2) of the Constitution of Kenya, the Attorney-General is designated as the principal legal advisor to the Government of Kenya, which - please note - includes Parliament. Given that the Cabinet is collectively responsible to the House in the execution of their functions and responsibilities, I believe and trust that the Minister and the Attorney-General consulted in the preparation and tabling of this Sessional Paper and that, indeed, the Cabinet takes responsibility collectively and individually on matters that they bring before the National Assembly.

Hon. Members, on the third issue which touches on the appointment of a substantive Minister for Finance, Section 18 of the Constitution provides that the responsibility for any business of the Government of Kenya, including the administration of any of the departments of Government may be assigned to the Vice-President and several Ministers as the President may, by direction in writing, determine. Under the Constitution, therefore, any Minister may be assigned any matter by the President in an acting or substantive capacity. The President, having done so, in the case of the hon. Michuki, the said Minister is properly and lawfully executing and exercising the duties of the Minister for Finance. The President enjoys the preserve of the discretion to appoint a substantive Minister when he deems it timeous.

With regard to the last issue as to whether there is an appropriate accounting system that will ensure proper utilisation of money borrowed by this country, the Guarantee (Loans) Act has provisions that enhance accountability for monies borrowed under the Act. It suffices to note that Section 7 of the Act requires the Attorney-General to issue a certificate in order for any payments of money authorised under the Act to be made and further requires the Minister for Finance to report to the House in writing the total amount of contingent liability outstanding at the end of each financial year in respect of guarantees given under the Act.



Further, the amount being guaranteed is a loan to the National Cereals and Produce Board (NCPB) which is a State Corporation within the meaning of the State Corporations Act. Consequently, therefore, the provisions of the State Corporations Act, Cap.426, Laws of Kenya, the Public Audit Act, 2004, The Government Financial Management Act, 2004 and the Public Procurement and Disposal Act, 2005, apply with respect to the utilisation, management and accounting of the sums borrowed. From the foregoing, hon. Members, I wish to state that the Sessional Paper No.1 of 2009 laid before the House by the Acting Minister for Finance on 20th January, 2009, is properly before the House, as the amount being sought to be guaranteed falls within the contingent liability ceiling as resolved by this House on 8th July, 1993, pursuant to Section 3(B) of the Guarantee (Loans) Act. I, therefore, direct that the Acting Minister for Finance moves the Motion for adoption of Sessional Paper as listed under Order No.7

I thank you! Proceed, Mr. Minister!

### MOTION

#### APPROVAL OF SESSIONAL PAPER NO.1 2009 ON GOK LOAN GUARANTEE TO NCPB

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Speaker, Sir, if you will allow me to make a small observation---

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

Although I see an hon. Member wanting to raise a point of order, has it occurred to this House that, that far, we have yet to start the business of the House, if you look at the Order Paper? This is now the business of the House.

So, Mr. Speaker, Sir, I, through you, request hon. Members to let me embark on the business of the House.

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

THAT, pursuant to the provisions of Section 5(2) of the Guarantee (Loan) Act (Cap. 461, Laws of Kenya), this House approves Sessional Paper No.1 of 2009 laid on the Table on 20th January 2009 on Kenya Government Guarantee of a loan of US\$100 million equivalent to Kshs7.9 billion, through the United States of America Department of Agriculture to National Cereals and Produce Board.

Mr. Speaker, Sir, a lot has been said this afternoon following the Ministerial Statement made by the Minister for Agriculture. I do not want to repeat what has been said here. I want to say that the Government has made an assessment with regard to the food situation in the country. It has found out that the country, in order to maintain the normal consumption of 33 million bags, there is a deficiency of ten million bags. Also, there are ten million people who cannot, otherwise, have food unless it is provided in the manner we are now proposing before this House.

Therefore, Mr. Speaker, Sir, one of the reasons why we came back, apart from other issues that the Government has in store, was to deal with this issue of guarantee which we could not, as a Government, give without the approval of Parliament. At this time in our history, we are having a very serious famine which has been declared by the President of this Republic a national disaster. In our debate and approach to this matter, we should know that the more we delay the measures proposed here, the more the people are going to suffer. I am sure this House would not want those people to suffer because of any further delay.

I think I should explain how this system of borrowing works. The borrowing is under a

programme called GSM 102 by the United States Government. That programme is to assist the US exporters and countries experiencing food deficit and hence require food imports. In our case, we need to import maize through the National Cereals and Produce Board. The Minister for Agriculture has already talked about that. I want to confirm that the Government is determined to do everything to ensure that this Board, together with the management, is re-organised as quickly as possible. The Minister for Agriculture is aware of that decision.

Mr. Speaker, Sir, the Commodity Credit Corporation which is under the U.S Department of Agriculture will underwrite the credit extended to eligible financial institutions in the US, in order for the institutions to extend credits to approved foreign banks. In our case, the credit will be extended to Kenya Commercial Bank, which is the banker of the National Cereals and Produce Board. Using the credit extended, the foreign bank will issue letters of credit to the exporters in the US. In our case, KCB will issue the letters of credit. In order for the Commodity Credit Corporation which bears the risk of this operation to be confident that KCB, on behalf of the National Cereals and Produce Board, will honour the letters of credit, it requires a guarantee. That is the basis of the Sessional Paper that this House is required to approve, so that a guarantee is provided to the National Cereals and Produce Board. The GSM 102 Programme is allocated in accordance with a criteria determined by the Commodity Credit Corporation. The allocation for the Eastern African countries is US\$100 million, which is equivalent to Kshs7.9 billion. The Government has requested for the allocation of the entire amount. It is expected that even if we do not get all of it, we shall get the larger proportion.

Mr. Speaker, Sir, hon. Members will be aware that the Government policy is to borrow on concessionary terms from multi-lateral and bi-lateral creditors. The Government has complied with the policy, and has been borrowing only loans with a minimum grant element of 35 per cent.

The Government has avoided commercial borrowing, because it is very expensive and will create servicing problems in the future. However, in a situation that we are in, we have very limited choices. We cannot gamble with the lives of our people. It is for this reason that the Government has decided to undertake this commercial borrowing, which has a grant element of 2.33 per cent interest, consisting of the liable rate of 1.83 plus 0.5 per cent above liable. If you put them together, they will amount to 2.33 per cent. That will be the interest charged on this loan. Therefore, this is highly negligible. Indeed, by the time we come to pay it inflation will have eaten away the interest, as hon. Okemo will confirm.

Mr. Speaker, Sir, you will also notice from the Sessional Paper that we intend to repay this loan within 12 months, and the rates that I have quoted will be applicable to the dollar for that period. We are going to repay in 12 months, although the arrangement allows us to borrow for a period of three years. The reason why I have decided that we will pay within one year is because, within one year, the maize will have been sold to the millers, and they will have paid for it. If it has to take three years, the money that accrues from the sales will have been held by the National Cereals and Produce Board (NCPB) for this period, and I do not think that would be wise for a variety of reasons, which I do not think we have time to explain. The major point is that I do not want people to fall into temptation over that period. So, we will repay in one year.

With those few remarks, I beg to move and request the Minister for Agriculture, who is actually in charge of all these matters, to second the Motion.

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Speaker, Sir, I have consulted with the Minister for Agriculture and he has kindly agreed that I could second this very important business of the House.

As we speak at this moment in time, Kenyans are dying of hunger. Today, the media has reported three deaths in Wajir. In my own constituency, a child has already died of hunger-related complications. I think it is our business to rise to the occasion, because the President has already declared this famine situation a national disaster. For two days, our hopes were raised when we had

some wonderful showers and hoped that, that would have continued, and then bad news came from the Department of Meteorology, that those showers were only to last for two days.

The situation in the entire Eastern, North Eastern and Coast Province and parts of Rift Valley like Baringo East--- I can imagine that people in Ginyang, for instance, will need urgent intervention. Let me also mention our friends in Kajiado and other places. This is the time for this House to show that we stand in solidarity with those amongst us who are suffering. So, I want to very strongly plead that we support this Sessional Paper.

I congratulate the Acting Minister for Finance, because he could even have gone to His Excellency the President, because this is an extra-ordinary situation which requires extra-ordinary measures. The Acting Minister for Finance could have very easily asked the President to use Executive authority and order for this matter and then get this House to come and approve retroactively the measures that the Government would have taken. But the Minister was kind enough to come to us, as a House, despite the difficulty of the situation.

I have heard the Minister for Agriculture make very powerful arguments this afternoon, and I have reason to believe that there is going to be serious restructuring and firing of people within the NCPB. I know that this is the issue that is making hon. Members feel very uncomfortable. I can confirm that from the United States of America Department of Agriculture point of view--- They actually refer to "the NCPB as the axis of evil" within the parastatal sector. Therefore, I have reason to believe that the Minister for Agriculture is going to take decisive action, so that Kenyans can see an anti-corruption action taken by the Government.

I know that some of you are asking why we cannot refer this matter to the relevant House departmental committee. We are losing time. The US\$100 million is not just strictly available to Kenya alone. If you look at the announcement from the US Department of Agriculture, which was made in October last year, it covers the whole of the African Continent. So, if we delay in this whole matter for another three days, another African country--- I gather that there is a shortage of maize in Malawi, Tanzania, Zambia and so on. In fact, the availability of white maize is itself an issue. I have been told that there is just a little bit of it in the USA. I want to urge the Ministry of Agriculture to consider the matter of the genetically modified organisms (GMOs) foodstuffs. I have been told that the danger with GMOs arises when you start planting the seeds. That is where the issue becomes serious.

Mr. Speaker, Sir, at this time, in order to get the best deal, even as we source for 2 million bags that the Cabinet has already given approval for, I want to suggest that we go into serious consideration of GMOs, so that we can save the lives of our people. I would like to say that, as a Parliament, we should rise to the occasion, get out of our comfort zones, go out there and realise the suffering that our people are undergoing at this particular time. Therefore, I want to suggest that all the difficult questions regarding the NCPB, which might inform a negative decision by this House, be postponed; we should take action today and then tomorrow, or within the week, action will be taken to streamline operations at the NCPB.

I want to strongly appeal that we all, without any opposition, grant this request by the Acting Minister for Finance, so that we are able to get maize into this country in the next one or two months.

*(Question proposed)*

**Mr. Imanyara:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to make my contribution to this very important Motion. Let me at the outset say that nobody in their right senses would object to Kenyans getting food at this time when there is extreme hunger in the country. To the extent that the Government intends to seek a guarantee from this House of the equivalent of US\$100 million in order to bring food to the country, the principle is acceptable and nobody is opposed to it. However, we have very strong reservations in the manner in which the proceeds of the proposed

guarantee will be utilised and specifically given the very recent history of this country, whether indeed, that money or maize would be to the benefit of Kenyans. Also if the beneficiaries of that guarantee are going to be disbursed by the National Cereals and Produce Board (NCPB) as presently constituted under the chairmanship of one, Jimnah Mbaru. Our main concern is the lack of accountability procedures. We appreciate the urgency of getting this guarantee approved as soon as possible.

Mr. Speaker, Sir, let the urgency not divert us from the real intention of this Government. It is not - I repeat - their intention to make sure that this maize reaches the farmers. Just this afternoon, the Minister for Agriculture told us that very substantial amount of maize would be due in the country this week or next month. So, there need not be any Kenyan dying because the Minister for Agriculture in his wisdom, which I admire, has already made provisions for the importation of maize to ensure that no Kenyan dies.

Just yesterday or the day before, he told us that there is maize, in fact, even in Kitui District in Ukambani which falls in the Vice-President's district. He claims people are dying there and yet there is maize in the stores of the NCPB. The problem we are facing is the level of corruption. It has reached such high standards and levels that we cannot trust this Government. Should we guarantee this money and the NCPB is approved as the organisation to disburse or distribute it so that it reaches the Kenyans, then it will not.

Mr. Speaker, Sir, secondly, just this afternoon we have been told by the Minister for Energy that one of the banks that is responsible or appears to have colluded in the siphoning of the money through the Triton Saga is Kenya Commercial Bank (KCB). Here again, the acting Minister for Finance has told us that the money will be disbursed through KCB as an approved bank.

**The Minister for Environment and Mineral Resources** (Mr. Michuki): On a point of order, Mr. Speaker, Sir. Is it in order that where an individual or two collude just because they are employees of KCB, the bank is involved? Is it in order to involve the bank?

**Mr. Imanyara:** Mr. Speaker, Sir, he was the Chief Executive Chairman of this bank and he knows that those days the word of the Executive Chairman would lead you to getting or being denied a loan. So, we know from the history of this country that, in fact, one individual can run a bank as the Minister did when he was the Executive Chairman of KCB.

Mr. Speaker, Sir, anyway to go to the point, guaranteeing US\$100 million worth of maize importation is not the issue. We on this side of the House - I believe any right thinking Kenyan would support the guarantee - are opposed to this guarantee being managed firstly by the NCPB as presently constituted and secondly through the KCB. That is why in the wisdom of this House, when we enacted this Act--- I will refer to your ruling, although I would have, myself, seen it differently. The provisions of the law under which the Minister seeks this guarantee; Section 5A(2) reads as follows:-

"Where a Sessional Paper has been laid before the National Assembly in pursuance of this Section, the proposed guarantee to which the paper relates shall be deemed to have been approved by the National Assembly unless within seven days on which the Assembly next seats after the Paper has been laid before the National Assembly, a Member of the National Assembly gives notice of his intention to move a Motion that the proposed guarantee be not approved or that it be referred to a Select Committee of the Assembly."

Mr. Speaker, Sir, when this law was passed, Parliament anticipated a situation whereby accountability procedures would be essential in terms of loan guarantees. It therefore, empowered any Member of the National Assembly to require that the guarantee be referred to a Departmental Committee of the House so that it can be subjected to scrutiny to ensure that the Minister for Agriculture, Minister for Finance and any other Government departments, including the representative of the United States of America (USA) can come there and assure the Committee that the accountability procedures are in place and, therefore, that when this guarantee is given, the money

would, in fact, be utilised from importing maize and that, that maize would reach the Kenyans whom it is intended for.

Mr. Speaker, Sir, that is why the Act allows us to require a guarantee to be subjected to scrutiny by this Departmental Committee. That is why I gave you notice this morning of my intention to move an amendment so that we can refer this guarantee to the Departmental Committee on Finance, Planning and Trade give them a limit; seven days if necessary, so that on Tuesday next week, they can come to the House and tell us that they have established that the proper mechanisms are in place and that Mr. Jimnah Mbaru will be removed from NCPB and the other executives in the NCPB. Also to ensure that this Departmental Committee has taken into consideration all aspects. A delay of seven days to save this country and future generations of a colossal loss of US\$100 million is not too much.

Therefore, I am moving notice of amendment that the Motion be amended as follows:-

"That this Motion be amended by deleting the word "approves" appearing in the second line immediately after the word "House" and inserting the word "refers" in place thereof and further delete the full stop and add the words "Departmental Committee on Finance, Planning and Trade".

This is so that at the end of it, the effect is that instead of approving we shall be referring this guarantee to this Departmental Committee chaired by hon. Okemo and we can impose conditions on the House, so that by Tuesday or Wednesday next week, they can come back to this House and assure us that this US\$100 million worth of maize would actually be accounted for. That there are accounting procedures in place and that this will not be misused in the manner that we have seen in the very recent past.

Mr. Speaker, Sir, it is for very good reasons that we are seeking the intervention of the Departmental Committee of this House because the recent history tells us that we cannot take anything for granted. No amount of assurance from Leader of Government Business, the Vice-President of the Republic or indeed, the Minister for Agriculture and the acting Minister for Finance can convince Kenyans that your intention to make heads role at the NCPB would be acted upon. These are assurances that in the history of things in this country, will not be acted upon. In any case, we do not want to make mistakes that we have made previously when assurances with regard to a new constitution have been made and then as soon as Parliament passes the law, they are ignored. So, we are asking that this Motion be amended as I have proposed and hon. Dr. Khalwale has agreed to second my proposed amendment.

Thank you.

**Dr. Khalwale:** Thank you, Mr. Speaker, Sir, I rise to support the Motion as amended. I am doing this with a very heavy heart.

**Mr. Speaker:** Order, Dr. Khalwale! The Motion has not been amended. Mr. Imanyara did not move an amendment. So, you risk being ruled out of order. You are supporting something that is non-existent.

**Dr. Khalwale:** Thank you for the correction. It is because of the heavy heart that I did not quickly make the difference.

Mr. Speaker, Sir, I am seconding the Motion by Mr. Imanyara that this Motion be referred to the Departmental Committee on Finance, Planning and Trade before we pass it. I have a heavy heart because what the Coalition Government has visited on Kenyans is exactly what President Mengistu visited on Ethiopians in 1984. What we are seeing in Kenya now is exactly what happened in Ethiopia. For Ethiopians to come out of this, it required the intervention of musicians in New York and London. The musicians in London sang the following song: Do the Ethiopian people know that they are part of this world?" So, they sang: "We are the world".

In New York, the musicians sang there and wondered: "Do the people in Ethiopia know it is

Christmas?" They sang and money was brought but instead of President Mengistu buying food with that money, he used it to force people into a resettlement scheme that they did not want. This eventually led to a revolution. We want to make sure that this support that is coming in is put in good hands for purposes of ensuring that the intended purpose is the one that will be realised.

Mr. Speaker, Sir, we have no problem with the loan. We would like the money to be guaranteed and what we are asking the Minister is not too much. We are simply saying that there are two options: Either he replaces the National Cereals and Produce Board (NCPB) as the lead agency or if he does not want that, we are asking that the management at the NCPB be overhauled. The reason for this is that the logistics of relief food reaching all the corners of the country that require it are so complex that you need a reputable agency that has got networks only comparable to those ones of Kenya Red Cross Society and the World Food Programme.

In as far as the need for overhauling the management at the NCPB is concerned, all we are saying is that we have no confidence in the Managing Director. He should remove him and replace him with somebody else; a Kenyan. Secondly, we are saying that the newly appointed chairman should be replaced because we have no confidence in him. Thirdly, all senior managers should be removed and in particular the Operations Manager and the Sales and Marketing Manager for the following reasons: The Managing Director, Prof. Misoi is not fit to preside over this programme because the current crisis that has led to this has actually been precipitated by Prof. Misoi. So, we cannot trust him. Prof. Misoi has got a funny history. The history he has---

**The Assistant Minister for Energy** (Mr. Keter): On a point of order, Mr. Speaker, Sir. While I respect Dr. Khalwale very much, is it in order for him to discuss somebody who is not here to defend himself of the allegations? This Parliament has to rise above issues whereby we condemn people without giving them a hearing.

**Dr. Khalwale:** Mr. Speaker, Sir, I wish to explain that the hon. Leader of Government Business told us in his own words that this is a very extra-ordinary moment. He said further that he will lobby for the removal of all these people. He could not have been talking about the removal of stones. He was talking about the removal of actual people and one of those people is the Managing Director. If it so pleases you, from this point onwards, I will not mention that name; I will mention the position.

Mr. Speaker, Sir, the current Managing Director has got a weird history that he has carried into this office. He has got a history of failure---

**The Assistant Minister for Livestock Development** (Mr. Duale): On a point of order, Mr. Speaker, Sir. I know we are discussing a matter of national importance. There is a very clear distinction between the three different arms of Government. There is the role of Parliament and the distinctive role of the Executive. We should not discuss how the Executive should---

**Mr. Speaker:** Order, Mr. Duale! You have stood up on a point of order. You must respect the rules of this House. What is it that Dr. Khalwale has said or done that is out of order? I am afraid I will not allow you any more time on the microphone. You are out of order.

**Dr. Khalwale:** Mr. Speaker, Sir, this---

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

**Mr. Speaker:** Dr. Khalwale will be heard! Hon. Members, note that we have very limited time to deal with a matter that is of grave national importance. We must proceed.

**Dr. Khalwale:** Mr. Speaker, Sir, the two children who died in Turkana last night and many others who died because the media has no access to them, dead as they are, according to African belief, their spirits are seeing these hon. Members who are equating the nobility of a name to the life of

those children who died and God is watching you.

The Managing Director is a man who has carried the history of failure. This is a man who the former President of this country gave the Nyayo Car Project and it collapsed. From there, he moved to the Kenya Co-operative Creameries (KCC), which also collapsed. The senior managers must also go. We have credible information---

**Mr. Speaker:** Order, Dr. Khalwale! Can you move to conclude? I know you are addressing a weighty matter but we do not have so much time.

**Dr. Khalwale:** Mr. Speaker, Sir, we would like to insist that the new chairman of the NCPB be removed. The Minister must take us seriously. This gentleman was in charge of Chiba Bank and it went under. He went to the Nairobi Stock Exchange but it lost its reputation before he left it. Hon. Members should remember that this is an officer who presided over the sale of Safaricom shares---

**Mr. Speaker:** Order, Dr. Khalwale!

**Mr. Thuo:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to disparage the character of a person?

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

**Mr. Speaker:** Order, Mr. K. Kilonzo. Mr. Thuo is on a point of order and he will be heard.

**Mr. Thuo:** Mr. Speaker, Sir, is it in order for Dr. Khalwale to make unsubstantiated allegations against people who cannot defend themselves on the Floor of this House?

**Mr. Speaker:** Order, Mr. Thuo! Are you therefore, challenging Dr. Khalwale to substantiate?

**Mr. Thuo:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Order. We will proceed with the business before the House. Dr. Khalwale, can you move to conclude?

**Dr. Khalwale:** Mr. Speaker, Sir, I am glad that I have been asked to substantiate. That is exactly where I was headed. This is a Kenyan who has a history of having caused Chiba Bank to go under and we want to give him US\$100 million. This is a Kenyan who was given the Nairobi Stock Exchange and you know where the reputation of the NSE is at the moment. He presided over the sale of the initial public offer of Safaricom. It was at Kshs5 and he has left it at Kshs3. The shares of Mumias Sugar Company have now dropped to Kshs6. We are requesting---

**Mr. Speaker:** Dr. Khalwale, will you proceed to finish?

**Dr. Khalwale:** Mr. Speaker, Sir, with those many remarks, I beg that this Motion be referred to the relevant Departmental Committee.

*(Question of the first part of the amendment, that the words to be left out be left out, proposed)*

**The Minister for Environment and Natural Resources** (Mr. Michuki): Mr. Speaker, Sir, I rise to oppose the amendment, because it would be unwise to support it. We have been told here - and I have avoided mentioning this when I was moving the Motion - that people in certain parts of this Republic are dying of hunger. Once again, I want to appeal to this House not to value money more than life.

**Mr. Midiwo:** Thank you, Mr. Speaker, Sir. I rise to oppose the amendment.

**Mr. Speaker:** Restrict yourself to two minutes!

**Mr. Midiwo:** Yes, Mr. Speaker, Sir. As I oppose, I want to agree with the contributions made by Dr. Khalwale and others regarding the people working at the NCPB and the manner in which the new Chairman of the Board was appointed. We want change in this House. However, I do not

think we can wait. We need to help and feed our people within the shortest time possible. I think all this can be done at the same time. I want to besiege my colleagues not to bog down this process. We want to feed our people.

Thank you, Mr. Speaker, Sir.

**The Minister for Agriculture** (Mr. Samoei): Thank you, Mr. Speaker, Sir. I really want to pursued Members of Parliament on this matter. This is a very serious matter. The nature of this guarantee is that we will get this maize between April and May, 2009, if we get our papers right now. We are competing with other countries

for this maize. If we lose this opportunity, what it would mean is that we will have to go through our own Budget, suspend services that we would have had to give to Kenyans to be able to feed the nation, because there is no way we are going to fail to import this maize. The guarantee that is here is for a specified period. If we do not have this guarantee in place, and all the subsequent documents that have to be filed with the Department of Agriculture of the United States Government---

They have an interest in ensuring that this particular exercise is done above board. I have listened carefully to the remarks that have been made by hon. Members. I want to assure this House that we will take necessary administrative, managerial structural changes of the NCPB, in line with what the hon. Members have said here.

*(Applause)*

Mr. Speaker, Sir, I have never given that assurance to this House before. I want to give this House that assurance now. We will ensure that the NCPB, not only appropriates its mandate and understands what it is supposed to do, but we also give it the necessary capacity for it to discharge that mandate. We have had problems with the NCPB. We have had under-performance of the NCPB. I want to admit that there has been an issue, and we are going to take action.

I want to plead with hon. Members of this House that we pass this guarantee because of the time constraint and the competition for the money that we have with other countries, and because of the time limits that have been imposed on this guarantee. I want this House to hold to account if there will be no management changes at the NCPB.

**Mr. Speaker:** That is enough, Mr. Minister!

You have two minutes, Mr. K. Kilonzo!

**Mr. K. Kilonzo:** Thank you, Mr. Speaker, Sir. I stand to oppose the amendment. My area is one of the most hit by famine in this country. While I appreciate the concerns raised by all my friends, we have gone out of our way, as Members of Parliament from that region and agreed to start contributing Kshs250,000 from our own salaries to save the situation. Since the Government has come up with such a good proposal, I oppose the amendment and support the guarantee.

Thank you very much, Minister Michuki for the good work.

I beg to support.

**Mr. Speaker:** Mr. Uhuru Kenyatta!

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Imanyara! You have been heard!

**Mr. Imanyara:** Mr. Speaker, Sir, it is relevant---

**Mr. Speaker:** Proceed, Mr. Uhuru Kenyatta!

**The Deputy Prime Minister and Minister for Trade** (Mr. Kenyatta): Thank you, Mr. Speaker, Sir. I rise to oppose the amendment.

*(Applause)*



Mr. Speaker, Sir, we all know the very dire situation that millions of Kenyans are facing. Very many Kenyans are struggling to find what they shall feed their families with each and every passing day. I know that very many issues have been raised - even in an earlier debate today - about the conduct of the NCPB, but let us not mix two very critical issues. We are not the only nation in the world that is seeking for this maize from the USA. The more we delay, it would mean putting our own people into jeopardy over issues that are not directly related.

This House has instruments to deal with the issues that are of concern to Members of Parliament. We have the Public Accounts Committee (PAC), the Public Investments Committee (PIC), and the Departmental Committee on Agriculture, Lands and Natural Resources, which can deal with all the inadequacies that we are raising with regard to the NCPB. I would plead with hon. Members.

Mr. Speaker, Sir, this is not something that we should even be debating, especially when we know what this country is facing. This is something that we should pass, knowing the situation that is affecting our people in every corner of this country. So, I honestly plead with my brothers and sisters in this House that we allow this Sessional Paper to go through.

With those remarks, I beg to oppose the amendment.

*(Question of the first part of the amendment, that the words to be left out be left out, put and negatived)*

*(Debate on the original Motion resumed)*

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

**Mr. Speaker:** What is it, Mr. Keter?

**The Assistant Minister for Energy** (Mr. Keter): Mr. Speaker, Sir, since this issue has been debated for long, would I be in order to move that the Mover be now called upon to reply?

**Mr. Speaker:** Yes, you are in order.

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

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Speaker, Sir, I want to thank this House and hon. Members for their understanding of the problem before this nation. Indeed, what they have decided today is what the people out there, whom we represent, would have decided. I, therefore, want to thank them very sincerely.

Mr. Speaker, Sir, I beg to move.

*(Applause)*

*(Question put and agreed to)*

## **BILL**

### *Second Reading*

#### THE MERCHANT SHIPPING BILL

*(The Minister for Transport on 21.1.2009)*

*(Resumption of Debate interrupted  
on 21.1.2009)*

**Mr. Speaker:** Order, hon. Members! Mr. Mwakwere, you were replying to this Motion.

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, having debated the Merchant Shipping Bill at its Second Reading, and having noted all the concerns that have been raised by hon. Members, their suggestions and, indeed, their support, which is obvious, and considering the importance of this Bill, I beg to move.

*(Applause)*

*(Question put and agreed to)*

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

### **MOTION**

#### **ADOPTION OF REPORT ON STUDENTS' UNREST IN SECONDARY SCHOOLS**

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the Inquiry into Students' Unrest and Strikes in Secondary Schools, laid on the Table of the House on Thursday, 23rd October, 2008.

*(Mr. Koech on 11.12.2008)*

*(Resumption of Debate interrupted  
on 11.12.2008)*

**Mr. Speaker:** Order, hon. Members! I am informed, from our records, that Mr. Ruteere still has 20 minutes. Is he here?

He is not here? Is there anybody interested?

**Ms. Odhiambo:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I would like to support the Motion on the Report by the Departmental Committee on Education, Research and Technology. In supporting it, I would like to indicate that one of the core concerns that we are facing, as a country, is over-working our children. A report had been done earlier and it is not clear why we keep on commissioning reports upon reports when the issues confronting our children are very clear. We should allow our children to be children, and not to be adults.

It is very unfortunate and sad when we see children, very early in the morning, carrying bags from as early as 5.00 a.m., and returning home at very late hours. Even when they go back home, they still do homework, which they carry on through to the weekends. Therefore, what is happening to our children is that--- We have a nation whose children are over-stressed, and the strikes we are seeing are merely children crying out that they need to be children and not adults.

It is not only an issue that I have observed from what was manifested, but is a right that is

provided for under the Convention

on the Rights of the Child. It is provided for in our own law, the Kenya Children Act, that children have a right to play. For me, what is most critical is to ensure that our children remain children and not adults.

With those few remarks, I beg to support.

**Mr. Speaker:** One minute, Mr. Affey!

**Mr. Affey:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to also speak for one minute.

The Committee did a good job, but as we discuss the crisis in our institutions in the country, the possibility is that now it is reflected in the teachers' strike. Teachers in this country do a fundamental job and in this Parliament, we have allowed the Government to borrow US\$100 million. A similar crisis that we have in the food sector is in the education sector. I suggest that, as soon as possible, the Ministry of Education and Kenya National Union of Teachers officials should sit down and settle that matter, so that our children can go back to school. The more they stay out, the more the indiscipline in our schools is likely to increase, because, as Ms. Odhiambo has said, we are over-working our children.

Now that they have been away from school for three days, they need more learning time. There will be more pressure on the children. The more they stay out, the more difficult it will be for them.

Thank you.

#### ADJOURNMENT

**Mr. Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 27th January, 2009, at 2.30 p.m.

The House rose at 6.30 p.m.