



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 37

THE HANSARD

Thursday, 2nd May 2024

The House met at 10.00 a.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

Hon. Speaker: Hon. Members, we have a quorum to transact business.

Hon. Members, if you look at your Order Paper, we have Order No.8, First Reading; Order No. 9, First Reading; Order No. 10, Question to be put; Order No. 11, Committee of the whole House on two Bills; Order No.12, Motion; and, Order No.13, Special Motion. If you look at your Standing Orders, Standing Order 68 gives utmost priority to a Special Motion. It says, and I quote, "A Motion for the removal of a person from office under this part shall take precedence over all other business on the Order Paper for the day." This means that, when we have such a Motion, we do not entertain even preliminaries like laying of Papers or any other business for that matter. So, I will order the rearrangement of the Order Paper for Orders No. 8, 9, 10, 11, and 12 to appear on the Order Paper this afternoon, so that we go straight to Order No. 13, which is a Special Motion.

Let me caution Members that I will not entertain any parochial politics drawn into the Motion. Stick to the issues as framed in the Motion and observe the general etiquette of debate in the House so that we can discharge our constitutional responsibility in an orderly manner.

Lastly, I noticed when the Speaker's procession came in, several Members were busy seated and on their phones. That is a breach of your own Standing Orders. The moment the Sergeant-at-Arms stands at the Bar and alerts the House that Mister or Madam Speaker is walking in, everybody must drop what they are doing and be upstanding in respect of the House. Even if you do not respect the Speaker, respect the House so that you become orderly and respectful to your own Standing Orders. It is completely out of order for the Speaker to walk in the procession while you are seated and on the phone, as if nothing is happening in the House. Those members who are doing that, you know yourselves; I do not need to mention you. Do not do that again.

Clerk, call out Order No.13.

SPECIAL MOTION

DISMISSAL OF HON. MITHIKA LINTURI AS THE CABINET SECRETARY
FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT

Hon. Speaker: Member for Bumula.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I have two requests to make. One is that you allow me to speak from the Table because I have many documents. Two, that you increase the time allocated to move this Motion from 20 minutes to 60 minutes. I had written to you to request an extension of time because according to our Standing Orders, it is at the discretion of the Speaker to do so.

Hon. Speaker: As to where you speak from, I will allow you to go to the Dispatch Box and speak from there; no big deal. As to the amount of time available to you, I am sure when

you framed the Motion, you knew that you had 20 minutes to prosecute it. You will stick to your time as passed by the House at the beginning of the session. If you require an extension, the Chair will respond to your request when your time is spent, but you will certainly not have one hour.

Secondly, Hon. Members, I have allocated three hours to this Motion from now to 1.00 p.m. At about 12.30 p.m., I will call upon the Mover to reply and allocate another 20 or 30 minutes for the vote. The Clerk sent a message that you must have your cards for electronic voting, which is more efficient and time saving. But in the event, many of you may not have your cards or the malfunctioning of equipment, then we will do a roll call vote. That will probably be twenty or thirty minutes, so the debate should be determined by 12:30 pm.

Member for Bumula now you may proceed to move your Motion.

SPECIAL MOTION

DISMISSAL OF HON. MITHIKA LINTURI AS THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT

Hon. Wanami Wamboka (Bumula, DAP-K) Thank you, Hon. Speaker.

THAT, pursuant to the provisions of Article 152(6) of the Constitution and Standing Orders 64(1A) and 66, this House RESOLVES that the President DISMISSES the Hon. Franklin Mithika Linturi from the office of Cabinet Secretary for the Ministry of Agriculture and Livestock Development on the following grounds—

1. Gross violation of the Constitution.

Hon. Speaker: You start by saying I beg to move the following Motion. You read the Motion as it appears on the Order Paper then elucidate your arguments.

Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, pursuant to the provisions of Article 152(6) of the Constitution and Standing Orders 64(1A) and 66, this House RESOLVES that the President DISMISSES the Hon. Franklin Mithika Linturi from the office of Cabinet Secretary for the Ministry of Agriculture and Livestock Development on the following grounds—

1. Gross violation of the Constitution:

(a) Violation of Articles 2 and 10(1)(c) of the Constitution

THAT, the Hon. Franklin Mithika Linturi, acting as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to have committed gross violation of these constitutional provisions by—

- (i) not undertaking public participation with leaders, stakeholders, or even departments within the Ministry in the implementation of far-reaching policy decisions on the procurement and distribution of fertilizer therefore violating the provisions of the Constitution on national values and principles of good governance in so far as he acted as a State officer to make and implement a public policy to approve the procurement and distribution of fake fertilizer contrary to recommendations of the National Cereals and Produce Board, an agency in the Ministry; and
- (ii) approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, discloses a gross violation of national values and principles of good governance in so far as he acted as a State officer to make

and implement a public policy to approve the procurement and distribution of fake fertilizer contrary to Article 10(1)(b) of the Constitution.

(b) Gross violation of Article 46 of the Constitution

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to be in gross violation of this constitutional provision by—

- (i) infringing on consumers' right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests by approving the procurement and distribution of fake fertilizer; and
- (ii) approving the budgets for procurement and distribution of fake fertilizer by the National Cereals and Produce Board thereby violating consumer's right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests as he approved the procurement and distribution of fake fertilizer contrary to Article 46 of the Constitution.

(c) Gross violation of Article 73 of the Constitution

THAT, the conduct of one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to be a gross violation of this constitutional provision in so far as the public trust was exercised in a manner that is inconsistent with the purposes and objects of the Constitution. He failed to demonstrate respect for the people, failed to bring honour to the nation, dignity to the office, and failed to promote public confidence in the integrity of the office contrary to Article 73(1)(a)(i), (ii), (iii) and (iv) of the Constitution.

(d) Gross violation of Article 201 of the Constitution

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to have committed a gross violation of this constitutional provision by approving the procurement and distribution of fake fertilizer by the National Cereals and Produce Board. This amounts to a gross violation of principles on public finance in so far as public money is concerned and that public money was not applied in a prudent and responsible way when he approved the procurement and distribution of fake fertilizer contrary Article 201(d) of the Constitution.

(e) Gross violation of Article 232 of the Constitution

THAT, the Hon. Franklin Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development, appears to have committed a gross violation of this constitutional provision where, he outlined in his written submission as a response to the fertilizer subsidy programme to the Departmental Committee on Agriculture and Livestock, misleading information that the National Cereals and Produce Board (NCPB) signed an Agency Agreement with 51 Capital Africa Diatomite Industries on 31st March 2022 for supply and distribution of GPC diatomaceous for its commercial function, and that the product was not sold as a chemical fertilizer but as a soil conditioner, violating the values and principles of public service, duty to use resources efficiently, effectively and economically contrary to Article 232 of the Constitution.

2. Serious reasons for believing that the Cabinet Secretary has committed a crime under national law:

(a) Serious reasons for believing the Cabinet Secretary has committed a crime under sections 100 and 101 of the Penal Code, Cap. 63

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary for the Ministry of Agriculture and Livestock Development, issued a directive to

officials of KELS Chemicals to attend a press conference and issue a statement from the National Cereals and Produce Board. His subsequent closure of the factory and declaration of it as a crime scene due to the company's refusal to participate in the staged press conference, discloses grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law, including but not limited to offences involving abuse of office and false claims by a person employed in the public service contrary to sections 100 and 101 of the Penal Code, Cap 63.

(b) Serious reasons for believing the Cabinet Secretary has committed a crime under sections 353 and 355 of the Penal Code, Cap. 63

THAT, one Franklin Mithika Linturi, the Cabinet Secretary for the Ministry of Agriculture and Livestock Development, is currently under investigation by the Director of Public Prosecutions and the Director of Criminal Investigations, and is facing arrest, charging, prosecution and institution of criminal proceedings in relation to six pending civil, commercial and family suits. This discloses grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law, including but not limited to offences involving uttering false documents and procuring execution of documents by false pretences, contrary to sections 353 and 355 of the Penal Code, Cap 63.

3. Gross misconduct:

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, by approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, in so far as being a State officer—

- (a) has failed to exercise public trust in the best interest of the people of Kenya and this amounts to gross misconduct contrary to section 8 of the Leadership and Integrity Act, Cap 185C;
- (b) has failed in the performance of his duties to the best of his ability to carry out the duties of the office efficiently and honestly, and to carry out the duties in a transparent and accountable manner, and this amounts to gross misconduct contrary to section 10(a) & (b) of the Leadership and Integrity Act, Cap 185C;
- (c) has failed to demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office and this amounts to gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C;
- (d) misled the public by submitting false information to a Departmental Committee of the National Assembly that GPC diatomaceous was distributed as a soil conditioner and not as a fertilizer, and this amounts to gross misconduct contrary to section 29 of the Leadership and Integrity Act, Cap 185C.

Members who appended their signatures in support of the Notice of Motion

Pursuant to the provisions of Standing Order 66(1) and (3), it is notified that the names of the Members who appended their signatures in support of the Notice of Motion is as hereunder: -

1. Hon. Jack Wamboka, M.P.
2. Hon. Joyce Kamene, M.P.
3. Hon. Raphael Wanjala, M.P.
4. Hon. Fatuma Zainab, M.P.

5. Hon. Paul Musyimi, M.P.
6. Hon. (Dr.) James Nyikal, M.P.
7. Hon. Gideon Mulyungi, M.P.
8. Hon. Julius Musili, M.P.
9. Hon. Rebecca Tonkei, M.P.
10. Hon. Pauline Lenguris, M.P.
11. Hon. Farah Yussuf, M.P.
12. Hon. Dick Maungu, M.P.
13. Hon. Irene Mayaka, M.P.
14. Hon. Anthony Oluoch, M.P.
15. Hon. Marianne Kitany, M.P.
16. Hon. Beatrice Adagala, M.P.
17. Hon. Adams Kipsanai, M.P.
18. Hon. Samuel Parashina, M.P.
19. Hon. Antoney Kibagendi, M.P.
20. Hon. Martin Owino, M.P.
21. Hon. Catherine Nanjala, M.P.
22. Hon. Joseph Oyula, M.P.
23. Hon. Stephen Mogaka, M.P.
24. Hon. Dorice Donya, M.P.
25. Hon. Beatrice Elachi, M.P.
26. Hon. Shakeel Shabbir, M.P.
27. Hon. Clive Gisairo, M.P.
28. Hon. John Owino, M.P.
29. Hon. Thuddeus Nzambia, M.P.
30. Hon. Elsie Muhanda, M.P.
31. Hon. Fredrick Ikana, M.P.
32. Hon. Daniel Manduku, M.P.
33. Hon. Mohamed Aden, M.P.
34. Hon. Patrick Simiyu, M.P.
35. Hon. Zamzam Mohamed, M.P.
36. Hon. David Pkosing, M.P.
37. Hon. Daniel Wanyama, M.P.
38. Hon. Gathoni Wamuchomba, M.P.
39. Hon. Mohamed Machele, M.P.
40. Hon. Samuel Atandi, M.P.
41. Hon. Charles Ngusya, M.P.
42. Hon. Amos Mwago, M.P.
43. Hon. Opiyo Wandayi, EGH, M.P.
44. Hon. Junet Mohamed, CBS, M.P.
45. Hon. Nolfason Barongo, M.P.
46. Hon. Gertrude Mbeyu, M.P.
47. Hon. Geoffrey Odanga, M.P.
48. Hon. Abdi Chome, M.P.
49. Hon. Erastus Nzioka, M.P.
50. Hon. Sarah Korere, M.P.
51. Hon. Tom Kajwang', M.P.
52. Hon. (Dr.) Makali Mulu, M.P.
53. Hon. Guyo Waqo, M.P.

54. Hon. Paul Kahindi, M.P.
55. Hon. Joshua Aduma, M.P.
56. Hon. Oku Kaunya, M.P.
57. Hon. John Mbadi, M.P.
58. Hon. Mishi Mboko, CBS, M.P.
59. Hon. Eve Obara, M.P.
60. Hon. (Dr.) Otiende Amollo, M.P.
61. Hon. Peter Orero, M.P.
62. Hon. Babu Owino, M.P.
63. Hon. Joyce Bensuda, M.P.
64. Hon. Amina Mnyazi, M.P.
65. Hon. Adipo Okwome, M.P.
66. Hon. Johnson Naicca, M.P.
67. Hon. Hussein Barre, M.P.
68. Hon. Innocent Momanyi, M.P.
69. Hon. Millie Odhiambo, M.P.
70. Hon. Irene Kasalu, M.P.
71. Hon. Patrick Osero, M.P.
72. Hon. Jerusha Momanyi, M.P.
73. Hon. Joshua Odongo, M.P.
74. Hon. Abubakar Ahmed, M.P.
75. Hon. Florence Jematiah, M.P.
76. Hon. John Makali, M.P.
77. Hon. Chiforomodo Mangale, M.P.
78. Hon. Geoffrey Ekesa, M.P.
79. Hon. Timothy Toroitich, M.P.
80. Hon. Mwengi Mutuse, OGW, M.P.
81. Hon. Gideon Kipkoech, M.P.
82. Hon. Victor Koech, M.P.
83. Hon. Catherine Omanyo, M.P.
84. Hon. Caroline Ng'elechei, M.P.
85. Hon. Stephen Mule, M.P.
86. Hon. Leah Sankaire, M.P.
87. Hon. Peter Nabulindo, M.P.
88. Hon. Mumina Bonaya, M.P.
89. Hon. David Mboni, M.P.
90. Hon. James Onyango, M.P.
91. Hon. Charles Were, M.P.
92. Hon. Rashid Juma, M.P.
93. Hon. Bashir Abdullahi, M.P.
94. Hon. Abdi Ali, M.P.
95. Hon. Tungule Kazungu, M.P.
96. Hon. Gonzi Rai, M.P.
97. Hon. Harrison Kombe, M.P.
98. Hon. Tim Wanyonyi, M.P.
99. Hon. Lydia Haika, M.P.
100. Hon. Fatuma Jehow, M.P.
101. Hon. Kakuta Maimai, M.P.
102. Hon. Nabwera Nabii, M.P.

103. Hon. Innocent Mugabe, M.P.
104. Hon. Christine Ombaka, M.P.
105. Hon. Kitilai Ole Ntutu, M.P.
106. Hon. Joshua Mwalyo, M.P.
107. Hon. Githua Wamacukuru, M.P.
108. Hon. Mark Mwenje, M.P.
109. Hon. Geoffrey Ruku, M.P.
110. Hon. Mary Emaase, M.P.

Hon. Speaker, I will be relying on evidence marked as Annexure 1(a), that is a letter from Ahmednasir to the Directorate of Criminal Investigations (DCI), a letter which was produced in the Committee of this House. That is Annexure 1.

Annexure B is a document from Kenya Bureau of Standards (KEBS) and documents submitted by the Managing Director of KEBS to the Departmental Committee on Agriculture and Livestock in regard to fertiliser subsidy programme.

I will also be referring to a document from the Ministry of Agriculture and Livestock Development response on Fertiliser Subsidy Programme by Hon. Mithika Linturi, Cabinet Secretary, submitted to the Committee on March 24th 2024 as Annexure C.

I will be referring to a document marked Annexure D where National Cereals and Produce Board (NCPB) entered into a merger aimed at lowering fertiliser prices.

There is a document from the courts that I will also refer to as Annexure E of Hon. Franklin Mithika Linturi, first petitioner, Emily Nicollete Guantai, second petitioner, Atticon Limited, third petitioner versus Director of Public Prosecutions and others as Annexure E.

I will also be referring to a press statement by the Law Society of Kenya as Annexure F.

Hon. Speaker, I want to thank you sincerely for redefining the dignity of this House as an oversight body comprising of peoples' representatives of Kenya. When all other bodies and systems do not work, the Kenyan citizenry relies on this House. At the outset, I want to make it clear that this is not a one-party Motion. This Motion is, indeed, about the Kenyan people. It is not a United Democratic Alliance (UDA) Motion; it is not an ODM Motion; it is not an Azimio Coalition Motion and it is also not a Kenya Kwanza Motion. It is about the people of Kenya versus one, Hon. Mithika Linturi. It is not a Motion against the people of the Meru community. We have many people from the Meru community who are very good and some of them are seated in this House. This is a Motion that seeks to assist Kenyan farmers who are now not going to harvest because of bad fertilizer; this is a Motion that is going to wipe the tears of Kenyan farmers who are now disjointed and do not know what happens.

I am sure that all these documents have been circulated to Members, I will go through these issues briefly because of time.

Hon. Speaker, I now take you to ground No.2 which has serious reasons for believing that the Cabinet Secretary has committed a crime under national law. On the ground of serious reasons for believing the Cabinet Secretary has committed a crime under this law, I wish to submit as follows: that the conduct of one, Hon. Franklin Mithika, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, contained in the contents of a letter dated 19th April 2024 by Ahmednasir, Senior Counsel, addressed to Mr. Amin Mohammed Ibrahim, the Director of Criminal Investigations titled, Manufacture and Distribution of Fertiliser, submitting that Hon. Linturi, the Cabinet Secretary of the Ministry of Agriculture and Livestock Development, on mobile number 0722 218 000 made calls to Mr. Devesh of KEL Chemicals on 10th April 2024 at around 9 a.m., directing him to attend to a press conference at Jacaranda Hotel, and confirmed the need for him to use statements as shared with him by Mr. Kimote of the National Cereals and Produce Board, by

the press conference, and his subsequent issuance of orders of closing the factory and declaring it a crime scene against the law. Mr. Devesh of KEL Chemicals' refusal to participate in the staged press conference discloses grounds that there are serious crimes in believing that the Cabinet Secretary has committed a crime under national law, including, but not limited to the offences listed under Chapter Six of the Constitution against abuse of office involving offences against abuse of false claims by a person employed in the public service, contrary to Sections 100 and 101 of the Penal Code, Cap 63 of the laws of Kenya. Attached is a letter dated the 19th from Mr. Ahmed Nassir.

Hon. Speaker, I want to draw the attention of this House to the fact that a Cabinet Secretary committed a crime. He authorised the distribution of fake fertiliser as it was presented to the Departmental Committee on Agriculture and Livestock. When things started going south, the said Cabinet Secretary sought out KELS Chemical Limited Company to take the fall. He also ordered the CEO of the National Cereals and Produce Board (NCPB) to issue a press statement admitting liability. This kind of behaviour is wrong and depicts the Cabinet Secretary as someone who is not fit to hold public office. If Hon. Linturi was blameless, why did he prepare a press release through the NCPB, CEO? Why did he force innocent businesses to admit liability on his behalf? This paints a picture of a rogue public servant who is not fit for public office.

During the Departmental Committee on Agriculture and Livestock, senior counsel Mr. Ahmed Nassir submitted a letter on behalf of his client, KELS Chemical Limited Company. Therefore these submissions became part and parcel of this House. In paragraph two of his letter, he indicates that he wrote the letter on behalf of his clients, KELS Chemical Limited Company to set out the factual circumstances surrounding the distribution of the alleged sub-standard fertiliser. I have already tabled the letter marked as Annexure 1. I also invite the House to direct its attention to paragraph two of the letter. It says—

“Further to the foregoing, we feel inclined to suggest that as you assess individual responsibility in the light of an overall evaluation of complicity, the conduct and involvement of Mr. Franklin Mithika Linturi, the Cabinet Secretary for the Ministry of Agriculture and Livestock Development, and Mr. Joseph Kimote the Managing Director, NCPB should be scrutinised. Our clients informed us of the attempts by the two public officers to distort the correct account of what transpired and to present a counter-narrative whose end was to incriminate our client through intimidation and threats and to absolve other parties that had been adversely mentioned in the scandal. This occurred on the following dates:

- (a) On 4th April 2024, Mr. Davesh Patel, the Chief Operating Officer of our client received a call from Mr. Kimote of mobile No. 0721696127 at around 9.45 a.m., informing him of the need to prepare a letter following the press release by the NCPB recalling 3,000 bags of fertiliser manufactured on 5th March 2024 of batched numbers as indicated.
- (b) Further, Mrs. Lorraine Karani, of NCPB from Mobile No. 0722310564 at around 11.30 a.m. called him asking him to report to NCPB Headquarters around 3.30 p.m. He later received a call from Mr. Collins Nge'tich at around 11.”

Hon. Speaker, this not only depicts a Cabinet Secretary who has committed a crime but who is hell-bent on involving other people who were not part of this system. For these reasons, the Cabinet Secretary for the Ministry of Agriculture and Livestock Development is not fit for office.

In paragraph 3 of the letter, Mr. Ahmed Nassir suggests that the Director of Criminal Investigations assesses individual responsibility in light of an overall evaluation of complicity

in the conduct and involvement of Mr. Franklin Mithika Linturi, the Cabinet Secretary for the Ministry of Agriculture and Livestock Development and Mr. Joseph Kimote the Managing Director, NCPB.

Hon. Speaker: Hon. Wamboka you have about two minutes to go. However, I will exercise my discretion and add you five minutes.

Hon. Wanami Wamboka (Bumula, DAP-K): Now that I do not have the time, I want Hon. Members to read this. The Cabinet Secretary committed a crime. It is also clear that Hon. Mithika Linturi intended to commit a crime. He also tried to cover up this crime. According to the law, the Cabinet Secretary has no authority to shut down a factory. That is not part of his mandate. We see a rogue Cabinet Secretary going to KELS Chemical Limited Company and trying to close down the factory. All these led to a cover-up by Hon. Mithika Linturi.

Therefore, I am asking Members of this House and those of goodwill to find it fit that the President dismisses Hon. Mithika Linturi from office. The consequences of his actions will result in a food shortage. We support the President's good intentions to ensure food security in Kenya. However, despite the President's good intentions, the Cabinet Secretary cannot implement the vision of his appointing authority. This House should recommend to the President that Hon. Mithika Linturi must vacate office.

Hon. Mithika Linturi is involved in various active cases in court as indicated and tabled in the annexures here. This means he has no time to concentrate on his work as he moves from court to court. Under Chapter Six of our Constitution, he is not fit to hold any office in Kenya, not even a junior officer of a messenger. I plead with my colleagues to uphold the integrity of this House. We should go back to the days when Parliament was for the people by the people. I urge Members to support this Motion so that the farmers in Bungoma, Trans Nzoia, Nandi, Meru, Kiambu, and across the country can have a reprieve. I rely heavily on the goodwill of this House to make the right decision. I also leave this moral question to the House. It is not about politics, but about doing what is right.

I can look straight in the eyes of these Members and tell them that this Motion is not about party lines or being whipped. It is about standing with the wananchi—Cherotich, Nekesa and Wambui—who are small-scale farmers. These are the people who cannot afford to buy fertiliser. Their only mistake is to trust that the Government, NCPB which is a government agency, and the President of the Republic of Kenya cannot give them a raw deal. They purchase fertiliser from NCPB which is a national government agency, but it turns out that they have purchased sand and rocks. This is a moral question. I do not know how anyone in his sound mind can side with such a rogue Cabinet Secretary.

Hon. Speaker, I submit.

Hon. Speaker: Hon. Wamboka, who is seconding your Motion? You should say, 'I beg to move' but not 'to submit'.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I beg to move. Hon. Sarah was to second the Motion but she is a bit late. I ask Hon. Kibagendi to second.

Hon. Antoney Kibagendi (Kitutu Chache South, ODM): Hon. Speaker, I rise to second this Motion. As the Member for Bumula has said, this is not only a political issue but also a moral one. Sometimes, in this House, we get to levels where we compete on political affiliations. However, on this particular matter—where the Cabinet Secretary is genuinely and criminally involved in denying Kenyans their right and opportunity to produce and ensure that we have food security in this country—it is prudent and necessary that we take and deal with it as a moral issue. We need to demonstrate to Kenyans that, as a House, we can also stand with them. This is not a political but a moral issue.

Hon. Speaker, I support the Motion. Thank you.

(Loud consultations)

(Several Members were upstanding)

Hon. Speaker: Order, Hon. Members. Members who are on their feet, take your seats.

(Question proposed)

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Who has a point of order? What is your point of order, Hon. Owen Baya?

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Speaker, for this opportunity to raise a point of order on the matter that has been raised by Hon. Wamboka.

If you look at pages 14 and 16 of the Motion that has been ably presented by Hon. Wamboka, you will realise that the Motion is contrary to Standing Order 89. Many of the cases being referred to are actively in court. Therefore, the *sub judice* rule kicks in. I invite you to look at that and declare that the cases being referred to are not admissible in this Motion.

The Motion extensively relies on personal matters affecting the Member who appended her signature as No.15 on the list. As per Standing Order 90, that Member should have declared her interest in the matter. The cases being referred to are related to the Member. I move that we amend the list, or you declare that the list presented to you be totally expunged. Therefore, this Motion falls on its face.

Hon. Speaker, if you allow me, I would like to move an amendment that you declare the Motion...

Hon. Speaker: You stood on a point of order. Just prosecute it.

Hon. Owen Baya (Kilifi North, UDA): I am prosecuting my point of order. I request that you make a ruling on my point of order.

Hon. Speaker: Okay.

Hon. Owen Baya (Kilifi North, UDA): Standing Order 87(6) states:

“87(6) Except as the Speaker may otherwise allow, it shall be out of order for a Member to refer to any extract from print or electronic media as an authority in a Member's speech.”

Hon. Speaker, I request that you make a ruling on the Motion moved by my friend, Hon. Wamboka. He refers to electronic print media on page 11. The whole Motion is based on information in electronic print media. He refers to Citizen Digital on page 11. He then again refers to Nation Media on page 12. The Motion is based on extracts from electronic and print media. Standing Order 87(6) does not allow for that. Therefore, this Motion cannot stand under our current Standing Orders.

(The Speaker (Hon. Moses Wetang'ula) consulted with the Clerks-at-the-Table)

Hon. Owen Baya (Kilifi North, UDA): If I may, I want to catch the Speaker's ear.

Hon. Speaker: Yes, Hon. Owen. Can you finish your point of order?

Hon. Owen Baya (Kilifi North, UDA): I am finishing. I want to refer you to Standing Order 87. Hon. Mithika Linturi is being alleged to have committed some acts that occurred before he became a Cabinet Secretary. Those matters were conclusively dealt with when he was vetted by Parliament. Standing Order 87 states that if a matter has been discussed and dispensed with during a session of Parliament, for which this session refers to, it cannot again

be referred to during the same session. The cases being referred to in the Motion were dealt with. They happened before Hon. Mithika Linturi was appointed as a Cabinet Secretary and are now being re-introduced in the House. These matters can only be re-introduced with your express permission.

I request your ruling on this matter because the Motion as presented cannot be discussed in this House. I rest my case.

Hon. Speaker: Thank you, Hon. Owen Baya.

(Loud consultations)

Order. That point of order should not elicit a trajectory that is unrelated to the Motion. On the question of *sub judice*, you have to demonstrate that any mention of a case that is pending before court in the House will prejudice the possible outcome of that case. If any Member ventures into discussing the merits of any case pending before a court of law, the Speaker, who is a consummate lawyer, will stop that Member. On the matter of conflict of interests, you have simply said number 15 without mentioning the name. The number of Members required to support the Motion is 88, and we have 110. And therefore, even if you have 15 of them out, it would make no difference. I, will therefore, order that the Motion continues.

Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. I rise to oppose this Motion.

I have various reasons why I urge the House to reject it, and some of them are purely based on law. The Motion in certain respects, breach Statutes and as such, this House cannot condone such.

Hon. Speaker, if you allow me to move since I have limited time, I wish to draw the attention of the House to the affidavit in support of the Motion. It is sworn by the Mover of the Motion before a Commissioner for Oaths. It is also very clear from the Motion that the affidavit was drawn by a Law firm of Messrs Bryan Khaemba, Kamau and Company Advocates. It then becomes apparent on the face of the record that the affidavit was commissioned by the same Advocate who drew it, Mr. Bryan Mandila Khaemba of the Law Firm of Bryan Khaemba, Kamau and Company Advocates. That being the case then, this Affidavit is in direct contravention of the Oaths and Statutory Declarations Act, Chapter 15 of the Laws of Kenya. The offended Section is 4(1) of the Act. It expressly, prohibits any person who is administering the oath not to have any interest in the matter. Having done so, it then means that the affidavit in support, is faulty and the Hon. Speaker has the discretion to expunge it from the records. If that is done, it then means that the affidavit and all the supporting documents go with it. That would mean that in front of us, is a Motion that is not supported by any evidence. The consequence of that is that the Motion cannot stand as it is, and should fail. And for that reason, and I reserve the right to raise this at any stage, I urge the House to reject it for being in contravention of the Statutes.

Secondly, it is equally important that as we debate, we also know that this House is not a guillotine. A guillotine for those who do not know was an Instrument used for execution during the French Revolution in 18th Century. Its purpose was to chop off everybody's head when it was brought before that particular Tribunal. We must go by what our Constitution says, which is exactly what we have before the House. What does a Cabinet Secretary do? The offences that we have here, are all on allegations of having approved. He made approvals for certain contracts and disbursements. Under our Constitution and the law, who is the accounting officer? Can a Cabinet Secretary be held responsible for matters that are discharged by an

accounting officer? Truly, a Cabinet Secretary is not an accounting officer. He is not responsible for approvals that have been enumerated here and as such, we have brought the Cabinet Secretary before this House where we are being asked to guillotine him. I also urge the House to reject the said process.

We have also been told that in as much as we cannot say it, the matter is *sub judice* before Parliament, and my submission before the House is that the matter is ceased by Parliament because it is premature. This is because it was brought to the House, committed to the Departmental Committee on Agriculture and Livestock which is still working on it.

We are also informed that there are other Government agencies that are investigating the matter. The net effect is that the results of these investigations may exonerate that Cabinet Secretary. Therefore, if this House proceeds with the Motion as it is, there is a likelihood of us making a premature decision – guillotining.

Hon. Members, as we debate, we must also confine ourselves to the provisions of the Constitution and other laws so that we do not execute an unjust matter before the House. What would happen if...

Hon. (Dr) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Murugara, there is a point of order from Hon. Otiende Amollo.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I have laboured to listen to my Chairman, as he made his submissions on this point.

He has made two points which essentially, questions the directions of the Speaker on this matter. He has made submissions on the admissibility of the affidavits and the debate, on account of the fact that it is before a Committee which is junior to the House. Is it in order for my Chairman, Hon. Murugara, to question your admission of this matter to debate?

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Speaker.

Under the Standing Orders, what the Hon. Speaker did was to look at the Motion as it was presented before him.

He may not have gone into the nitty-gritty of how the affidavits and the rest of the evidence was introduced because he was not required to do so by the Constitution and the law. It is during the debate that we get an opportunity to demonstrate to the House the loopholes and shortfalls as far as this Petitioned is concerned.

What the Hon. Speaker is required to do is to glimpse over the grounds, affidavits and confirm whether it meets the threshold. That threshold in itself is not conclusive that all the matters appertained herein, have been examined. And as you rightly say, as the Chairperson of the Justice and Legal Affairs Committee, I have the responsibility to draw to this House various Statutes which may have been breached. I also have the responsibility to draw to the attention of the House if there are any constitutional contraventions.

Hon. Speaker, before the Departmental Committee on Agriculture and Livestock, is an investigation by this House and if not all, most of the matters that are in this Motion. Therefore, can this House proceed with this Motion when the investigation is ongoing and a report is awaited? I may not be able to call upon the Speaker to make a ruling now. However, I call upon the House to reject this Motion because of the fact that this House is seized of the same matter and we await an outcome through a parliamentary Report that will be tabled here. We will report and make our recommendations in it.

With those very many remarks and because of the faults in this Motion, I urge the House to reject it. I oppose. Thank you.

Hon. Speaker: Leader of the Minority Party. Order, Leader of the Minority Party and Leader of the Majority Party. You have 15 minutes each. The rest of the Members have 10 minutes each. You should yield the ground to other Members in the event you exhaust your argument under 10 minutes.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Speaker. From the outset, I will go straight to the point and declare that I support the Motion.

I thank Hon. Jack Wamboka, the initiator of the Motion, most profusely. Hon. Jack Wamboka, history will be very kind to you. In the fullness of time, you will for sure have something when the history of this Parliament or this country is written. If not a paragraph or a sentence, you will have at least a footnote for what you have done for the country today.

Let me say that I am more than convinced that the Cabinet Secretary, Hon. Mithika Linturi, has fallen short of the requirements of the Constitution as a holder of a public office. That is after listening keenly to the submission by Hon. Wamboka and having scrutinised into detail the documents, the annexures and so on and so forth that have been presented. Indeed, the Hon. Jack Wamboka has clearly drawn a linkage between the conduct of Hon. Mithika Linturi and the grounds outlined under Article 152(4)(a). In Article 152(6) states the three grounds upon which a Cabinet Secretary may be subjected to a Motion such as this one. I will not belabour the point.

Let me start by saying that the conduct of the Cabinet Secretary captured and depicted in the submission by Hon. Wamboka and in the documents attached to the Motion clearly point him going against the national values and principles of governance as stipulated under Article 10(2)(c). The national values and principles of governance include good governance, integrity, transparency and accountability, among other things. A person holding the office of a Cabinet Secretary is not a small person.

Article 152 of the Constitution provides for the Cabinet and we all know the composition of the Cabinet. Under Article 152, a Cabinet Secretary is a member of Cabinet. Under Article 152(4)(a), the Constitution goes further to say that each person appointed as a Cabinet Secretary assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya, obedience to the Constitution, and so on. Article 153(2) goes further to state that Cabinet Secretaries are accountable to the President for the exercise of their powers and the performance of their functions individually and collectively.

Why am I saying this? An impeachment Motion such as this one is indeed a tool of last resort all over the world. In all mature democracies, Parliament such as this one resort to impeachment Motions and processes as an action of last resort. The Constitution provides for avenues through which a Cabinet Secretary can vacate office. One of them is through dismissal by the appointing authority. Another one is by resignation. The third one is through this process of impeachment.

The appointing authority and Hon. Linturi could have saved the time of this House and the country by doing what is necessary. Hon. Linturi should have voluntarily resigned by now. Failure to do so, the appointing authority who is the President of the Republic of Kenya should have taken the most logical action and fired him. Therefore, this House has a duty under the Constitution since both Linturi and the President have failed to do what the Constitution requires them—to take the action it is currently contemplating, sending this Cabinet Secretary home.

I have looked at the issues raised. It sounds like something from Hollywood. You may think that you are watching a movie. A whole Cabinet Secretary storms the premises of a private company, Kel Chemicals Limited, and direct or in fact attempt to frog-match the

management of the company to participate in a press conference at the premises of the National Cereals and Produce Board (NCPB) and take responsibility over something that the Cabinet Secretary is directly culpable.

I wish Hon. Members would listen to me. I am saying that matters of food production and food security directly touch on national security. In some countries, you would be summarily executed in public any moment there is evidence of tampering with food production by way of supplying substandard or fake farm inputs including fertiliser. In those countries, you would be summarily executed in public if suspected of having been involved in jeopardising the food security of the country or nation. We are lucky to have a functioning Constitution and being governed by the rule of law. This is not a small or light matter of politics. This is not about Kenya Kwanza or Azimio. It cannot be. This is also not about Hon. Jack Wamboka. It is about the survival of this country.

History has recorded that countries that are not food-efficient have been prone to coups, counter-coups and civil upheavals. Anybody attempting to jeopardise food production is inviting us as a country to go that direction. A hungry country or populace is very dangerous. You cannot govern it. You cannot govern a hungry population. They can rise up against you anytime and overthrow you. The Cabinet Secretary and his accomplices are directly responsible for attempting to subvert food production in this country. Can you tell me that the Cabinet Secretary does not get involved in the procurement by NCPB? You can tell that to the birds. Everybody who lives in this country knows how government works. NCPB is a government entity. It is a parastatal within the Ministry of Agriculture and Livestock Development, under the supervision of its Cabinet Secretary.

How on earth did NCPB procure hundreds of thousands of bags of NPK fertiliser from a briefcase company going by the name Mems Distributors Limited, a company that has had no history of dealing with fertiliser? Mems Distributors went ahead and approached KELS Chemicals Limited to manufacture for it the fertiliser for it to supply to NCPB. What happens? KELS Chemicals Limited manufactures and supplies to Mems Distributors only 69,000 bags of NPK fertiliser 10-16-10. But then, what happens again? Mems Distributors proceeds to supply NCPB with over 400,000 bags. The question is: Where did Mems Distributors and NCPB get the extra hundreds of thousands of bags of this fertiliser? And then it turns out that these extra bags of fertiliser are the ones that were stones, gravel, sand and donkey waste, I am told. Somebody is basically sabotaging the very survival of this country. The Cabinet Secretary cannot feign ignorance because if he does, then he is not fit to hold that office. He is unfit. He is incompetent. Then NCPB goes ahead and pays for this fake fertiliser. I may call it air, because farmers will never use it anyway. It basically tells you that somebody powerful was pulling the strings behind the scenes. That is the point. Somebody even more powerful was pulling the strings behind the scenes. The Cabinet Secretary cannot absolve himself from accountability on this matter.

Even more intriguing, as investigations are being conducted by the relevant investigative agencies, we are being told by my friend the Chairman of the Departmental Committee on Justice and Legal Affairs and Hon. Owen Baya that the Departmental Committee on Agriculture and Livestock is seized of the matter and that we should wait for the outcome of their investigations. And yet NCPB goes ahead to decree that it is embarking on a scheme to compensate farmers who purchased the fake fertiliser. Then you ask yourself: Where are they getting the money from? This House, to the best of my recollection, did not authorise any such expenditure. Where did NCPB get the authority and the money to compensate farmers yet the investigations are not complete. Do we even know how much this fake fertiliser was, as we speak? We do not know.

From what I know, and Hon. Speaker you know I have a lot of information, what we are being told is just but the tip of the iceberg. When the full extent of this fertiliser scandal is exposed, you will be shocked. It will be worse than the Goldenberg scandal. In my capacity as the leader of Azimio la Umoja-One Kenya Coalition Party, I am privy to a lot of information. In fact, information just comes to me. I do not go looking for information. I have a file for each of these Cabinet Secretaries and Principal Secretaries. Even if this House attempts to allow Linturi to go scot free, in the fullness of time, each person involved in this racket will have a date with destiny.

(Hon. Opiyo Wandayi spoke off the record)

Hon. Speaker: Your time is up. You had 15 minutes.

(Hon. Opiyo Wandayi spoke off the record)

Finish up in 30 seconds.

Hon. Opiyo Wandayi (Ugunja, ODM): I support this Motion and I appeal to all my colleagues to send a message home today regardless of our political affiliations by sending this Cabinet Secretary home. That would earn us a lot of respect as an institution of Parliament. Let us, for once, allow this process to get to the Select Committee to undertake proper investigation, inquiry and hearings.

With those very many remarks, I support.

Hon. Speaker: Hon. Mary Wamaua. I see your name on the screen. You seem to be unprepared. Hon. Malulu Injendi, you have keyed in, proceed.

Hon. Malulu Injendi (Malava, ANC): Thank you, Hon. Speaker. I rise to oppose this Motion. As I oppose this Motion, I also want to make it clear to the mover that persons opposing this Motion are not of unsound mind as he alleged in his moving remarks. He said persons opposing this Motion have unsound mind.

(Hon. Wanami Wamboka spoke off the record)

You said that. It is on *The Hansard*. I want to confirm that I am of sound mind as I oppose this Motion.

I oppose this Motion simply because many a time we have wanted to sacrifice people who are not really victims of what we want to sacrifice them for. I recall in Kakamega County, there was this fake fertiliser by the county government. Upon investigation, it was found that this fertiliser, as much as everyone was crying for the head of the governor, was something fishy with the standards of the supplier in Kakamega County. I am looking at the role of the CEO of NCPB in this procurement. I am also asking myself the role of Kenya Bureau of Standards. These are the key bodies that were advising on the standards of what to be supplied and finally what was supplied.

I am afraid that what is being alleged here could be beyond what is on this Floor, because most of us, as we rise to speak, could be seeing more than what is on the Floor of this House. It could be something that has gone wrong somewhere, maybe in a family line or something like that, and finally found itself on the Floor. This matter is under investigation. The CEO of NCPB has been arrested. If we proceed to impeach the Cabinet Secretary, I would take it that you have acted before the truth about this fertiliser has come out.

I would beg that we do not proceed with this Motion so that we give time to the actual bodies entitled with investigations, to complete the inquiry. We need to give time for the courts

and the Ethics and Anti-Corruption Commission (EACC) to conclude this matter. Finally, when we have a report, this matter can then come to the Floor of the House.

I am also aware that this matter is before the Departmental Committee on Agriculture and Livestock of the National Assembly and the Standing Committee on Agriculture, Livestock and Fisheries of the Senate. I ask that we let this matter to first of all be processed by those respective Committees, after which we can then proceed on whether this Cabinet Secretary is really a criminal as alleged by the mover.

I oppose this Motion. Thank you.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Speaker. I start by stating on record that I support this Motion. If you look at the names of the Members of Parliament who have appended their signatures for the initiation of the process for the removal of this Cabinet Secretary, I am number 57. I want to just mention a few things.

First, the National Assembly has a responsibility which is given to us by the people of Kenya through the Constitution that we have today. Article 95(5) of the Constitution gives the National Assembly the responsibility to review the conduct in office of the President, the Deputy President and other State officers including Cabinet Secretaries, and initiate the process of removing them from office. Today, we are embarking on one of those cardinal responsibilities given to the National Assembly by the people of Kenya. To review the conduct of a Cabinet Secretary, one Mithika Linturi, and his suitability to hold office with a view to initiate the process of removing him.

I want to plead with those Members of Parliament who think they want to save Mithika Linturi. If you love this Cabinet Secretary, the more reason you should vote for this Motion. We are not removing Mithika Linturi today. By supporting this Motion, we are not removing Mithika Linturi. Article 152 of the Constitution which gives details of how to remove a Cabinet Secretary from office states that a Member of the National Assembly, like Hon. Jack Wamboka has done, supported by at least one-quarter of all the Members of the Assembly, may propose a Motion requiring the President to dismiss a Cabinet Secretary. That is the Motion we are dealing with today. The grounds are stated. The same Article goes ahead to mention that if this Motion is supported by at least one-third of the Members of the National Assembly, then the Assembly shall appoint a Select Committee comprising of 11 of its Members to investigate the matter.

Hon. Speaker, if you look at the document presented to us by Hon. Wamboka, the only way justice can be done to this Cabinet Secretary is for this House to push this matter forward. A Select Committee of this House will then have an opportunity to look at the details as presented. How else will we know that this telephone call was made by Hon. Mithika Linturi if we do not give an opportunity to this House to appoint a Select Committee to scrutinise, get to the bottom of these details and bring a report to us? If the Committee finds that these matters are not properly substantiated, then the matter will end there. The Committee will report back to the House and the matter will die. But if the matters will be substantiated, then this House will proceed to take another vote. Even before we take another vote, we shall present Hon. Mithika Linturi with an opportunity to address this Parliament and defend himself. That is when we shall know whether he is innocent or not. However, stopping this process at this stage would be reckless, careless and would demonstrate a House that does not know its responsibility.

I also want to add that it is not just on grounds of gross violation of the provisions of this Constitution that you would initiate a process of removing a Cabinet Secretary. It is not only on grounds where serious reasons of believing that the Cabinet Secretary has committed a crime under the National or International Law, that a process like this would be initiated. This

process would even be initiated if we have a reason to believe that there is gross misconduct on the parts of the Cabinet Secretary. Based on the evidence that Hon. Wamboka has presented to this House, I am particularly concerned about the issues of the National Cereals and Produce Board. The first question to those who want to oppose this Motion is; are you telling us that the National Cereals and Produce Board would go ahead, with budgetary provisions given by this House as proposed by the Cabinet Secretary, to buy *kokoto* instead of fertiliser? It is then given to our farmers and only whistle blowers learn about it yet we have a Ministry with a Cabinet Secretary, who is ignorant, heading it?

Hon. Speaker, what worries me more is the evidence that is produced before us through a letter that is written by lawyer Ahmednasir Mohamed. Clearly, Ahmednasir is telling us that Mithika Linturi even attempted to subvert justice by trying to order this particular factory to go and issue a statement. The evidence is there. The telephone number is there. Calls were made. Safaricom can confirm the same. I want to plead with this House; we cannot treat this matter casually. It is a matter of hunger. It is a matter of food security in this country. It is a matter that can bring this country to anarchy, as the Leader of the Minority Party said. We must show responsibility. You were elected by your people to come and speak for them. They do not have a voice. They cannot talk to Mithika Linturi. It is you who can speak to him. It is you who can speak to William Ruto who appointed Mithika Linturi.

When these Cabinet Secretaries were appointed, I remember saying that this will go in the records of history as the most incompetent cabinet. You can already see that. Some people are protecting Mithika Linturi and claiming that he was ignorant of what was happening in the National Cereals and Produce Board. Hon. Speaker, if Mr Linturi can be ignorant of what is happening at the National Cereals and Produce Board, then what can he not be ignorant about? This is an incompetent....

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Order, Hon. Mbadi. There is a point of order.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I rise pursuant to Standing Order 83 as read together with Standing Order 91 on the accuracy of information that is being provided by my very good friend, Hon. Mbadi. Is it in order for the nominated Member to claim that from the time the Cabinet Secretaries were appointed he had already made up his mind that they were incompetent? Is he trying to say that he had this information but never gave to the House at the time we were approving Mithika Linturi? Is it in order for somebody to redact information which we thought he had or which he thinks he should have had? The accuracy of this information is in fact wanting. He is alleging that...in fact the conduct of the President is not at issue here. If he wants to bring a substantive Motion with the issue of...he should not mention the President. He is not part of the Motion that is in the House. The Motion in the House is in regard to Hon. Mithika Linturi who was his colleague in the 13th Parliament.

Is it in order for him to claim that he had this information but never gave it to the House? That is very misleading.

Hon. Speaker: Hon. Mbadi, wind up.

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, Hon. Chepkonga could be older than me by age but he is not older than me in this House. I do not know why he is rusting so early. He still has time to be here. Do not rust. Please just remain active and focused on what I say. We are appealing to the President as the appointing authority to remove this Cabinet Secretary from office. That is what we are doing here. We are telling him that this is one of his incompetent Cabinet Secretaries. Please hear and listen to us. I said this when the Cabinet Secretaries were being approved. It is on record. I even used words that I did not want to repeat today.

In a nutshell, as I wind up, I want to plead with this House, please allow this Motion to go through so that we can appoint a Select committee of 11 Members to interrogate this matter, look at it in detail and the evidence adduced so that if there is no evidence, we will let Linturi continue running the Ministry. If there is evidence, let us get him out and get another Kenyan, even if they are from the region where he comes from. There are so many competent Kenyans from that part of the country. I want to plead and persuade, including the Hon. Leader of the Majority Party, to support this Motion. This is so that we can have these matters settled in a professional manner through a committee of this House. Hon. Speaker, I support.

Hon. Speaker: Hon. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I hear my good friend, Hon. John Mbadi asking me to support but I rise to oppose this Motion by the Member for Bumula, Hon. Jack Wanami Wamboka.

(Applause)

Allow me to take this opportunity to thank Hon. Jack Wamboka for having the courage and fortitude to not only collect signatures and bring this Motion but also to prosecute it although he has performed dismally in his prosecution. Hon. Speaker, I keenly listened to you on Tuesday, when you made your Communication on this Motion. This House as you stated, is a House of rules and is guided not just by the Standing Orders but also by our Constitution. If you read through Standing Orders 64 to 66, you will realise that Hon. Wamboka's Motion falls flat and contra our Standing Orders and the Constitution as well. It is also true that matters to do with the removal of the Office of Public Officers, as you stated in your communication are largely guided by precedence and borrows heavily from court rulings and the threshold set in. The famous Wambora case or the removal of the former governor for Embu County speaks volumes. In that case, one of the things that was made clear is that there must be a very clear nexus between the person being removed from office and the alleged grounds on which that removal is sought. Therefore, the question we ought to ask ourselves is, has the Mover of this Motion, Hon. Jack Wamboka, created or shown us that nexus between the person being removed from office as a Cabinet Secretary and the alleged grounds of removal? And the straight answer is none. There is completely no nexus between the allegations that the Hon. Jack Wamboka presented in his moving of this Motion.

Hon. Speaker, protect me from the loud consultations especially here.

(Loud consultations)

(Several Members stood in their places)

Hon. Speaker: Order, Hon. Members. Members on their feet, your Standing Orders say only the Member speaking should be on their feet. If you are on transit, then transit to where you are going. Go on.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I was stating that Hon. Jack Wamboka has completely failed to show us the nexus between the allegations that he was speaking about and the person he seeks to remove from office. Indeed, in his own submission, he has alluded to issues touching on the procurement and distribution of fertilizer by the National Cereals and Produce Board (NCPB). Hon. Jack Wamboka is not an ordinary Member of Parliament. Congratulations to him for being a first-time Member of Parliament and also serving as a senior Member of this House as the Chair of the Public Investments Committee on Governance and Education. He knows that because he overlooks some of these

parastatals that appear before the Public Investments Committee on Governance and Education, he knows that parastatals are semi-autonomous of ministries. Indeed, the State Corporations Act is very clear that Cabinet Secretaries, Principal Secretaries or accounting officers cannot and must never be seen to micromanage parastatals or State corporations.

Hon. Wamboka has failed to show us the nexus between Cabinet Secretary Mithika Linturi and the procurement processes or distribution of fertilizers at NCPB. He also failed to inform the House that the Directorate of Criminal Investigations (DCI) that has been investigating this matter has already preferred charges against the arrested and preferred charges, which the Director of Public Prosecutions (DPP) has consented to, for the prosecution of officers that DCI feels might be culpable on the matter of the procurement and distribution of this fertilizer. I was waiting with bated breath for Hon. Wamboka to show us that nexus but he has failed to do so. Therefore, this Motion falls flat on his face.

It also lacks clear precision of the violations of law and the Constitution. Hon. Wamboka did not show us a clear violation of any section of the law or the Constitution by Cabinet Secretary Mithika Linturi. Look at the probate value of the issues that the Hon. Jack Wamboka has Tabled before the House. I think the Hon. Murugara and Hon. Owen Baya had alluded to it. He took us through what the Hon. Member for Kilifi North was telling us they were not just excerpts from Citizen and NTV, Nation newspaper, the Star newspapers and other media houses. We have tremendous respect for our media houses. As a Fourth Estate, they have a duty as we do to oversight the Government and the Executive. We must allow our media houses to help us raise issues that are of concern to the people of Kenya just like we do. However, they cannot be the basis in line with our procedures in this House to adduce evidence before this House. I dare ask if we were to prosecute and impeach Cabinet Secretary Mithika Linturi on the basis of newspaper articles...

Allow me the indulgence to read a newspaper article that was featured by the Sunday Nation on 14th April 2024 with the headline, 'House Team Boss on Extortion Spree'. I am reading this article so that we may ask ourselves, if I am that House boss being reported here on an extortion spree, would it be fair for us to impeach myself? If that House boss is Hon. Wamboka, the mover of this Motion, how fair would it be for me to move the House to impeach him on the basis of a newspaper article from a gossip column like this one? This article said that the Chairman of a powerful committee is on the spot for harassing witnesses who appear before him. Talk of town has learned that the Chairman calls Cabinet Secretaries scheduled to appear before his Committee and demands huge amounts of money in order to be looked at favourably when they appear. The Cabinet Secretaries were heard complaining that the Member of Parliament uses threats to demand money at least one week before they appear before his committee. Those who fail to play ball by parting with cash demands are harassed during the appearance and negative reports are given on their manifesto.

(Loud consultations)

*(Hon. Catherine Omanyoo stood in her place
and spoke off the record)*

Hon. Speaker: Order. Member for Busia, you are totally out of order to stand up and raise your hands.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I read this article because I am pointing to the issue of us using newspaper articles and media reports to impeach state and public officers, including Members of Parliament, Chairpersons of Committees, Cabinet Secretaries and Principal Secretaries. We cannot use the basis of newspaper reports to impeach

anybody. I do not chair a committee, Hon. Wamboka Wanami is a chairperson of a powerful committee. How do we know who this newspaper column was referring to? Supposing it was Hon. Wamboka, how fair would it be for us to seek to impeach him based on a gossip column just as he is calling on us to impeach a Cabinet Secretary today based on newspaper and media reports? He has completely failed to prove his case.

(Applause)

Moving on, is this Motion a decoy? I have listened keenly to my good friend, Hon. John Mbadi, prosecute the point just as the Leader of the Minority Party did. Maybe we should allow this to move to the Committee of 11 who will look into the probate issues. If the probate value of the evidence being adduced by Hon. Wamboka in the Motion is defective ab initio, we will be wasting valuable parliamentary time. If you want committees to look into this issue, I am certain that there are many Hon. Members, including the Member for Kwanza, who sit in the Departmental Committee on Agriculture and Livestock. A committee of this House is looking into the probate value of the issues that were presented before it and is undertaking an inquiry on this matter. If I were Hon. John Wamboka, I would be patient and wait for the inquiry by the Departmental Committee on Agriculture and Livestock to get substantive evidence that has probate value and particulars that can be used to impeach a Cabinet Secretary. Otherwise, what he has brought before us is not even worth the paper used to publish this newspaper and the articles he has presented before us. Similarly, this article speaking about a Member of Parliament extorting Cabinet Secretaries is not worth our time. We should not waste our time...

Hon. (Dr) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Order. Senior Counsel, Hon. Otiende Amollo, what is out of order?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Speaker, I rise pursuant to the provisions of Standing Order 87(4) and 90(1). Standing Order 87(4) states that no Member shall impute improper motive on any other Member or a Senator except upon a specific substantive Motion of which at least three days' notice has been given, calling in question the conduct of that Member or Senator. In addition...

(Hon. Rozaah Buyu spoke off the record)

Hon. Speaker: Member for Kisumu West, that is grossly out of order. This is a House of Parliament, not a rally.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. Under Standing Order 90(1), an Hon. Member who makes a statement of fact must substantiate. The Leader of the Majority Party has just imputed that this House extorts members of the Cabinet. It does not matter that he is referring to some newspaper cutting that has not been tabled and we cannot properly refer to it. I urge that you direct the Leader of the Majority Party to retract those words and that they be extracted from the *Hansard*. Anyone listening might think that we are tacitly admitting and approving those falsities.

Thank you.

Hon. Speaker: Senior Counsel, I understood it differently. I thought he was speaking about it in the negative. That we cannot pick a gossip column and use it as evidence against anybody. As a matter of fact, I understood that a gossip column cannot be a statement of fact and that no Member has extorted anybody unless there is evidence. As far as I understand, you are saying the same thing.

(Loud consultations)

Order. Carry on, Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. Indeed, you have captured it very well. For the benefit of Hon. Otiende Amollo's understanding, I used my example and that of Hon. Jack Wamboka. The same way Hon. Jack Wamboka has presented newspaper articles and media reports is the same way one cannot present such gossip columns. My argument is that there lacks particulars or precision on the gross violation of the Constitution. Hon. Jack Wamboka has completely failed to show us that.

This Motion is a decoy to derail the substantive inquiry that was brought before this House by a Committee of this House. I humbly submit that I find this Motion as a decoy to make sure that we hide those who are ultimately culpable by derailing the Departmental Committee on Agriculture and Livestock from doing its work. I encourage its Members to get to the bottom of this fertiliser issue and ensure that the inquiry pinpoints to us those who are ultimately culpable. If I were Hon. Jack Wamboka, I would have been patient and waited for the Departmental Committee on Agriculture and Livestock to tell us which organisation or state officers are culpable including the Cabinet Secretaries and the Principal Secretaries. Should the Departmental Committee on Agriculture and Livestock find the Cabinet Secretaries, Principal Secretaries and those at the National Cereals and Produce Board (NCPB) culpable, we have a duty and obligation to the country to hold them to account. Otherwise, as it is, Hon. Wamboka has completely failed.

Finally, this Motion seeks to remove the Cabinet Secretary on the grounds that there were serious reasons to believe that he has committed a crime under national law. This ground requires Hon. Jack Wamboka to have attached evidence of conviction or judgment made against the accused person. He has failed to do so. As Hon. Owen Baya pointed out, he has gone to great lengths to quote cases that this House considered during the vetting and approval of Hon. Mithika Linturi as the Cabinet Secretary. That is a matter that is already spent and therefore Hon. Jack Wamboka cannot take the House back to relook into those cases. May I remind him that when the Cabinet Secretary appeared before the Committee, he said he had 32 court cases, some civil, that he was battling. The Committee, including the Member for Bumula, approved his appointment as the Cabinet Secretary. How then do you retract your steps or call the House to retract its steps?

As I conclude, the mover of this Motion, as courageous as he thought he was, has completely failed the House. He has failed to show us his precision with the law that he ought to, in line with the Constitution and the Standing Orders.

Allow me to conclude by saying, that the Mover of this Motion as courageous as he thought he was, has failed to show precision with the law, in line with the Constitution and Standing Orders. There is no probate of the evidence he has adduced. As I said, the grounds are not particularised in line with Standing Orders 64 and 66. He has quoted newspaper articles which I can also quote about Chairs of Committees and other people, who are said to extort money. Allow me, to plead with this House to defeat this Motion because it will derail the fight against corruption. It is only speaking to the gallery, voters and corruption which we never act on.

Hon. Speaker: You have a minute to wind up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): In the 11th Parliament, during the State of the Nation Address, 200 state officers were declared jobless. What came out of that political pronouncement? Absolutely nothing. That is what Hon. Jack Wamboka is calling on this House to do. To make a political declaration in the impeachment of a Cabinet Secretary but get no value in the fight against corruption.

Allow the Departmental Committee on Agriculture and Livestock to expedite its inquiry and those found culpable be charged before courts of law. Let the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) complete their investigations. Then call on us if you find any public officer culpable. We shall be there to support you in impeaching anybody who will be found culpable after credible investigations.

My friend, Hon. Jack Wamboka these political things from newspaper cuttings fall flat. I beg you this early to withdraw your Motion and save yourself from embarrassment. This is why the Constitution puts a very high threshold.

Hon. Speaker: Hon. Daniel Manduku, Member for Nyaribari Masaba. Give him the microphone. Take the one next to you.

Hon. Daniel Manduku (Nyaribari Masaba, ODM): Thank you, Hon. Speaker. I rise to support this Motion on impeachment of Hon. Mithika Linturi as Cabinet Secretary of Agriculture and Livestock Development. I support it not because I represent farmers in Nyaribari Masaba neither that my mother is a victim of the fake fertiliser scam nor that I am a farmer. But I feel there is a moral obligation that I am faced with as a Member of Parliament and a leader in this country.

When the fake fertiliser scam came up, Hon. Linturi went to the media and denied the existence of any fake fertiliser. After that, he blamed the opposition and called us saboteurs. Later on, the Deputy President confirmed that indeed there was existence of fake fertiliser in the market whereupon Hon. Linturi confirmed himself. Depending on who was speaking at the time, the number of bags kept changing between 3,000 and 50,000.

Hon. Linturi has served in the Ministry of Agriculture and Livestock Development for about two years. We have not had any major transformative ideas from him to make agriculture grow given that it is the backbone of our country. I want to agree with the Leader of the Minority Party that we should not have gotten to this point. Given, that the President himself even as late as yesterday, told the nation he is not here to make popular decisions. We expect him, now that he has set the standards and has a marking scheme, to act immediately if this House does not get Hon. Linturi out.

Hon. Speaker, our agriculture sector has faced a serious down turn. It is high time the President put somebody in place who can upturn the sector given that millions of our people depend on it.

Looking at the evidence before us today and listening to the submission by Hon. members, it is very obvious that right from the procurement, manufacture, distribution, warehousing and eventual delivery of the fertiliser, Hon. Linturi's hands and feet are all over these documents. There is sufficient evidence to send him home. My plea to my friends, especially Hon. Members of Parliament from areas that practice agriculture, is to put aside our party positions and look at this as a critical national agenda and support the removal of Hon. Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development, on the basis of his incompetence and lack of collective responsibility.

Hon. Speaker, if the President wants to know the real saboteur in his cabinet, he should point at Hon. Mithika Linturi. To our farmers, if you get a low yield or your crop fails this year, point at the face of Hon. Mithika Linturi. To our children who are watching television today, if your teacher asks you the definition of incompetence, tell him it is Hon. Mithika Linturi.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Hon. Rahim Dawood

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Speaker. I oppose this Motion.

The Mover of this Motion, Hon. Wamboka, has said very passionately and emotionally that he for the farmers. Everybody in this House supports farmers too. He should lay the blame where it falls and not at the feet of the Hon. Cabinet Secretary.

Page 530 of our Order Paper, 2(a) says, serious reasons for believing that the Cabinet Secretary has committed a crime under national law. In 2(b), it says, criminal proceedings in relation to six pending civil, commercial and family suits. What has his family or civil suits got to do with the impeachment? I was in the Committee on Appointments with Hon. Opiyo Wandayi, the Minority Whip, the Leader of the Majority Party, Deputy Leader of the Majority Party and others, where we vetted the Cabinet Secretary. He admitted to having those cases. Hon. Speaker, those cases are in a court of law. He is now bringing up other things which are not related to fertiliser in his pleadings which I think is completely wrong.

On the same page, 1(e) says that the Cabinet Secretary provided wrong information. Capital Africa was given a contract which was signed by the National Cereals and Produce Board (NCPB) in 2022, when Hon. Mithika Linturi was not even the Cabinet Secretary. Is he apportioning blame for what was done in March 2022 to Hon. Cabinet Secretary, Linturi?

I think Hon. Wamboka and some of the Hon. Members here have got a vendetta against the Cabinet Secretary because he handles more than 100 Semi-Autonomous Government Agencies (SAGAs) under his Ministry. Therefore, he should not be seen to be supervising each one of them.

We are now saying that we want Cabinet Secretary to take the flick. Our Leader of the Minority Party has said that there was sabotage. Yes, there was sabotage of the Cabinet Secretary because there are bags which were found. Why have we not talked about the MEMES AGRO Solution Limited Distributors? Who are its owners?

Hon. Speaker, the majority owner is Mr. Collins Ngetich who had a civil case with Cabinet Secretary, Hon. Mithika Linturi, regarding Atticon Ltd. He is on his opposite side. Definitely, Mems Distributors Ltd are the ones culpable of adding bad things in the fertiliser bags of Kel Chemicals Ltd. Hon. Wamboka has said the Cabinet Secretary tried to call Kel Chemicals Ltd Director, Mr. Kumar, for more than 20 times. I can call Leader of the Majority Party or even you, Hon. Speaker, and you fail to pick it. Sometimes I call my friend here, Hon. Ronald Karauri, for more than 20 times but he does not pick my calls. What does it mean? If I talk to him, do they have records of what I tell him? You cannot say you called somebody 20 times, when you do not know what the conversation was about. It is a matter of conjecture that Hon. Cabinet Secretary Mithika Linturi called the Director of Kel Chemicals Ltd. They said more bags were supplied. Mems Distributors Ltd should tell us what happened to them.

This Motion is not going anywhere. We support Cabinet Secretary because he is not culpable. Let the people who are culpable be taken to court. Let the Departmental Committee on Agriculture and Livestock finish its job.

Thank you, Hon. Speaker. I oppose the Motion.

Hon. Speaker: Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, Jubilee): Thank you, Hon. Speaker, for giving me an opportunity to speak on this Motion. I am a Member of the Departmental Committee on Agriculture and Livestock.

We encountered this story of fake fertiliser from the time it caught the attention of committee of this House. Many things have transpired. I want to highlight a few things that Members should know. The Departmental Committee on Agriculture and Livestock has summoned many of the mentioned people here, including the Cabinet Secretary and some of

the business people. We also went to the ground. Last weekend, we were in Kitale, Eldoret, Meru, Embu and many parts of this country to engage farmers.

For the record, it is important for the House to know that the fertiliser that has been distributed in the Financial Year 2023/2024 is around 4.8 million bags. It is the same quantity that was distributed in the Financial Year 2022/2023. The first bunch that was distributed last year, that had no questions, was procured by Kenya National Trading Corporation (KNTC). The bunch, that has brought attention, of about 3000 bags which is fake was distributed by NCPB which is a parastatal that is run by a Chief Executive Officer (CEO) and Board.

As a Committee, we looked into this issue. A manufacturer called Mems Distributors Ltd was awarded a contract to distribute fertiliser that he had not produced before. He approached Kel Chemicals Ltd and requested them to produce Kel Green Fertiliser and the formula was given. It was taken to KEBS and got the approval. After this, they produced the first 50,000 bags that were of good quality. When we spoke to farmers, they were happy. Later on, NCPB gave a contract to the same company—Mems Distributors Ltd that is not a manufacturer but a supplier and distributor—to distribute extra 500,000 bags of fertiliser. What happened? The businessman became greedy. The total number of bags of KEL Green fertiliser that were distributed by KELS Chemicals Limited and that are on record were only 69,000. Remember, around 4.8 million bags have been distributed in the republic.

I would like this House to ask itself who the guilty party is. We may be a bit emotional and upset because farmers are definitely suffering. That is the truth. The House should also know that the KEL Green fertiliser was distributed through the Government programme. There is also the GPC Organic fertiliser, which is manufactured by a different company, which approached the National Cereals and Produce Board (NCPB) and requested them to distribute their fertiliser on their behalf, not as a Government programme. If you followed reports in the media, this is the fertiliser that had some soil mixed with manure and yet, it was called organic fertiliser.

We have a chain here. There is the NCPB, which is the distributor, and the Kenya Bureau of Standards (KEBS). There is also Mr. Kariuki, who is the person behind the GPC Organic fertiliser. When he was asked about what he was supplying, he shamelessly told the Committee to ask the KEBS. Even he did not know what he was supplying to the farmers. Remember, this was not part of the Government programme.

I have a lot of respect for the Member who brought this Motion. As we prosecute this matter, I urge Members to take their time and allow the Committee to table a proper report on what happened. This is because we have crooks masquerading as businesspeople in Kenya. They should be named and shamed in this House, and also jailed for taking advantage of innocent farmers.

I know many Members may say that the Cabinet Secretary is arrogant, uncouth, and unqualified. That is neither here nor there because this House approved his appointment. However, the question remains: who gave our farmers fake fertiliser?

(Loud consultations)

I am not naming who gave the farmers fake fertiliser, but the KEBS exists.

Hon. Speaker: Order.

Hon. Sabina Chege (Nominated, JP): Can you allow me to continue, Hon. Speaker? The NCPB, which is a Government parastatal, has a full Board and a Chief Executive Officer (CEO). Does Hon. Linturi procure fertiliser on behalf of the NCPB? That is the question. What is the role of the NCPB Board? I hope this House can come up with conclusive findings so that even the NCPB, as the fertiliser distributor, can monitor what comes into their stores.

There is also another company which should interest this House, which was given the Diamond Mark of Quality (also referred to as D-Mark) by the KEBS. They make fertiliser bags. Do they control who takes those bags or not? Let us take an example of Kimbo Cooking Vegetable Fat. If you buy a can with the logo “Kimbo Cooking Vegetable Fat” on it, what do you expect to find inside it?

As we prosecute this matter, I urge the House to allow the Departmental Committee on Agriculture and Livestock to table a very conclusive report. We have been with the farmers and we have talked to them. The truth shall come out.

With that, I beg to oppose this Motion. You might name someone today, but tomorrow it might be you. However, one should be justly prosecuted. Let us follow up. Who was in charge of procurement? Who was the accounting officer? There are many people in the chain. We can discuss later whether somebody is ugly or not, or uncouth or not.

I beg to oppose the Motion, Hon. Speaker.

Hon. Speaker: Hon. Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Speaker. From the outset, I support this Motion. It is very clear that through...

(Hon. Opiyo Wandayi gestured to Hon. Martin Owino)

Hon. Speaker: Order, Hon. Wandayi. You cannot do that in the House. You are a very senior Member.

Hon. Martin Owino (Ndhiwa, ODM): Hon. Speaker, I am not appealing to my colleagues. However, I urge them to stand for farmers. I am appealing to my colleagues but I want them to stand in for the farmers whom they represent, including the ones of Ndhiwa.

Hon. Members: Yes!

(Loud consultations)

Hon. Martin Owino (Ndhiwa, ODM): Anybody who is trying to mess up with the farmers do not have our support as Parliament, and we have to stand to be counted.

It is clear that there is a violation of Articles 2 and 10(1)(c) which talks of policies that drive procurement and distribution, points to the values and principles of overseers in public offices and that is what has brought this mess.

There is violation of Article 46 which talks of infringement of customers rights, lack of public participation and protection of health and safety does the same thing.

The Cabinet Secretary (CS) has contravened five Articles of our Constitution. Be it is parastatal or national, the buck of the Ministry of Agriculture and Livestock stops with the CS and no one else.

The Ministry of Agriculture and Livestock is a very vital Ministry. In 2022, this docket produced Ksh2.5 trillion to our national Gross Domestic Product (GDP) which translates to 21 per cent. Therefore, anybody messing up with agriculture and livestock, is messing up with food security, employment, national productivity and the health of Kenyans as a whole. If these are messed up, productivity of this country would be messed as well.

Governance is also a key pillar to all the three Arms of Government, and if somebody is found culpable, we cannot mince our words. And as Hon. Mbadi says, if you love your CS, let us vote so that the Committee can take up this matter and carry out proper investigations. If your argument is that those media articles and outlets are improper, why defend them now? Let us rise, and vote.

Anybody supplying or allowing fake fertilizers to be supplied is punishing the soil yet all of us depend on it for production of food and health.

The CS has become a disgrace, and I urge the House to support this Motion so that it can roll to the Select Committee which would do further investigations. The dignity of our citizens depends on the behaviour and activities of these CSs wherever they go, be it nationally or internationally. When their integrity, performance and misconduct is in question, we would all stand and let Parliament speak. We are therefore, going to vote and let Parliament become, and be seen as a people's representative which is serious and ready to stand in for them.

The way the Ministry of Agriculture and Livestock is being messed up now with the fake fertilisers and floods, would lead to excessive poverty, outbreak of diseases, disabilities and mortalities which is a serious issue that does not require partisanship. Let us all stand and vote for this so that it can go to the Select Committee.

Thank you, Hon. Speaker. I donate my time to another Member.

Hon. Speaker: Hon. Moses Kirima.

Hon. Moses Kirima (Central Imenti, UDA): Thank you, Hon. Speaker for the opportunity to contribute to this very important Motion that pertains to the impeachment of the Cabinet Minister. At the onset, I stand here to oppose this Motion. It does not meet the necessary threshold, all ingredients and the requirements required to impeach a Cabinet Secretary.

When it comes to a ministry, it is very clear that the purpose of a Cabinet Secretary is to articulate policies. As it is, the question before this House tests the integrity, reasoning and logic in the issues before this House. The Constitution of Kenya bestows the powers of the High Court on this House. The powers of this House are those of the High Court. Article 125 of the Constitution clearly states that a Committee with the responsibility to investigate fertiliser issues has the power to summon witnesses and give verdicts. This has been done. We are just waiting for the Committee's verdict to know who is culpable for the actions that led to the suffering of farmers. Impeaching the Cabinet Secretary does not allow the Committee to conclude its investigations as it should.

It is high time this House considers that the *sub judice* rule is applicable in this House as it applies in all other case laws. What we are going to decide today will influence the Committee's decision. Impeaching the Cabinet Secretary will squarely influence the decision of the Committee because Members of Committees are part of this House. The Mover of the Motion has just given general issues and generalities to this House. No provision has specifically been pinned against the Cabinet Secretary. General issues have been raised but one question that has come out from every contributor to this Motion is very clear. It is to do with the Cabinet Secretary not being the procurement officer. He has nothing to do with the distribution of fertiliser. He also has nothing to do with the manufacture of fertiliser. He is just there for policy issues. There is no law anywhere that says the Cabinet Secretary should carry vicarious liability for actions of his officers. Each person must carry his cross.

The House owns a matter coming before it and referred to a Departmental Committee.

(Loud consultations)

Hon. Speaker: Order, Hon. Members.

Hon. Moses Kirima (Central Imenti, UDA): Hon. Speaker, I need some protection. There is a lot of noise in the House to make sure I am not heard. It is going to *The Hansard* only. I am not being heard because of there is much noise. Consultations should be in low tones.

Hon. Speaker: Order, Hon. Members. Member of Thika Town. Can we hear the Member on the Floor?

Hon. Moses Kirima (Central Imenti, UDA): Hon. Speaker, this House seized the matters of agriculture, fertiliser distribution and fake fertiliser distribution that came before it to be part of its proceedings. They were referred to the Departmental Committee on Agriculture and Livestock to investigate and bring a Report to this House. The Committee has not been given that chance because it has not concluded its investigations. Assume we go ahead and impeach the Cabinet Secretary and at the end of the day the verdict of the Committee is a different version altogether, all will be in vain. The decision which this full House would have taken, would not be reversed. A matter being handled by a competent Committee, which has quasi-judicial powers, is being brought before this House yet the Committee is seized of the same. The Committee has the same powers as the House, for it is a creature of this House. The decision it makes will bind this House.

In a nutshell, the provisions being quoted by the mover of the Motion do not pin the Cabinet Secretary down per se. The provisions are in general terms just to whip Members' sympathy. Yes, we sympathise with farmers who were affected, but who is culpable in the issue? Who was involved in the manufacturing and distribution of the fake fertiliser to the extent that it is now going to mess up farmers? Is it the Cabinet Secretary? The Cabinet Secretary has nothing to do with the matter. His role is policy articulation, which is the general responsibility of the Executive. The powers of this House are similar to those of the courts. The powers of the courts talk of the rule of prejudice, it should be considered. We should not consider a matter which is pending before a Committee.

Thank you, Hon. Speaker. I oppose the Motion.

(Loud consultations)

(Several Members were on their feet)

Hon. Speaker: Order, Hon. Members. Order! Order, Members on their feet. Member for Nyeri, take your seat. Hon. Mukami, you have just walked in and you are looking disorderly.

Hon. Members, I had promised that by 12.30 p.m., the mover would be called upon to reply. Mover.

Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Speaker. Out of my 10 minutes, I want to donate two and a half minutes each to Hon. Mbuyi and Senior Counsel Hon. Otiende Amollo.

Hon. Robert Mbuyi (Kathiani, WDM): Thank you, Hon. Speaker. Members, I want you to note that all Kenyan farmers have left their farms and are watching whatever we are doing here. Kenyan farmers are already disgruntled. Some farmers bought the fertiliser, used it in their farms and their crops are failing. Let us vote with our conscience.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

*[The Temporary Speaker
(Hon. Martha Wangari) took the Chair]*

We have talked about corruption from time immemorial. It is unfortunate that after speaking in funerals, church harambees and birthday parties, we come to the House and when called upon to make a decision, we make the wrong decision. This should be the day that

Kenyans should know that this House understands its powers and can use the powers to perform the role for which we were sent here.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): Order, Members. Member for Kiharu, break the Kamukunji. Order, Members. Hon. Kitur, take your seat.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon Members!

(Hon. Ndindi Nyoro consulted loudly)

The Temporary Speaker (Hon. Martha Wangari): Order, Member for Kiharu! Break that *kamukunji*.

(Hon. Bernard Kitur was upstanding)

Hon. Kitur, take your seat.

Hon. Mbui will be heard in silence.

Hon. Mbui, proceed.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Speaker. What we are dealing with here is a major issue. It is unfortunate that Members do not want to listen. They are already discussing their own issues. We have fought corruption since time immemorial and today we have an opportunity to cast a vote that is going to tell Kenyans on whose side we are on. Are we on the side of people that make phone calls at night or on the side of the Kenyan farmers that voted us into this House? Kenyans, watch; watch how your Member of Parliament votes. Those that vote against this Motion are people that must go home. 2027 is coming. You will go home if you vote against this Motion. Let us vote in support of Kenyans.

Thank you.

Hon. Members: Yes!

(Hon. Members sung the chorus "Linturi must go")

[The Temporary Speaker (Hon. Martha Wangari) left the Chair]

[The Speaker (Hon. Moses Wetang'ula) took the Chair]

Hon. Speaker: Order!

(Hon. Members sung the chorus "Linturi must go")

Hon. Speaker: Order!

(Hon. Members sung the chorus "Linturi must go")

Hon. Speaker: Order! Will you take your seats. Hon. Members?

(Pandemonium)

Hon. Speaker: Order! Order! Order!
Order, Members! Will you take your seats, Members?

(Loud consultations)

Hon. Speaker: Order, Members!
Order, Hon, Wamuchomba!
Order, Members!
Will you take your seats, Members?

(Hon. Dr Otiende Amollo was upstanding)

Hon. Speaker: Take your seat, Hon. Senior Counsel.

(Hon. Betty Maina and Hon. Gathoni Wamuchomba consulted loudly)

Hon. Speaker: Member for Murang'a and Member for Githunguri, you are inviting the Chair to exclude you from the House if you continue with that rowdy behaviour.

(Loud consultations)

Hon. Speaker: You are inviting the Chair to exclude you from the House if you continue with this rowdy behaviour.

(Applause)

You are supposed to be honourable Members. You carry honour to this House for the people who elected you, but not by shouting. Kofi Annan always said: "I have a soft voice with a strong, powerful message".

*(Hon. Gathoni Wamuchomba, Hon. Rozaah Buyu
and Catherine Omanyoo consulted loudly)*

Member for Githunguri, Member for Kisumu West and the County Woman Representative for Busia, if you continue with this rowdy behaviour, I will rule you out of order. In fact, I have always operated under an illusion that our female colleagues carry greater levels of decency than the male ones.

(Laughter)

Today, it appears to be the total opposite. Let us be orderly. You will make your point through your vote, and not how loudly you shout. Your own children out there are watching you live. Your husbands are watching you live. If you continue behaving like that, it is most unfortunate.

Hon. Otiende Amollo, you have two minutes.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I must confess that Hon. Mithika Linturi is my friend, and that is why I am supporting this Motion.

First of all, should the Cabinet Secretary take responsibility for the Motion and the issue at hand? The answer is yes. Why? Because we have it on his own authority that he is supposed

to. Looking at the document attached that is dated March 24th and signed by him, Paragraph 12 under Page 8 reads: “The Ministry ensures that agricultural produce is of the right quality”. It is the Ministry. Who is the head of the Ministry? The Cabinet secretary.

(Applause)

Secondly, should we defeat the Motion so that the Departmental Committee on Agriculture and Livestock completes its work? The answer is no. Why? A Select Committee under Article 152 is superior and has a very clear timeline than the Departmental Committee on Agriculture and Livestock. It only has 10 days.

(Applause)

All the reasons cited in defence of the Cabinet Secretary should be adduced to that Select Committee. If you believe the Minister is without culpability, support the Motion so that we can have that Committee decide that the Minister is not guilty. What we are dealing with is more than criminal responsibility. We are accusing the Minister of what we call ‘culpable maladministration’. Someone has to take political responsibility. If we do not go as high as the President, we must go as high as the Minister. We speak for the *miraa* farmers of Meru, the coffee farmers in Central region, and the tea and maize farmers in the Rift Valley region. Those are the areas that feed this whole country. If the National Assembly cannot speak for them, who will?

The President could have saved us this and sacked the Minister, but because he has not, we must stand up to be counted.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Order, Hon. Wamboka. You only donated your time to two Members.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I beg your indulgence...

Hon. Speaker: I will not indulge you. Reply to the Motion.

Hon. Wanami Wamboka (Bumula, DAP-K): Sarah was my seconder....

Hon. Speaker: I will not indulge you. You either forfeit your time or reply.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, Hon. Nabii is my uncle and a curse may befall me. Just one minute.

Hon. Speaker: You either reply or take your seat.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I want to implore this House once again. Hon. Members, we are representatives of the people. We were voted by farmers who cannot even afford a meal. My heart goes to those women in the villages who are watching us now on TV; they bought fertiliser which turned out to be *gushi*. It is not about Kenya Kwanza or Azimio la Umoja—One Kenya Coalition Party. It is a moral question. We are not targeting the Meru Community. Members, you would understand this is not the first scandal that has fallen at the feet of this Cabinet Secretary. We had wrong sugar, Hon. Speaker, we had contaminated sugar released for public consumption for crying out loud. For how long do you want the members of the public to suffer so that as a House we act? Hon. Mithika is a Cabinet Secretary, they went and imported sugar that was contaminated, that was not good, that was not fit for human consumption. It went to the people; cancer cases are now very high. There is a close relationship between cancer and contaminated sugars, edible oils. So, when are we going to stand for our people? Hon. Members, I beseech you. I beseech you as your colleague

that let us listen to the suffering of the Kenyan people, of the Kenyan Wambui, of the Kenyan Wanjiku who cannot be here to speak. Please for once let us listen to them. It is not about parties and I insist, it is not.

Now, Hon. Speaker, a lot of people were reluctant to append their signatures because Members of this House have used that opportunity to go and collect bribes from people.

Hon. Speaker: Order, Hon. Wamboka. You are out of Order.

(Loud consultations)

Hon. Wanami Wamboka (Bumula, DAP-K): I withdraw Hon. Speaker. I withdraw on that and apologise.

Hon. Speaker: Order Hon. Members. Order. Order! Hon. Wamboka.

Order Hon. Members. Order Hon. Sirma. Do not get carried away. Order! Do not get carried away and cast aspersions against your colleagues. Just stick to your Motion.

(Loud consultations)

Hon. Wanami Wamboka (Bumula, DAP-K): I withdraw, Hon. Members.

Hon. Speaker: Withdraw and apologise to the House.

Hon. Wanami Wamboka (Bumula, DAP-K): I withdraw and apologise. Thankyou. Hon. Members I beg to reply. Thank you Hon. Speaker.

Hon. Speaker: Order Hon. Members, Order Hon. Members. Before I put the Question, you know this is a Motion that has constitutional guidance as the threshold of the vote. So, once I put the Question we will not have a voice vote, we will proceed to ring the Bell and direct that the Bell will ring for five minutes. Once we close the ringing we draw the Bars and I did direct you earlier on that we must save the House its time by voting electronically. I hope you have your gadgets working. Order Hon. Members, now I will put the Question and you have your Order Paper, I will not read the particularised charges, I will only read the main charges.

3. Gross misconduct which is that the Cabinet Secretary:

- 1) has failed to exercise public trust in the best interest of the people of Kenya and this amounts to gross misconduct contrary to section 8 of the Leadership and Integrity Act, Cap 185C;
- 2) has failed in the performance of his duties to the best of his ability to carry out the duties of the office efficiently and honestly, and to carry out the duties in a transparent and accountable manner, and this amounts to gross misconduct contrary to section 10(a) & (b) of the Leadership and Integrity Act, Cap 185C;
- 3) has failed to demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office and this amounts to gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C;
- 4) misled the public by submitting false information to a Departmental Committee of the National Assembly that GPC diatomaceous was distributed as a soil conditioner and not as a fertilizer, and this amounts to gross misconduct contrary to section 29 of the Leadership and Integrity Act, Cap 185C.

Serjeant-At-Arms, ring the Division Bell for five minutes.

(The Division Bell was rung)

Is the five minutes over?

(The Division Bell was rung)

(Several Hon. Members stood in their places)

(Loud consultations)

Order, Hon. Members. Take your seats.

Member for Kericho, take your seat. Order, Hon. Members. Please take your seats, and keep your silence. Order, Hon. Members.

If you read your Standing Orders, when a Vote is called, no Member is allowed to move around the Chamber. You must be on your seats.

(Several Hon. Members stood in their places)

Member for Marakwet, take your seat. Who is this Member on his feet? Hon. Yegon, Member for Bomet East, take your seat. Hon. Babu Owino, take your seat.

Hon. Members, in your induction you were told that no Member is allowed to walk in the Chamber during voting. Members must remain silent until we finish the voting and the results announced. I direct the Clerks-at-the-Table to test the gadgets for electronic voting. After their confirmation, Members would be advised to log in. Can we now have the Bars drawn. Once we draw the Bars, any Member who is outside would not be allowed in. Can we have the Doors locked?

(The Bars were drawn)

Excellent.

Clerks-at-the-Table, are the gadgets working? Hon. Members, maintain your silence for a minute as they test the gadgets.
Members, you can now log in.

(Hon. Antony Kibagendi stood in the aisle)

Hon. Speaker: Order, Hon. Kibagendi. What are you doing in the aisle? Take your seat. I will give you an opportunity. Members, have you logged in?

Hon. Members: Yes.

Hon. Speaker: That was a trial run. You can remove your cards now. Log in again. There are three types of votes: “Yes”, “No”, and “Abstention”. You may now proceed to vote.

(Loud consultations)

Order, Hon. Members. Can you pull out your cards again? Hold for 60 seconds when you log in then the equipment will automatically activate for you to vote. Once you log in, you wait to be told to vote. Now, log in. Order, Hon. Members. What appears to be happening is that some of you are taking inordinately long to log in when I instruct the House to do so. Some of you start logging in again when the six seconds are over. Let us synchronise our conduct

now. Take out your cards, log in again, and remain silent. Do not vote until you are told to do so. Be patient with the system, it is going to work. You may vote now.

(Hon. Catherine Omanyo spoke off record)

Hon. Speaker: Order, Hon. Member for Busia. I do not know what has been exciting you the whole day. There is no provision in the Standing Orders for you to clap, jump or shout. Any Hon. Member whose vote is not recorded, and we have the capacity to know, I will give you an opportunity to register your vote with the Clerks-at-the-Table, after auditing how you have voted.

(Loud consultations)

(Hon. Cynthia Muge took pictures with her cellphone)

Order, Hon. Member for Nandi County. It is out of order to take pictures in the Chamber.

(Loud consultations and laughter)

The Hon. Speaker consulted Clerks-at-the-Table)

Order, Hon. Members. I know there could be Members whose gadgets may have malfunctioned. This is a vote that has a critical threshold. Once we have reached the threshold, it matters not whether you voted or not because that is what it is.

(Hon. John Mbadi spoke off record)

Order Hon. Mbadi, you are lucky that the bar is drawn. You would have walked out.

(Laughter)

RESULTS

AYES

1. Hon. Marianne Kitany
2. Hon. Walter Owino
3. Hon. Jematiah Sergon
4. Hon. Joshua Kandie
5. Hon. Joseh Makilap
6. Hon. Innocent Obiri
7. Hon. Nolfason Barongo
8. Hon. Kilel Richard
9. Hon. Richard Yegon
10. Hon. Charles Onchonke
11. Hon. Patrick Osero
12. Hon. Wanami Wamboka
13. Hon. Kibe Komingoi
14. Hon. Catherine Omanyo

15. Hon. Nicholas Mwale
16. Hon. Maero Oyula
17. Hon. Omar Mwinyi
18. Hon. Victor Koech
19. Hon. Patrick Simiyu
20. Hon. Paul Biego
21. Hon. Beatrice Elachi
22. Hon. Musa Sirma
23. Ho. Carolyn Ng'elechei
24. Hon. Babu Owino
25. Hon. Mark Mwenje
26. Hon. Josses Lelmingit
27. Hon. (Dr) Ojiambo Oundo
28. Hon. Kenneth Tungule
29. Hon. Amina Siyad
30. Hon. Ali Wario
31. Hon. Wakili Edward Muriu
32. Hon. Martha Wangari
33. Hon. Atieno Bensuda
34. Hon. Bernard Shinali
35. Hon. Leah Sankaire
36. Hon. Kakuta Maimai
37. Hon. Parashina Sakimba
38. Hon. Paul Katana
39. Hon. John Makali
40. Hon. Adipo Okuome
41. Hon. Capt. Ronald Kararuri
42. Hon. Charles Ong'ondo
43. Hon. Adams Korir
44. Hon. Gideon Kimaiyo
45. Hon. Beatrice Kemei
46. Hon. Julius Rutto
47. Hon. Njuguna Kawanjiku
48. Hon. Peter Orero
49. Hon. Anthony Wainaina
50. Hon. Joseph Munyoro
51. Hon. Gertrude Mwanyanje
52. Hon. Ken Chonga
53. Hon. Thuddeus Nzambia
54. Hon. Bissauv Kakai
55. Hon. Kweya Thuku
56. Hon. Joseph Chererot
57. Hon. Hilary Kosgei
58. Hon. Rashid Bedzimba
59. Hon. Ruth Odinga
60. Hon. Rozaah Buyu
61. Hon. (Dr) Makali Mulu
62. Hon. David Mwalika
63. Hon. Clive Gisairo

64. Hon. Alfred Mutai
65. Hon. Joseph Tonui
66. Hon. Ferdinand Wanyonyi
67. Hon. Sarah Korere
68. Hon. Innocent Mugabe
69. Hon. Protus Akujah
70. Hon. Dick Oyugi
71. Hon. Chiforomodo Mangale
72. Hon. George Aladwa
73. Hon. Titus Khamala
74. Hon. Suzzane Kiamba
75. Hon. Rose Mumo
76. Hon. Amina Munyazi
77. Hon. Major (Rtd) Abdullahi Sheikh
78. Hon. Yusuf Adan
79. Hon. Mary Njoroge
80. Hon. Timothy Kipchumba
81. Hon. Joshua Mwalyo
82. Hon. Geoffrey Odanga
83. Hon. Anthony Aluoch
84. Hon. Edwin Gichuki
85. Hon. Peter Nabulindo
86. Hon. (Eng.) Nebart Muriuki
87. Hon. Kivasu Nzioka
88. Hon. Fatuma Mohammed
89. Hon. Kiborek Reuben
90. Hon. Phylis Bartoo
91. Hon. Zamzam Mohammed
92. Hon. Abraham Kirwa
93. Hon. Feisal Bader
94. Hon. James K'Oyoo
95. Hon. Betty Maina
96. Hon. Mary Maingi
97. Hon. Gideon Mulyungi
98. Hon. (Eng) Paul Nzengu
99. Hon. Charles Nguna
100. Hon. Liza Chelule
101. Hon. Geoffrey Mulanya
102. Hon. Cynthia Muge
103. Hon. Bernard Kitur
104. Hon. Rebecca Tonkei
105. Hon. Lemanken Aramat
106. Hon. Agnes Mantaine
107. Hon. Kitilai Ntutu
108. Hon. Emmanuel Wangwe
109. Hon. Martin Owino
110. Hon. Jerusha Momanyi
111. Hon. Daniel Manduku
112. Hon. Tom Odege

113. Hon. (Dr) Lilian Gogo
114. Hon. (Dr) Otiende Amollo
115. Hon. Paul Chebor
116. Hon. TJ Kajwang'
117. Hon. Caleb Amisi
118. Hon. Pauline Lengurus
119. Hon. (Dr) James Nyikal
120. Hon. (Dr) Christine Ombaka
121. Hon. Francis Sigei
122. Hon. Amos Maina
123. Millie Odhiambo-Mabona
124. Hon. Peter Masara
125. Hon. Haika Mizighi
126. Hon. John Bwire
127. Hon. Oku Kaunya
128. Hon. Mary Emaase
129. Hon. Geoffrey Wandeto
130. Hon. Alice Ng'ang'a
131. Hon. Kassait Kamket
132. Hon. Lillian Siyoi
133. Hon. Cecilia A. Ngitit
134. Hon. Joseph Emathe
135. Hon. Nicholas Ng'ikor
136. Hon. John Namoit
137. Hon. David Ochieng'
138. Hon. Opiyo Wandayi
139. Hon. Khamis Chome
140. Hon. Aden Mohammed
141. Hon. Ibrahim Saney
142. Hon. Rael Kasiwai
143. Hon. Tim Wanyonyi
144. Hon. Danson Mwashako
145. Hon. Robert Basil
146. Hon. Irene Mayaka
147. Hon John Mbadi
148. Hon. Umulkher Harun
149. Hon. Suleka Harun.

NOES

1. Hon. Charles Kamuren
2. Hon. Mugambi Rindikiri
3. Hon. Moses Kirima
4. Hon. James Gakuya
5. Hon. Julius M'Anaiba
6. Hon. John Paul Mwirigi
7. Hon. Onesmus Ngogoyo
8. Hon. Peter Kihungi
9. Hon. Kimani Ichung'wah

10. Hon. Owen Baya
11. Hon. Joseph Gitari
12. Hon. Njeri Maina
13. Hon. (Dr) Rachael Nyamai
14. Hon. Mathias Robi
15. Hon. Abdirahman Mohaned
16. Hon. Wachira Karani
17. Hon. (Eng.) John Kiragu
18. Hon. Kereke Mbiuki
19. Hon. Malulu Injendi
20. Hon. Nami Waqo
21. Hon. Kassim Tandaza
22. Hon. Kuria Kimani
23. Hon. Bernad Kitur
24. Hon. Chairity Chepkwony
25. Hon. Rahim Dawood
26. Hon. Joash Nyamoko
27. Hon. Michael Wainaina
28. Hon. Kamande Mwafrika
29. Hon. Simon King'ara
30. Hon. Muchangi Karemba
31. Hon. Peter Lochakapong
32. Hon George Murugara
33. Hon. Susan Ngugi
34. Hon. Julius Melly
35. Hon. Dorothy Ikiara
36. Hon. Sabina Chege

ABSTENTIONS

1. Hon. Ruweida Obo
2. Hon. David Kiplagat
3. Hon. Beatrice Adagala

Hon. Speaker: Hon. Members, the results of the vote are as follows:

Ayes - 149

Noes - 36

Abstention - 3

Total Votes - 188

The ayes have it.

(Question carried by 149 votes to 36)

(Applause)

(Loud consultations)

COMMUNICATION FROM THE CHAIR**ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE DISMISSAL OF
HON. MITHIKA LINTURI AS THE CABINET SECRETARY FOR AGRICULTURE
AND LIVESTOCK DEVELOPMENT**

Hon. Speaker: Order, Hon. Members. Take your seats. Hon. Members I have a short communication.

(Loud Consultations)

Following the resolution of the Special Motion under Order No.13 relating to the removal of Hon. Franklin Mithika Linturi, from the office of the Cabinet Secretary for Agriculture and Livestock Development pursuant to Article 152(6) of the Constitution, I wish to guide the House on the next process as envisaged in the Constitution and our Standing Orders.

Hon. Members, Article 152(7) of the Constitution requires that:

If a motion under clause (6) is supported by at least one-third of the members of the National Assembly -

- (a) the Assembly shall appoint a select committee comprising eleven of its members to investigate the matter; and
- (b) the select committee shall, within ten days, report to the Assembly whether it finds the allegations against the Cabinet Secretary to be substantiated.

Hon. Members, as you can see, the Constitution is unequivocal in the procedure to be followed after a decision is made by the House at each stage of the process. The next step to be taken, therefore, is the appointment of Hon. Members to a select committee to investigate the matter.

Hon. Members, in this regard, I hereby direct that the parliamentary parties in the House expeditiously nominate Members to serve in the select committee and submit the names to the Office of the Speaker for onward transmission to the Committee on Selection. Thereafter, the Committee on Selection ought to expedite its consideration of the names and bring the relevant Motion to the House for approval, so as to commence consideration of this matter.

For clarity and in line with the Communication issued on Wednesday, 25th October 2023 relating on leadership in House, membership to the Select Committee will be distributed as follows. The Majority Party will have six Members. The Minority Party will have four Members. The Jubilee Party will have one Member. In nominating the Members, parties will ensure that the nominees to the Committee reflect the diversity of the House, including regional and gender considerations.

I hasten to remind the House that the process envisaged under Article 152(7) of the Constitution is quasi-judicial in nature. It is an important component of accountability and oversight frameworks provided in the Constitution. It requires not only diligence and conscience but also greater thresholds of impartiality, fairness, integrity and independence in the performance of these functions.

(Loud consultations)

Order, Members.

In conclusion, Hon. Members, it should be noted, as stated above, that the Constitution requires the Select Committee to conduct investigations and report back within 10 days. In this regard, the parties should provide to me the names of their nominees not later than today, Thursday, 2nd May 2024, and to be precise, before 1.45 p.m. Thereafter, the House will sit to consider the nominees to the Select Committee during the afternoon Sitting. The Committee selected is not the Committee of the Speaker or Leader of the Majority Party and Leader of the Minority Party. It is the committee of the House. Once the names will be brought, we will subject them to a vote in the House. Thereafter, we will give further direction to the Committee on how they will conduct the matter.

(Loud consultations)

Order! The bars can now be withdrawn. I have a clarification. Once the names come to Hon. Speaker, they will not be routed through Committee on Selection. That was a mistake in the Communication. Once they get to Hon. Speaker, I will then instruct the Clerk to include them in the afternoon Order Paper. I will limit that Motion to Leader of the Majority Party moving it and Leader of the Minority Party seconding, so that we can save time and move to other businesses that are pending. You may now be upstanding.

(Loud consultations)

Order, Hon. Members.

ADJOURNMENT

Hon. Speaker: Hon. Members, it is now 1.13 p.m. The House stands adjourned until this afternoon, Thursday, 2nd May 2024, at 2.30 p.m.

The House rose at 1.13 p.m.

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