

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 5th April, 2006

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### NOTICES OF MOTION

#### INTRODUCTION OF SUPPLIES MANAGEMENT PRACTITIONERS BILL

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

THAT, aware that supplies management practitioners have no law to regulate their practice, this House do grant leave to introduce a Bill entitled: The Supplies Management Practitioners Bill in order to provide training, registration and licensing of supplies management professionals and for related purposes.

#### INTRODUCTION OF COMMUNITY SOCIAL ENTERPRISE BILL

THAT, cognisance of the fact that the poor, especially women and other vulnerable groups suffer marginalisation in their struggle to have access to economic resources owing to inequitable legal framework currently in place; further aware that there is need to encourage investment and promote enterprise in rural and urban

areas targeting those vulnerable groups, this House urges the Government to introduce a Community Social Enterprise Bill in order to provide entrepreneurial skills and financial support for those socially excluded groups.

#### BANNING OF GENETICALLY MODIFIED PRODUCTS

**Capt. Nakitare:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, taking into consideration that most developed countries have banned genetically modified products due to their dangers to human beings and the environment; further aware that the Government has not put in place any policy

guideline to guard against the introduction of such products in this country; this House urges the Government to ban all genetically modified products in Kenya.

REDUCTION OF EXCISE DUTY  
ON PETROLEUM PRODUCTS

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

THAT, in view of the increasing poverty levels in the country; realising that over 56 per cent of our population live below the poverty line as the commodity prices continue to rise due to uncontrolled oil prices; noting with concern that the transport sector continues to be adversely affected by high oil prices; this House resolves that Excise Duty on kerosene, super petrol and diesel be reduced by Kshs2 from the current levels of Kshs7.205, Kshs19.895 and Kshs10.305, respectively.

**Mr. Speaker:** Next Order!

QUESTIONS BY PRIVATE NOTICE

STATE SECURITY FOR NARC  
ACTIVIST MARY WAMBUI

**Mr. Ndolo:** Mr. Speaker, Sir, I beg to ask the Minister of State for Administration and National Security, the following Question by Private Notice.

Could the Minister explain why a Ms. Mary Wambui, popularly referred to as a "NARC activist" has been provided with State security and Government vehicles and yet, she is not a public officer?

**The Assistant Minister, Office of the President (Mr. M. Kariuki):** Mr. Speaker, Sir, I beg to reply.

The Government has not provided Ms. Mary Wambui with any State security beyond what is provided to the general Kenyan public. I am further not aware of any Government vehicle that has been allocated to her.

**Mr. Ndolo:** Mr. Speaker, Sir, I thank the Assistant Minister for that answer. He was my coach during by boxing days. The Assistant Minister is misleading the House! I have a photograph here of the NARC activist using a Government chopper; a Kenya Wildlife Service (KWS) chopper! I have a photograph here! I can lay it on the Table if you allow me.

**Mr. Speaker:** Taken by who?

**Mr. Ndolo:** Mr. Speaker, Sir, it was taken by people who are concerned about the welfare of this country.

**Mr. Speaker:** That is not good enough, Mr. Ndolo! Be a little more serious!

**Mr. Ndolo:** Mr. Speaker, Sir, I was given by people who are good Samaritans, and who can do better for this country. I do not want to name the person who gave me this photograph.

**Mr. Kipchumba:** Table it!

**Mr. Speaker:** Order, Mr. Kipchumba! You are just telling it to the hon. Member! You are not in charge! I am in charge.

**Mr. Ndolo:** Mr. Speaker, Sir, could the Assistant Minister tell this House--- Some Members of Parliament have been harassed for just uttering a four-letter word, "Mwai". Some of us have been locked up and told to record statements with the police. I sang a song and I was arrested. But recently, you were arrested for just uttering the name "Ms. Wambui Mwai"! Could the

Assistant Minister tell this House why hon. Members are being harassed and told to write statements for uttering those words?

**Mr. Speaker:** Is that part of the Question? That is not part of the question! Can you ask a more relevant question? That one is irrelevant!

**Mr. Sungu:** Mr. Speaker, Sir, does the Assistant Minister agree with me that, that is public knowledge to every Kenyan? It has been covered by every newspaper in this country with photographs to boot and yet, the Assistant Minister comes to this House and denies. Is that not evil? Is it not like the snake that is spoken of in the Bible?

**Mr. M. Kariuki:** Mr. Speaker, Sir, I have not heard any question being raised. But let me acknowledge that we have a lot in common with Mr. Ndolo in the world of boxing. But I am a better boxer than him.

Mr. Speaker, Sir, let me say that the KWS choppers are there for anyone to hire. You can hire them on a private basis. If anybody saw another one using a chopper, please confirm with KWS whether it was on a private mission.

**Mr. Owino:** On a point of order, Mr. Speaker, Sir. Could the Assistant Minister confirm or deny that the said lady has been seen shopping while being guarded by Government security personnel?

**Mr. Speaker:** Order! That is a supplementary question! Why are you fixated about this lady?

**Mr. M. Kariuki:** Mr. Speaker, Sir, I believe we have a long way to go before we understand the difference between a question and a point of order. But we do not go by rumour and gossip in the media and on the streets. We want real evidence. When somebody makes an allegation about another person, let us go by the hard facts, not the rumours on the streets.

**Mr. Billow:** Mr. Speaker, Sir, when hon. M. Kariuki was an activist many years before he came to Parliament, I was one of his great fans. But I do not envy him now because he runs a Ministry where he has perhaps to deny that heaven exists!

Mr. Speaker, Sir, last month, Ms. Wambui was shown in various media distributing Government relief food. That raised a lot of concern in the public domain. Could he tell the House how the activist got hold of Government food and distributed it as her own?

**Mr. M. Kariuki:** Mr. Speaker, Sir, if any Kenyan is willing to come forward and assist in the distribution of relief food, they are most welcome. I have personally been involved in relief food distribution and I know that many Members in this House have also been involved. We commend her if she did it.

*(Applause)*

**Mr. Ndolo:** Mr. Speaker, Sir, could the Assistant Minister confirm or deny whether this NARC activist is the First Lady or the Second Lady?

*(Laughter)*

**Mr. Speaker:** Order! Is the Assistant Minister in charge of matrimonial affairs? That is irrelevant!

Next Question!

*(Laughter)*

RELIEF FOOD FOR TIGANIA  
NORTH DIVISION RESIDENTS

**(Mr. Munya)** to ask the Minister of State for Special Programmes:-

(a) Is the Minister aware that residents of Buuri, Karama, Muthara and Antuanduru locations in Tigania North Division are on the verge of starvation and schools are about to close down due to the drought ravaging the area?

(b) Is he further aware that the half-kilo of maize given to each family in the area once a month is not enough to meet the food needs of these people?

(c) Why has the Ministry persistently refused to provide enough food to the residents of this area like other drought stricken areas in the country?

**Mr. Speaker:** I understand from hon. Munya that this Question should be answered tomorrow, at the request of the Minister, and I so direct.

*(Question deferred)*

Next Question.

TRANSFER OF MOMBASA CUSTOMS  
LONG ROOM OPERATIONS TO NAIROBI

**Mr. Khamisi:** Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Could the Minister explain the rationale behind transferring to Nairobi, operations of the Mombasa Customs Long Room which has been servicing the Kilindini Port?

(b) Is he aware that the transfer is causing unnecessary delays in clearing and forwarding work and thus undermining the activities of the port?

**The Assistant Minister for Finance (Mr. Kenneth):** Mr. Speaker, Sir, I beg to reply.

(a) Mombasa Customs Long Room operations have not been transferred to Nairobi. The Kenya Revenue Authority (KRA) has decentralised the document lodgement activities from the Long Room to the premises of the clearing agents.

(b) No. On the contrary, entries are cleared through the document-processing centre in two days as compared to six days in the Long Rooms previously. The new system has greatly enhanced transparency and integrity as it eliminates physical contact between the staff and clearing agents.

**Mr. Khamisi:** Mr. Speaker, Sir, the Assistant Minister claims that the Long Room has not been moved and that there has been a decentralisation process. This action is already causing a lot of problems at the Port of Mombasa. At the moment, over 10,000 containers are clogging the port because of this movement of operations. Could the Assistant Minister tell us what action the Government is taking to un-clog the Port of Mombasa, otherwise most of the importers will decide to go elsewhere?

**Mr. Kenneth:** Mr. Speaker, Sir, unless there is any other reason that is clogging the clearing of containers, in terms of document lodgement and decentralising them from Long Rooms to the clearing agents themselves, the operations of the port have improved considerably. The clearing agents are now able to clear their documents within two days as opposed to the previous six days.

**Mr. Mwandawiro:** Bw. Spika, kila kunapokuwa na kupeleka huduma, inakuwa ni huduma kupelekwa kutoka Mombasa hadi kwingine, kama Nairobi, lakini hatuoni huduma zikiletwa kutoka Nairobi kwenda Mombasa. Je, Waziri Msaidizi anafahamu kwamba kuondoa hizo huduma za forodha kunapunguza kazi kwa vijana kule Mombasa?

**Mr. Kenneth:** Mr. Speaker, Sir, not everything can be removed from Mombasa. For one, you cannot remove the Indian Ocean from Mombasa and neither can you stop the ships from docking there. What the KRA has done is to ensure that a clearing agent in Malaba can access the computer and lodge the document in Malaba without having to go to the Long Rooms in Mombasa

to clear the same. I think that is good for this country.

*(Applause)*

**Mr. Mwandawiro:** Jambo la nidhamu, Bw. Spika. Huyu ndugu yangu hakujibu swali langu vile nilivyomuuliza. Sijui ni matatizo ya lugha au nini. Nimemuliza kama anafahamu kwamba hicho kitendo cha kuhamisha huduma kinapunguza ajira kwa vijana kule Mombasa?

**Mr. Kenneth:** Mr. Speaker, Sir, it is not a language barrier. We were taught by the same teachers with hon. Mwandawiro, and although he was the best Swahili and English student, we were also there, somehow.

*(Laughter)*

The point is that we have to start looking at Kenya as Kenya. If we are going to distribute employment to all parts of this country, and sometimes at the expense of one centralised place, I think we are doing a service to this nation. But the most important service is that somebody does not have to travel all those many miles to go and clear goods. That is what the KRA owes this country.

**Capt. Nakitare:** Mr. Speaker, Sir, what the Assistant Minister has told the House is theoretical. Clearing agents are finding it extremely difficult. When they go to clear goods in Mombasa, they are referred back to Nairobi. The Assistant Minister has to come clear and tell us how they have decentralised the Long Room which has been there longer than this Government!

*(Applause)*

**Mr. Kenneth:** Mr. Speaker, Sir, let me make the matter clear. The operations have been decentralized to reduce the number of days that clearing agents took in lodging their documents.

I have said that certain things cannot change from where they are. However, today, you can lodge your documents in Malaba or Kitale which is near the hon. Member's constituency. This will shorten the number of days for him.

**Mr. Gitau:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading this House. Is he in order to mislead the House by saying that once you lodge a document in Malaba, you do not go and collect your cargo from Mombasa? How do you lodge a document for the Kenya Ports Authority (KPA) in Malaba? Does the container come through the computer system?

**Mr. Speaker:** He did not say that!

**Mr. Gitau:** Mr. Speaker, Sir, that is what he is insinuating!

**Mr. Speaker:** Order! He did not say that! He said that you lodge the document for the necessary action by the Kenya Revenue Authority (KRA). Once it is approved you proceed to Mombasa and collect your goods.

*(Applause)*

**Mr. Khamisi:** Mr. Speaker, Sir, it is not true that the process will ease the work of clearing agents. This is because I have a letter here which is addressed to the Minister for Finance. This letter is from the agents in Mombasa who complain that this process is inconveniencing their activities. My understanding has always been that this Government is committed to decentralization of services. However, what we are witnessing now is that the activities are being taken away from the people to Nairobi. Is the Government shifting position? Is it changing tunes in this case?

**Mr. Kenneth:** Mr. Speaker, Sir, as I said at the beginning, there is nothing that has been

relocated to Nairobi. What has been decentralized and I repeat it here, is the document lodgement. I have said that it used to take six days, but now it is geared towards taking two days. I think that is part of service delivery by this Government.

### ORAL ANSWERS TO QUESTIONS

#### *Question No.022*

#### REMITTANCE OF FPE FUNDS TO NDABIBI SCHOOLS

**Mr. Speaker:** Hon. Members, I will defer the Question by Mrs. Kihara to Thursday next week because the hon. Member is unwell.

*(Question deferred)*

#### *Question No.016*

#### EXPANSION OF FACILITIES AT BUTERE/MUMIAS DISTRICT HOSPITAL

**Mr. Oparanya** asked the Minister for Health:-

- (a) whether she is aware that treatment facilities at the Butere/Mumias District Hospital are inadequate and cannot cope with the demand for services; and,
- (b) when she will expand the existing facilities from those of a health centre to those of a district hospital.

**The Assistant Minister for Health** (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that treatment facilities at the Butere/Mumias District Hospital are inadequate and cannot cope with the demand for services.

(b) My Ministry has allocated Kshs6 million during this financial year towards completing the on-going projects. These projects are X-ray Department, operating theatre and a 36-bed ward for inpatient services. This will enable the facility to offer services commensurate to the district hospital status.

**Mr. Oparanya:** Mr. Speaker, Sir, with all due respect to the Assistant Minister, he should note that when we ask Questions in this House, they should be taken seriously. This is because these are issues that affect the people we represent in this Parliament. I asked the same Question a year ago and the answer I got was quite comprehensive. I was promised that quite a number of projects would be undertaken. This is because the hospital has no X-ray machine and mortuary. It does not have enough wards. It has shortage of staff and water. I was promised last year that Kshs50 million would be provided this financial year, but they have provided only Kshs6 million out of which Kshs2 million has been remitted this year. What is the Ministry's policy on upgrading of health centres to district hospitals? It seems that, that health centre was upgraded to a district hospital but nothing has happened. It is just as if it is a health centre.

**Dr. Machage:** Mr. Speaker, Sir, I appreciate the concern of the hon. Member for his people. The promise notwithstanding, because I have not found it in any documentation in my Ministry, I have taken steps towards facilitating the improvement of what used to be a health centre in 1998 to befit its status as a district hospital. Whereas the hon. Member may think that the facilities, including staff are inadequate, I beg to differ, and especially so on the issue of staff. The hospital has enough staff that I think can manage the population currently vis-a-vis what we can afford in this country. However, I am aware that this hospital lacks, amongst other things, a good

in-patient department which would have included the X-ray. It is true that the hospital lacks a mortuary, an administration block, a kitchen and a laundry. It also lacks enough water and a store. I will address these issues depending on my financial ability.

**Mr. Bahari:** Thank you very much, Mr. Speaker, Sir. The NARC Government promised Kenyans free medical services. What Mr. Oparanya has said is true. There are so many health centres and sub-district hospitals but all of them are poorly staffed. Could the Assistant Minister ensure that there is proper staff rationalization because this is a serious issue? He should not avoid to answer this question.

Mr. Speaker, Sir, could the Assistant Minister ensure that all district hospitals, sub-district hospitals and health centres have adequate staff as is required by the regulations?

**Dr. Machage:** Mr. Speaker, Sir, indeed, I will endeavour to do the same. My Ministry intends to employ about 3,800 nurses in the next one month; to try and alleviate staffing problems in hospitals. Right now, every district hospital in this country has received Kshs5 million or more towards the renovation and improvement of those facilities. This is a fact. If you are not aware as an hon. Member, please, visit your district hospital and confirm the same.

**Mr. Wambora:** Thank you, Mr. Speaker, Sir. You have heard what Mr. Oparanya has said; that, he has received Kshs2 million out of Kshs6 million for Butere/Mumias District Hospital. In Runyenjes Sub-District Hospital, we were allocated Kshs5.5 million this financial year and not a single cent has been received as of last month. Could the Assistant Minister tell this House whether he will, at least, ensure that he disburses the amounts provided in the Budget to all the sub-district hospitals and health centres so that we can build the required facilities. That is the biggest problem. They do not send the money to the funded health facilities before the end of the financial year.

**Dr. Machage:** Mr. Speaker, Sir, the truth is that all district hospitals have received this money. Two months ago, some hospitals had Authority to Incur Expenditure (AIE) problem which has been sorted out so far. This money is in the hospitals.

**Mr. M.A. Haji:** Thank you, Mr. Speaker, Sir. There are health facilities in this country such as dispensaries, health centres and sub-district hospitals which are due for upgrading because of the population that they serve and so many other factors. However, we have tried to find out how best those issues can be addressed but every time we raise such issues the Ministry refers us to the District Development Committees (DDCs). In some parts of this country, the DDCs do not exist. They have been replaced by some organs called "District Steering Groups" which do not address such issues. Could the Assistant Minister tell us what is the Ministry's policy as concerns upgrading of health facilities?

**Dr. Machage:** Mr. Speaker, Sir, it is unfortunate to hear that the DDCs do not exist in some districts. I think the relevant Ministry will address the same with the hon. Member's request in writing. This is because the *modus operandi* is such that the DDCs have to approve the upgrading of those hospitals through a request from the Board to the Government. There is no shortcut. The Ministry is thinking of changing the way of upgrading hospitals. There are some areas that have high populations and are not even at the provincial status. A good example is Machakos and Embu. There is an anomaly in grading hospitals in such places. So, the grading pattern of sub-district and district hospitals to provincial hospitals will soon or later be phased out so that we can have certain levels of grading of hospitals depending on the need of the population for that facility. If an area is a location and has enough population to be served by a hospital of the status of a provincial hospital, then that will be addressed at that time.

**Mr. C. Kilonzo:** Thank you, Mr. Speaker, Sir. One of the problems we have with the Ministry of Health is lack of political will. One of the biggest problems is that the people who are meant to make decisions have an interest in the private sector in as far as provision of health services is concerned. This includes the Assistant Minister. What is the Ministry doing to ensure that either civil servants, be they doctors or officers in offices do not sabotage Government efforts to improve the facilities in Government hospitals?

**Dr. Machage:** Mr. Speaker, Sir, may I assure the hon. Member that the Ministry, including myself, has the interest to protect Kenyans as far as service delivery is concerned in Government hospitals. It is unfortunate that a few cases have been noted involving a few unscrupulous members of the public or civil servants. These people have not lived up to their professional expectations. However, this is being addressed by the Ministry. Such officers have been duly punished as is required by the law.

**Mr. Oparanya:** Mr. Speaker, Sir, I am sorry that the Assistant Minister is unable to keep his records. I have a copy of last year's answer which I will pass on to him.

*(Mr. Raila entered the Chamber  
carrying a folder)*

**The Assistant Minister for Water and Irrigation** (Mr. Wanjala): On a point of order, Mr. Speaker, Sir. Mr. Raila is carrying a bag whose contents we do not know. Even ladies are not allowed to bring their bags into the Chamber. Why should Mr. Raila, with all the pockets he has in his coat and long trouser, not carry his documents but instead, carries a bag into the Chamber?

**Mr. Speaker:** Order! Point taken! You are totally in order. Mr. Raila, could you proceed to the Bar and surrender that bag to the Serjeant-at-Arms?

**Mr. Raila:** But Mr. Speaker, Sir---

**Mr. Speaker:** Order! I have issued an order! Could you surrender that bag to the Serjeant-at-Arms at the Bar? That is the rule!

**Mr. Raila:** Mr. Speaker, Sir, it is a folder and not a bag!

**Mr. Speaker:** Order, Mr. Raila! Just obey my order!

**Mr. Raila:** Mr. Speaker, Sir, as I do so, this is not a bag if we go by definition of a bag. This is just a document holder; just like the one you have there!

*(Applause)*

**Mr. Speaker:** Order! The difference between you and I is that I am the Speaker and you are not! So, could you please surrender the bag to the Serjeant-at-Arms at the Bar?

*(Mr. Raila surrendered the bag  
to the Serjeant-at-Arms)*

**Mr. Sungu:** On a point of order, Mr. Speaker, Sir. Is it really in order for a Government Assistant Minister to sit on the Opposition benches and speak from there? Has Mr. Wanjala not defected to the Opposition side in that case?

**Mr. Speaker:** Order! Let us be serious!

**Mr. Ogun:** On a point of order, Mr. Speaker, Sir. Supposing that bag was carrying *omieri* which has got good luck---

*(Laughter)*

**Mr. Speaker:** Well, the matter of the bag is now settled!

**Mr. Keter:** On a point of order, Mr. Speaker, Sir. I have also seen Mr. Murungi carrying a similar bag, not only today, but always.

**Mr. Speaker:** Is he here?

**Hon. Members:** Yes!



**Mr. Speaker:** Mr. Murungi, do you have a bag?

*(Prolonged laughter as Mr. Murungi stood up in his place and walked to the Bar to surrender a bag)*

Order! I think we have finished now with the matter of the bags. Just before we go to the next Order---

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

**Mr. Speaker:** Yes, you were on the Floor! I am sorry. Proceed!

**Mr. Oparanya:** Mr. Speaker, Sir, I had not finished my question when Mr. Wanjala interrupted me. I think he is missing the Back Bench.

I am sorry that the Assistant Minister might not have a copy of the answer to the Question I asked last year. I will be glad to pass it to him. In that answer, they promised to provide water to the hospital. In addition, Kshs50 million was going to be provided to the hospital. I would like to know why a borehole which was tendered for has not been sunk up to now. I would also like to know why they allocated the hospital Kshs6 million in the Budget instead of the Kshs50 million which I was promised.

**Dr. Machage:** Mr. Speaker, Sir, I provided what I could afford. Maybe, I will consider the Kshs50 million when I will be able to afford it.

As per the tenders for the supply of water, I will follow up the same. But I am aware of one tender concerning the X-ray machine and ward. I am happy that the hon. Member has some documentation that he would want to share with me. I appreciate his gesture. He is welcome anytime and I will look at it.

### COMMUNICATION FROM THE CHAIR

#### EXCLUSION OF MEMBERS FROM CONTRIBUTING TO DEBATE ON PAC REPORT

**Mr. Speaker:** Order, hon. Members! Just before we come to the next Order which is the Motion on the Adoption of the Public Accounts Committee (PAC) Report, I think hon. Members will recall that I did, in fact, order that hon. Members should not take debates outside this House on matters pending before this House. That was just last week. In spite of my giving that warning and the action taken by the hon. Members then concerned, which was good because they all apologised, between last Thursday and yesterday, 18 hon. Members have commented on this matter before the House. I will read their names out, and when I do so, they should know that they have disobeyed the Chair. They have made their contribution already and, therefore, they should not attempt to speak in this House, because the Chair will not see them. They do not recognise and respect this House.

*(Applause)*

They are the following: Hon. Kalonzo Musyoka, Member of Parliament, Mwingi North; Hon. William Samoei, Member of Parliament, Eldoret North; Hon. William ole Ntimama, Member of Parliament, Narok North; Hon. Bonny Khalwale, Member of Parliament, Ikolomani; Hon. Billow Kerrow, Member of Parliament, Manderu Central; Hon. Newton Kulundu, Member of Parliament, Lurambi; Hon. G.G. Kariuki, Member of Parliament, Laikipia West; Hon. Mutula Kilonzo, Nominated Member of Parliament; Hon. Waithaka Mwangi, Member of Parliament, Kinangop; Hon. Muriuki Karue, Member of Parliament, Ol Kalou; Hon. Raila Odinga, Member of

Parliament, Langata; Hon. Oburu Odinga, Member of Parliament, Bondo; Hon. Fred Gumo, Member of Parliament, Westlands; Hon. Musikari Kombo; Member of Parliament, Webuye; Hon. Raphael Wanjala; Member of Parliament, Budalangi; Hon. Prof. Anyang'-Nyong'o, Member for Kisumu Rural; and an unnamed group of hon. Members.

**An hon. Member:** There are more!

**Mr. Speaker:** The list is still being compiled! Since the hon. Members have refused to listen to the Chair, I will use Standing Order No.1 and deem that they have all contributed. There is no business in their standing in this House because the Chair will not see them, until such time that they will respect this House and the Chair.

*(Applause)*

**Mr. Kipchumba:** On a point of order, Mr. Speaker, Sir. While I would like to respect your ruling, Prof. Kibwana and Mr. Mungatana are on record as having taken the debate outside this House.

**Mr. Speaker:** Yes! Those names should be added to the list immediately.

**Prof. Olweny:** Mr. Speaker, Sir, Mr. Kiunjuri and Mr. Munya should also be added to the list!

**Mr. Speaker:** Order! As I can recall, Mr. Kiunjuri and Mr. Munya were addressing a pertinent issue which I also addressed yesterday, which was: Who paid the hospital bill for the President? There was a falsehood being perpetrated by a newspaper and I, as the Speaker, have a duty to correct things, and I did exactly that. So, that was a separate issue.

**Mr. Osundwa:** On a point of order, Mr. Speaker, Sir. I have not heard you mention the name of the Government Chief Whip, Mr. N. Nyagah, yet, it is being replayed on national television stations now and then, when he was answering Mr. Raila on the same issue.

**Mr. Speaker:** Order! I will counter-check. But, in the meantime, those ones on the list, please, do not attempt to stand. I have finished that now.

Yes, Mr. Murungi!

## PERSONAL STATEMENT

### PAYMENT OF THE PRESIDENT'S LONDON MEDICAL BILL

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. I seek the indulgence of the House to issue a personal statement on the President's medical bill, under Standing Order No.69.

Mr. Speaker, Sir, yesterday, you issued a Communication from the Chair, clarifying that the President paid his London medical bill through AAR medical cover. Despite that clarification, today, *The Standard* carried a story on page two in which I am quoted as having told Mr. Githongo to delay investigations into the dealings of a businessman associated with security contracts, because he assisted the President to pay the medical bills---

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Can I hear what Mr. Murungi is saying? Can I hear how his statement relates to my ruling?

**Mr. Murungi:** Mr. Speaker, Sir, *The Standard* continues to report that a taped conversation between Mr. Githongo and Mr. Murungi attests to this.

Mr. Speaker, Sir, an impression has been created by the media that Mr. Githongo's Dossier

and the tapes---

**Mr. Speaker:** I hope you are not going to debate it!

**Mr. Murungi:** Mr. Speaker, Sir, I am only talking about the President's London medical bill.

**Mr. Speaker:** Just talk about that bit; what I ruled yesterday and what the newspaper reported today.

**Mr. Murungi:** Mr. Speaker, Sir, I am only going to comment on the President's London medical bill.

There is an impression being created that the dossier and the tapes on the medical bill contain the whole truth. However, Mr. Githongo's Dossier is not the gospel truth. At no time did I tell Mr. Githongo---

**Hon. Members:** Aah!

**Mr. Speaker:** Order! Order! Hon. Hon. Members, the rules of this House will be obeyed. Mr. Murungi, I will not allow you to anticipate debate. If you are attempting to anticipate debate, you will cease. So, do not anticipate debate. I will not allow you to say anything on the Public Accounts Committee (PAC) Report.

Mr. Murungi, could you now conclude your statement and keep off the PAC Report?

**Mr. Murungi:** Mr. Speaker, Sir, I would like to clarify that at no time did I tell Mr. Githongo to delay investigations into the dealings---

**Mr. Speaker:** Order! Order, Mr. Murungi! You are now going into the PAC Report. In all fairness, that is against the Standing Orders, which I must uphold.

### COMMUNICATION FROM THE CHAIR

#### MEMBERS MUST BE GUIDED BY SOBRIETY DURING DEBATE ON MOTION FOR ADOPTION OF PAC REPORT

Hon. Members, before we go to the next Order, I want to say the following:-

The House will be debating a Report of the Public Accounts Committee. As I said in my ruling, that has been a matter that has exercised your minds and the minds of Kenyans. I expect, as Kenyans do, that in discussing this Report, we will be guided by sobriety, etiquette and facts. That is all I expect. We will be discussing the recommendations and the findings as contained in the PAC Report.

I want to warn the House in advance, that anything external to the Report will not be a subject of our discussion. It is the Report; the content thereof. I expect hon. Members from both sides of the House to deliberate on this issue with utmost respect and cool minds. Use your logic and your wit. Use every other acceptable means. I will not accept insults, bad language and shouting.

Finally, I will not accept unnecessary points of order only meant to derail the train of thought of any Member speaking in this House. This House must deliberate the issues raised in the Report with sobriety. Hon. Members are welcome to listen to the deliberations and participate.

**The Assistant Minister for Health (Dr. Machage):** On a point of order, Mr. Speaker, Sir. In view of the importance of the matter before the House this afternoon, would I be in order to request that you pardon the hon. Members in respect of whom you have just ruled that they should not participate in the Business of this House for disobeying the Chair, until such a time they will respect the Chair?

That will give a chance to all hon. Member to say what they have in mind, so that the whole discussion can be seen to be well concluded to the abilities of hon. Members of this House and to the expectations of the people of this country.

**Mr. Speaker:** Very well! That is a very reasonable request. I will accede this time, but all

of you take notice that, that is the fate that will befall you next time you breach the rules of the House. For today, I will take this to be a notice of motion.

**Mr. Raila:** On a point of Order, Mr. Speaker, Sir. I rise pursuant to Standing Order No.71, which states as follows:-

"No Member shall refer to any proceedings of a Select Committee before the Committee has made its Report to the House."

Mr. Speaker, Sir, I do not want to re-visit your earlier ruling. However, this refers to every elected Member of Parliament. There are 210 elected Members of Parliament. That includes His Excellency the President, who is a Member of Parliament for a constituency called Othaya. This Report has not been presented to the House but somebody has purported to be speaking on behalf of the Member for Othaya. The Director of the Presidential Press Service has issued a statement, commenting on the Report which has not been formally presented to the House. So, I seek your ruling on this matter.

*(Applause)*

**Mr. Speaker:** Order! Order! Can I hear him? Continue, Mr. Raila!

**Mr. Raila:** Mr. Speaker, Sir, is the Member for Othaya exempted from the [Mr. Raila] rules of the House, so that other people can be commenting on his behalf on a matter that has not been formally presented before the House?

**Mr. Speaker:** Can I say the following: All hon. Members of this House are equal before the eyes of the rules of this House, and before the eyes of the Speaker. The hon. Member for Othaya has not talked but there are some other people pretending to speak for him. Let those pretenders be warned that they should read the Standing Orders and respect the rules of the House in the same way His Excellency the President himself respects them. So, that should end this matter now!

*(Applause)*

**The Minister for Justice and Constitutional Affairs (Ms. Karua):** On a point of order, Mr. Speaker, Sir. You are aware that yesterday, I raised the issue of newspapers misreporting on what is in the Report. If, indeed, the Standing Orders apply to people who are not parliamentarians, we would expect the media to be warned first for misreporting on the Report. Those responding to the misrepresentation by the media, and to the falsehoods that the President has been implicated in the Report, which is not the case, should not be crucified here.

It is the media and some hon. Members in the Opposition who should be answering to Mr. Speaker. Is it in order that we crucify those who are trying to correct the falsehoods, while we leave the authors of those falsehoods?

**Mr. Speaker:** Order! I did two things here! I am also getting tired of warning the Press to be accurate in reporting parliamentary matters. Just this afternoon during lunch time news, one television station became a seer and reported that the Speaker, Mr. Francis ole Kaparo, will have a hard time this afternoon controlling the debate in the House.

First of all, they are questioning my ability to do a job that I have done for 14 years. Secondly, they are imputing an improper motive on this august House, that it is incapable of deliberating complex matters without being rowdy. I think there is a disease that has crept into our Press which is war mongering. I kindly request the war mongering Press to relocate to a war torn country and have a real taste of it. In the meantime, if I can serve my colleagues Notice of Motion of my intent to ensure that my rulings are obeyed, it is very easy for me to enforce on the Press. All I need to do, if need must be, is that the reporter concerned will have to bring back my accreditation to this Parliament. This is serious. This is also a Notice of Motion that you either behave or go, and

we will get another responsible reporter. Kenyans are tired of war mongering in the Press.

Let us proceed.

**Mr. Musyoka:** Mr. Speaker, Sir, I am sure you know that I have the greatest respect to the Chair, if for no other reason, the fact that I once sat on the Chair for five years.

**Mr. Speaker:** Is that the only reason?

**Mr. Musyoka:** Mr. Speaker, Sir, I gather that I have been gauged that I cannot even attempt to speak on this Motion simply because---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Can I listen to the hon. Member?

**Mr. Musyoka:** Mr. Speaker, Sir, for the record, I want to make it clear that since the tabling of the Report, I have not spoken on it outside this House. But before the tabling, I had occasion to make pronouncements with regard to this very important national matter.

**Mr. Speaker:** Order! Mr. Musyoka, let us begin from the very beginning. On 1st April, and I was going to ignore that because it was Fools Day and I thought the Press was fooling us, thank you very much, you praised me for my ruling. On 2nd April, you said that the Report needed to be prioritised, so as not to blow the little credibility that it holds. I have one more, but I will leave it.

However, everybody is forgiven for today, but take notice that the next time you do that, it will be taken against you. I will have a combination of these things everyday.

Proceed!

## MOTION

### ADOPTION OF PAC REPORT ON SPECIAL AUDIT ON PROCUREMENT OF PASSPORT ISSUING EQUIPMENT

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

THAT, this House adopts the Report of the Public Accounts Committee on Special Audit on procurement of passport issuing equipment by the Department of Immigration, Office of the Vice-President and Ministry of Home Affairs, laid on the Table of the House on Tuesday, 28th March, 2006.

Mr. Speaker, Sir, the mandate of the Public Accounts Committee is clearly stated in Standing Order No.147, which if I may quote, reads:-

"There shall be a select committee to be designated the Public Accounts Committee for the examination of the accounts showing the appropriation of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit--".

The special audit on procurement of passport issuing equipment was laid on the Table of the House on 18th May, 2004, by the Minister for Finance. It was deliberated upon by the Committee from 24th May, 2004 to 5th July, 2004, after which a Report was prepared, deliberated on by the House and rejected on 3rd November, 2004.

Mr. Speaker, Sir, the Committee consulted with the Controller and Auditor-General and the Clerk of the National Assembly on the way forward before taking evidence which led to the preparation of this Report. The Committee consisted of the following hon. Members:- Hon. Uhuru Kenyatta as the Chairman; hon. Joseph Kipchumba, hon. N. Nyagah; hon. Billow Kerrow; hon. Fahim Twaha; hon. Zebedeo Opopo and hon. Charles Keter. Hon. Ekwe Ethuro, hon. Adelina Mwau, hon. Koigi Wamwere and hon. Kembi-Gitura ceased to be Members of the Committee

when they were appointed Assistant Ministers.

The Committee commenced its sittings for the special audit on 7th February, 2006, and held a total of 22 sittings in which various persons who were named in the Report appeared before it and gave evidence. The Committee also decided to take evidence from the former Permanent Secretary of Governance and Ethics, Mr. John Githongo, who now lives in London since he fled Kenya.

In our sittings, we were accompanied by a representative of the Controller and Auditor-General as well as our own Parliamentary staff. In the course of taking evidence, the Committee was faced with certain challenges mainly over the issue of *sub judice* and the fact that the passport issuing equipment project was a security project requiring Presidential consent before public officers appearing before the Committee could divulge certain information or produce documents. However, guided by our own rules as well as the parliamentary practices under the Commonwealth as illustrated by Erskine May, the Committee was able to proceed with taking evidence.

Mr. Speaker, Sir, of late, the Committee noted with grave concern that one hon. Member, Mr. Murungi, who initially declined to be examined, cited various reasons that were not valid and published information accusing the Public Accounts Committee (PAC) of a partisan agenda and lacking in mandate. He also published parts of the HANSARD of the evidence by Mr. Githongo and claimed that parliamentary rules, practices and procedures have no room for a Committee of the House that summons an hon. Member and that he could only be requested.

The Committee has since consequently referred this matter to the Powers and Privileges Committee for further action. It is important that he, eventually, agreed to appear before the Committee. However, he referred it to the provisions of Section 17 of the National Assembly (Powers and Privileges) Act and the fact that the Kenya Anti-Corruption Commission (KACC) was investigating the same matter.

Mr. Speaker, Sir, as I begin, I would like to take this opportunity, first and foremost, to express my gratitude and thanks to all the hon. Members of the PAC for both their patience and the fact that they sacrificed a lot of their own personal time to ensure that this Report was completed. They endured long sittings and sacrificed in many cases the interests of their own constituents during the period of taking evidence and compiling this Report.

The Committee would also like to thank all the witnesses who appeared before it, especially Mr. Githongo who was willing to give evidence when he was alleging that he was receiving threats from powerful personalities.

*(Applause)*

Mr. Speaker, Sir, the Committee would also like to record its appreciation for the services rendered by the Office of the Controller and Auditor-General and, indeed the procurement of passports issuing equipment which also led to the discovery of other Anglo Leasing related type projects.

The Committee would also wish to record its appreciation for the assistance given to it by your office and that of the Clerk of the National Assembly. The procedural advice given by those offices and the facilitation rendered by the staff of the National Assembly and the Office of the Controller and Auditor-General, as well as their devotion to duty have contributed a great deal to the production of this Report.

Finally, I would also like to thank the High Commissioner of Kenya and the staff of the High Commission in London for facilitating the sittings of this Committee in London as well as for all other courtesies that were extended to this Committee.

Mr. Speaker, Sir, as I move this Motion, I would like to briefly touch on a number of issues. As you have reported, not only this House but Kenyans at large have awaited this Report with a lot of eagerness and patience. You have indicated that the debate on such a critical issue

should neither be politicised nor be the cause of division in this House.

A lot of negative aspersions have been cast on hon. Members of my Committee during the cause of evidence taking. From the very onset, I would like to assure both the Chair and the House that the only concern and interest that our Committee had was to fill its constitutional mandate; that of ensuring that public funds are utilised in the best interest of the taxpayer and the 30 million Kenyans at large.

Mr. Speaker, Sir, I would like to give a short historical background. This Committee was informed that in the year 2000, the Immigration Department, which was then under the Office of the Vice-President and Ministry of Home Affairs, realised that its systems were not functioning to expectation. A Special Audit was carried out on this particular issue by the Controller and Auditor-General on 28th April, 2004. A number of very critical issues were raised in that Report. Key amongst those issues that were of concern to the Committee then were the introduction of financing funds into Government procurement, the inflation in price of these contracts, the use of single sourcing as a key component for security related procurement and the circumvention of the budgetary process for security related procurement.

This House will recall that the Report, after deliberations in this House, was finally rejected following the expunging of the name of a former Minister for Finance from the Report, thereby eliminating political accountability or culpability in the saga.

*(Applause)*

Towards the end of last year, new evidence, what is today more commonly referred to as the "Githongo Dossier" was widely circulated in the media. This evidence not only seems to implicate political culpability but also revealed that the passports issuing scandal was only but a tip of the iceberg. In its wisdom, the Committee decided to take up the matter once again.

Mr. Speaker, Sir, before I get into the details of this particular saga, I think it is important that I briefly elaborate on what we refer to as Anglo Leasing for clarity of this House. Anglo Leasing, as we have taken it as a Committee, is not a particular individual. Anglo Leasing is not even a company, in as much as it is a company. Anglo Leasing is a system that has been used to systematically fleece the taxpayers and the Kenyan public under the guise of security.

*(Applause)*

Mr. Speaker, Sir, this is a system which, if not brought to check, will continue to rob this nation of the much needed resources that could be used to better the lives of millions and millions of Kenyans.

Mr. Speaker, Sir, to get to the root of anything, one must start at the beginning. Records and testimonies made available to the Committee trace the origins of the Anglo Leasing related projects back to the year 2001. When pressed for cash, following the suspension of donor support and growing insecurity, the Cabinet at that time held a meeting on 27th, July, 2001 and approved the following:-

Mr. Speaker, Sir, the Cabinet approved the use of lease-financing as the appropriate mode of funding high priority projects in the area of housing, transport and forensic laboratories. Secondly, it approved the use of supplier credits for essential security equipment and supplies.

Mr. Speaker, Sir, under that general approval, began a scam; a scam involving a few businessmen, politicians and civil servants. That scam involved over 18 different contracts worth well over Kshs55 billion, signed between 1997 and 2003. As indicated in the annex of our Report, out of those projects, two were signed before that Cabinet approval. A further ten projects were signed prior to December, 2002, and eight more were signed after July, 2003.

Mr. Speaker, Sir, the Anglo-Leasing related projects represent three of the most prominent

characteristics of corruption in our country. They represent impunity, negligence and recklessness in the management of public resources. They also represent the regrettable feature of lack of responsibility and unaccountable conscience on the part of those charged with the management of national resources that are put under them.

Mr. Speaker, Sir, for all those past years, the country has been unable to confront corruption fully, from its foundations. Those who are corrupt have hidden behind their political parties and tribes to evade action. Again, in the past, it is very clear that it is the civil servants who have borne the brunt of our so-called anti-corruption crackdowns.

Mr. Speaker, Sir, I have said that, that is a scam! It is a scam because the basic understanding of what was meant by the use of lease financing to a layman is the fact that, because you are short of cash, you go to a financial institution that specialises in lease finance, pay your commitment fee and other up-front payments and, then, take delivery of whatever goods or services you require. Upon taking delivery of the goods and services, and as you continue to enjoy them, you are, thereafter, committed to making your monthly payments plus interest until such time that you have paid your dues to the financing entity in full. In short, it is the financing entity that takes the risk. It provides you with goods and services and for that, they earn some money by charging an interest. That, to us, is our understanding of lease financing. Dare I say that none of that was evident in any of those Anglo Leasing related projects!

Mr. Speaker, Sir, despite commitment fees being paid; despite the fact that, payments were being made on a regular monthly basis, the Government did not receive the goods and services that it was supposed to be enjoying. The Government did not receive the benefits that it was supposed to receive under the financing arrangements.

In a nutshell, what was happening was that, lease finance companies, many of whom we are yet to prove their actual existence, sprung up and merrily acted as middlemen. They merrily acted as middlemen, signed contracts with the Government, received funds from the Government and, in short, slowly passed on some of the money to legitimate suppliers. The suppliers, since they were not part of the initial deals said: "We want our money before we deliver!" So, we continued to pay. The so-called finance companies would hive off their chunk and pass it on. In a nutshell, the Government was financing itself through a middleman. The Government was paying interest on its own monies.

*(Applause)*

**An hon. Member:** *Toboa! Toboa!*

**Mr. Kenyatta:** Mr. Speaker, Sir, that said and done, as was indicated when we first presented our Report, these kind of scams cannot take place without some form of political culpability.

*(Applause)*

Mr. Speaker, Sir, we have witnessed many charged before courts of law with some of what we are discussing today. However, the truth of the matter and actually the reason I believe that this House in its wisdom chose to reject the last Report is that we found it difficult to believe that this could have taken place with some junior civil servants and some unknown businessmen being the culprits.

Mr. Speaker, Sir, this Committee notes that that third leg in the stool; the third leg that was missing in the first Report, was provided by Mr. John Githongo in his evidence. In his evidence which I shall elaborate on a little further, Mr. Githongo made it abundantly clear to us that all along there were indeed those within Government who knew of a lot of the issues that before us and before Kenyans we were consistently told no information was available. It was clear to us as a



Committee that the businessmen behind some of these contracts were well-known to members in Government. It was clear to us that those individuals were indeed in league with senior members of Government.

Mr. Speaker, Sir, I would like to give a bit more details as to exactly how these kind of scams were taking place by giving a detailed description especially on the one before us which is the passport issuing project. As you will notice, all the other projects that fall under the guise of security, first and foremost, started with identifying a need. There had to be a need. As opposed to trying to satisfy that need, what seems to have happened is that the need was used to create a project.

Mr. Speaker, Sir, if I may refer back to the Report, it may be noted that in a letter dated 18th October, 2001.

**Mr. Speaker:** Hon. Kenyatta, could you point out to the House which page it is contained?

**Mr. Kenyatta:** Mr. Speaker, Sir, it is on page one of this Report. It states:-

"The Department of Immigration requested the Ministerial Tender Committee in the Office of the President for authority to procure a passport issuing system through restricted tendering citing the security nature of passports and the issuing system. This was supported by the Ministerial Tender Committee".

As you will see, a number of firms were invited to tender namely, De La Rue Identity Systems of the United Kingdom, AIT International PLC of the United Kingdom, Face Technologies of South Africa, Setec OY of Finland, and Johannes Enschede of Netherlands. Three out of these five firms responded and after their tenders were considered for having met both commercial and technical requirements of the tender at a quoted price of Kshs622,039,944.65. That was the project that was identified. That was the need that was identified by the Department of Immigration. It is important to note that fact.

Mr Speaker, Sir, in a letter dated 20th August, 2002, the Department of Immigration sought authority from the Permanent Secretary, Office of the President to procure the system in the year 2002/2003. The Department of Immigration indicated that it was prudent to modify the specifications of the system to allow for a phased implementation over a period of several years. That happened after the first tender was rejected not on the basis of need but rather on the basis that there was no budgetary provision in the estimates of 2001/2002.

Mr. Speaker, Sir, once again, a number of firms quoted and the quotes are referred to on page 2 of the Report. Somewhere along the line, information that has been made available to our Committee firmly indicates that it did not originate with the Department of Immigration but somewhere along the line it was decided that this project needed to be expanded. This project, with the consultation of various Government bodies including the Government Information Technology Service (GITS) Treasury and the Department of Immigration was expanded. Apparently as indicated, it was realised that the cost of the proposed system would be high and the funding would not be available. It is on record that our Committee was told that the Department of Immigration insisted that as much as they may not have needed this expanded system, no other country in the world actually had a system such as was being designed for Kenya.

*(Applause)*

Mr. Speaker, Sir, that notwithstanding, on 1st April, 2003, a firm by the name of Anglo Leasing and Finance Limited supported now, not with the Department of Immigration but with the Permanent Secretary, Office of the Vice-President and Ministry of Home Affairs, what appears to be an unsolicited technical proposal for the supply, installation of an immigration security document control system which in its proposal the firm indicated---

*(A mobile phone rang)*

**Mr. Speaker:** Order! Whose phone is ringing? Own up please! Put it off! We are on a serious business! I am sure hon. Kenyatta would have done a lot better without interruption. Proceed!

*(Applause)*

**Mr. Kenyatta:** Mr. Speaker, Sir, I am just trying to figure out where I was before I was interrupted.

**Mr. Speaker:** Mr. Kenyatta, the cause of all that is the ringing of that mobile phone! Please, proceed!

**Mr. Kenyatta:** Mr. Speaker, Sir, they were prepared not only to supply and install the system through its sub-contractor, Francois-Charles Obethur Fiduiare of Paris, but they also submitted alongside, a proposal for financing. It is not clear to any of us how this firm, Anglo Leasing and Finance Company Limited provided this information since it seemed completely unsolicited.

Mr. Speaker, Sir, secondly, it was not clear to this Committee how Anglo Leasing and Finance Company Limited managed to fit to the button requirements that had been made by the committee that had been set up. I am sure, you have noted that we have moved from the previous restricted tendering process to one single firm giving a quotation. That quotation was also accepted by the Government. This is also the introduction of single-sourcing in Government procurement.

Mr. Speaker, Sir, with that introduction, what seems amazing is that to the best of our knowledge, the issues of financial management of Government resources are the preserve of the Ministry of Finance. As such, the Minister for Finance is the only executive Minister that we have in the Kenyan Government. However, for one reason, or another, it now became the preserve of the procuring Ministry to hold discussions with, and I will continue to refer to them, as the so-called financing firms. To us, this was a complete breach of the financial regulations of the Kenyan Government.

Towards this end, begins another mystery. A mystery because as we continued to carry out our investigations, we would sit with the group and a number of witnesses from the procuring Ministry and we would be told: "Well, financial procurement is the preserve of the Ministry of Finance. So, do not ask us any questions on this particular issue. Address these issues to the Ministry of Finance or the Treasury." In calling the Treasury, we were told: "No, that is not the case, the procuring Ministry was responsible and charged with those particular agreements." Therein begins the confusion that we saw and continued to see while trying to pin down who was responsible. However, the answers that we got were a ping-pong match between one Ministry and the next.

Mr. Speaker, Sir, to make matters even worse, from what we have observed, no contract can be entered into without the consent and approval of the Attorney-General of the Republic of Kenya. We saw these finance agreements pushed, as I said, from one Ministry to another, finally to the Attorney-General's Chambers for comment. It became abundantly clear to us that even basic issues, that even an individual buying a piece of land or procuring any item would take into account, the Government of Kenya did not take into account issues such as trying to identify the person they were paying money. This was never done from the very beginning.

Mr. Speaker, Sir, what shocked us was that, even within the Attorney-General's Chambers, we were told that is not the preserve of the Attorney-General, but rather he joined the ping-pong of saying: "That is the responsibility of the procuring Ministry."

In short, what am I saying? I am saying, to the amazement of our Committee, that a project that was initially supposed to cost the Kenyan Government, Kshs600 million miraculously developed to be a Kshs2.7 billion project. More interesting is that nobody, despite the amount of

money we are talking about, can tell us how that contract was actually signed.

According to the evidence given before us, senior politicians and civil servants denied the fact that they had even heard of Anglo Leasing and Finance Company Limited. Many did not even know where the agreements were signed, according to what they told us. We found it incredible that even in talking to the Treasury, we were told that signing a contract involving Kshs2.7 billion is an everyday affair, and that people can just sign it blindly without knowing what has been presented before them. By any standards, Kshs2.7 billion is no small amount of money.

Mr. Speaker, Sir, we have made a number of recommendations that we hope will strengthen some of these institutions to ensure, and I will get to that later on, that this ping-pong that we saw will never happen again in Kenya.

I would like to move on to another area, which, to me, is most important. You will recall that I said that this House, in its wisdom, threw out the first report on the basis of expunging of names. The evidence that we received from Mr. Githongo finally gave this Committee the last leg in our stool that completed the circle; a circle involving businessmen, senior civil servants and politicians in our country, who have all along denied these claims by saying they were not aware. Actually, they knew what was going on. Mr. Speaker, Sir, Mr. Githongo told us that he was appointed in January, 2003 to be the advisor to the President on matters relating to corruption and integrity. He made it very clear to us that the President said that this was an issue that he held in high regard and, as such, he was responsible and answerable directly to His Excellency the President.

Mr. Speaker, Sir, the evidence given to us indicates that Mr. John Githongo briefed His Excellency the President regularly on matters related to corruption. Actions taken by His Excellency the President also indicate that he was regularly briefed by Mr. Githongo. We saw some senior civil servants being dismissed by His Excellency the President. We have seen actions taken as a result of information made available to him by Mr. Githongo. This made us believe the authenticity of the other allegations he made against a number of senior politicians. Mr. Githongo was in regular contact on these issues with His Excellency the President. Evidence given to this Committee both orally and via audio tape conversations indicate that there was awareness of this matter in some senior Government circles. This Committee went into great length to ask Mr. Githongo why he took it upon himself to---

**Mr. Speaker:** Mr. Kenyatta, I just want to seek some clarification. Could those tapes be available to the House? Could they be made available to the HANSARD?

**Mr. Kenyatta:** Mr. Speaker, Sir, absolutely, yes. They are actually with the HANSARD Division.

*(Applause)*

In fact, it is not only the tape recordings that are available, but your HANSARD Division also actually has transcribed those tapes. So you can actually get the transcripts of those particular tape recordings.

Mr. Speaker, Sir, the Committee inquired from Mr. Githongo why he found it necessary to tape his colleagues. Mr. Githongo told us that he did so after he informed His Excellency the President about it. He did it because of the nature of what he was about to do. He said that it was because it would have been his word against the word of all those he was naming. He had to have some form of evidence that would actually prove his case. If he could have gone public, it would have been his word against the words of those whom he was naming.

Despite arguments that we have heard in the media, our Committee is of the opinion that those tapes contain conversations between Mr. Githongo and Hon. Murungi. The issues that we are debating today were deliberated on in the Government in those days. All this information is available on record for this House to peruse at its own time.

What came to us through the revelations of Mr. Githongo is that there were, indeed, some senior politicians who were aware of what was going on in some of the Anglo Leasing projects. Some of them went out of their way to try and sway Mr. Githongo from his pursuit of this particular agenda. This agenda was defeated on the Floor of this House when the PAC tried to say that there was some political culpability. It is clear to us that Mr. Githongo was intimidated in various ways by some politicians.

Finally, a document was produced to us. This document is available to this House. After many long months of searching by Kenyans, including those of us in the PAC, for who were behind certain companies, a document that clearly indicates who was behind every contract was availed to us. Names were known. Why would individuals go to great length to protect individuals if they were not involved in a scandal?

Mr. Speaker, Sir, I wish to refer to one particular individual, whom everybody claimed they did not know. In some of the evidence we have taken a man by the name Mr. Melvyn Kettering kept resurfacing. There were claims that this individual was not known. But it was revealed to us that there were some people who were familiar with Mr. Kettering. When the issue of who Mr. Kettering was raised by His Excellency the President, all those people who knew him claimed that they did not know him, thereby causing the President to instruct Mr. Githongo to investigate and find out who he was. Why did individuals go to such great length to hide the identity of such an individual, if they were not party to whatever that individual was doing?

Mr. Speaker, Sir, Mr. Melvyn Kettering, as you will see from our report on page 56, is a director of Dynatech International. This is a company that was involved in the computerisation of the Treasury. You can see that he was also a consultant for LBA International of Scotland, a company which is involved in the procurement of a communication system for the Prisons Service. The same company, of which he was a director, shares addresses with other Anglo Leasing affiliates such as Anglo Leasing Finance Ltd itself. It also shares the same address with Forensic Science Laboratories Inc., and the Sound Day Corporation. Consequently, what the Committee was able to determine was that this is a scam that has been going on, and, we believe, still is going on. We believe more is known about it than has been made public to this Committee, and to the nation at large.

Mr. Speaker, Sir, last but not least, the most amazing thing Mr. Githongo informed us was that during the process of procurement of passports, he warned that Anglo Leasing was a company whose directors had previously been involved in other such corrupt practices. No action was taken, purely on that decision alone. It was also clear that companies that deal with procurement of passports are not many as people may say. They are few. As you will see from the illustration at the end of our Report, page 55, of the 18 contracts, Mr. Githongo was able to link the 18 projects to three individuals in particular, namely; Messrs. Anura Perera, Amin Juma, Deepak Kamani and relatives. There are many relatives of Mr. Kamani mentioned there. All those projects were handled by the same individuals. It is, therefore, clear to us that this was not just a one-off thing. This was something that was developed over time and a lot of thought and energy were put up to create a system to continue robbing this country blindly. I have no fear in saying that those individuals have no loyalty to this country but to themselves. They existed in the previous Government and exist in the current one. Unless this House takes appropriate action, they will continue to exist even in the Governments to come.

*(Applause)*

Those individuals and the system is what our Committee, through its recommendations, is asking this House to uproot. Our Committee is not just asking for those individuals to be uprooted, but saying that we can no longer continue to throw away our issues of corruption to some junior servants. Time has come for us as a nation, to begin taking political accountability for our actions.

Mr. Speaker, Sir, a lot has been said and will continue to be said. However, what is clear and the simple truth is that, unless this House decides to take action and sets aside simple political gains of political expediency; and continues to say that corruption is a factor of yesteryear; without recognising that corruption exists today, and will continue to exist tomorrow; and unless we, as Parliamentarians, put up the necessary structures to prevent this kind of thing happening in future, we will see no end to the corrupt on-goings. My colleagues, whom I will also give a chance, will elaborate to this House, in a lot more details than I have, the failings, intentional or otherwise, of the procuring Ministry and those of Attorney-General's Chamber. I want to say it on record, with all due respect to the Attorney-General of this Republic, that when he tells us that the Government's financial regulations that spell out specific duties for various departments and Ministries are actually practised, to use his own words, more in observation than in practice; who then is protecting the citizens of this land? When you hear senior Government and Treasury Officials, including the Minister, saying that the amount of work they have is too much, and papers are slipped in their offices requiring the signing out of Kshs2.7 billion, only for them to say that they did not realise what they were signing and they were misled, such individuals should not be sitting in executive positions because, finally and ultimately, the buck must stop somewhere.

Ultimately, with great deal of respect for my father and senior politician of this country, the hon. Vice-President and Minister for Home Affairs, although we are not investigators, either knowingly or unknowingly, whatever the case might be, we do not know and that is for investigators to tell us, he told us that Anglo Leasing was an entity that he did not know. Evidence adduced before our Committee indicates that he had knowledge of Anglo Leasing. We are not concluding that his knowledge of Anglo Leasing means that he was involved in it; that is not for us to conclude and it is not the business of this Committee or for that matter, of this House. However, it is important that those bodies charged with the responsibility of investigations tell us, and the nation, why that was the case. In my heart of hearts, I pray that the hon. Vice-President and Minister for Home Affairs did so because he was misled by his officials. But that is neither for me nor for this House to decide. But in our recommendations, we have said that this is not about the hon. Vice-President and Minister for Home Affairs. It is not about the former hon. Minister for Finance or for any hon. Member in or outside this House. This is about bringing to an end, a system that has continued to fleece our nation of much needed resources.

As I conclude, I would like to touch briefly on some of the recommendations and why they were arrived at. As I said, it is not for us, but for the relevant bodies which are charged, to further the investigations. It is up to them to go through the information that we have and any other information they may have so that ultimately, we may have accountability. We have also stated - I am sorry to go back slightly - on the Floor of this House, it has been stated severally that a number of those contracts have been cancelled. Information made available to us is that those contracts have been cancelled in "words". However, the legal process is yet to be cancelled. What, therefore, does that mean? That means that as we stand, today, Kenyans stand liable to pay billions of shillings for production of nothing in terms of penalties and other things. Our recommendation is that the Attorney-General's Chambers should take the necessary legal action, not just to terminate this particular project, but to eliminate all those other contracts in a legally binding fashion so that we can save this Republic and its people of this money.

Mr. Speaker, Sir, we have also stated that in future, no finance agreement can be signed before the relative Minister and Accounting Officer of the procuring Ministry, the Attorney-General and the Treasury are satisfied that due diligence has been done on the supply and financing company. Equally, no payment should be made before due diligence is done, because that is another area in which we need to elaborate on.

Mr. Speaker, Sir how was this done? The procuring Ministry goes and signs a contract and a finance agreement, which is then taken to the Debt Management Section at the Treasury. Do you know what the Debt Management Department does? It opens its debt book and listed there is

Anglo Leasing debt, showing that the payment of US\$3 million is due. Without even cross-checking with the procuring Ministry, they will just proceed to pay, why? Because that is part of our national debt. That is a debt that has never been approved by this House and which has been secured circumventing the budgetary process, once again under the guise of security. This security has caused Kenyans more because as we look, it is no wonder our police have poor housing and equipment.

*(Applause)*

Mr. Speaker, Sir, as it will be proved in later contracts, we are paying three times the cost of an item. For example, the police helicopters that were purchased, we paid three times what other countries like India and Pakistan actually paid. It is clear to all of us. I acknowledge that all those contracts are there in the Report and that particular contract was signed, I think, in 2001. It is clear and it is a fact. That would have meant that had we paid the right prices, every single province in this country would have a police helicopter.

*(Applause)*

Those needy areas where rapid reaction is necessitated and where people are losing their lives, we would be having policemen on the ground to secure the lives of Kenyans. But those lives are not being secured because a few individuals have pocketed that money.

**The Minister for Water and Irrigation** (Mr. Katuku): On a point of order, Mr. Speaker, Sir.

**Hon. Members:** No! No!

**The Minister for Water and Irrigation** (Mr. Katuku): On a point of order, Mr. Speaker, Sir, I hate to interrupt hon. Kenyatta, who is moving this important Report. But hon. Kenyatta has said that one of the contracts was signed in 2001. I have read this Report and I have not seen any recommendation touching on those who signed the contract then. Is the hon. Member in order to---?

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Order! Mr. Katuku, were you in this House when I gave the general direction of debate this afternoon? If you were not here, please, learn to consult.

**An hon. Member:** He was not there!

**Mr. Speaker:** Order! Order! Mr. Katuku, the issues we are dealing with today are not as simple as you want to put it. It is not whether or not theft by KANU is better than theft by NARC. It does not matter because it is the business of this House to stop corruption either by the past, or the present or the future governments. That is our business!

*(Applause)*

I hope you get it right, thank you. Let the debate continue.

**Mr. Kenyatta:** Thank you, Mr. Speaker, Sir. May I, if you will allow me, answer him in one specific issue that is contained in my Report. The fact that a Ministry in which he is the Minister is actually holding this Committee's work because the audit Report for the 18 projects we are referring to in this Report were actually submitted to his Ministry a long time ago. Why has he not laid those Reports on the Table so that we can deliberate on them?

Mr. Speaker, Sir, the issue here, as you have correctly stated, is not about an individual, and I stated that from the very onset. This is not about the Government today or the Government

yesterday. This is about the lives of 30 million Kenyans and the resources that are put to their disposal, which are currently being misused by a few individuals. This is what this House must put an end to!

Mr. Speaker, Sir, you asked for maturity and I have tried to have that maturity that you asked for. In our recommendations, we have said that the use of promissory notes as a means of financing Government expenditure should be restricted and vetted to avoid misuse. We said that because there was no financing that these firms were providing. It was the Government financing itself. How was the Government financing itself? It would issue promissory notes that these fictitious companies would go and secure credit on our guarantee and continue to supply us with whatever it is that they were doing. We have said in this Report here that the system of issuing promissory notes and incurring debts needs to be brought under control and clear supervision of this House.

When the Minister for Finance is presenting the national Budget, he must present to Parliament a complete list and an explanation of all those debt items.

Mr. Deputy Speaker, Sir, the Accounting Officer in charge of internal security should ensure that security equipment is categorised. Why do we say so? It is because a loophole was found in the procurement process of security equipment. We saw it being used even in the procurement of postal and communication systems equipment. What is of a security nature in acquiring a VSAT machine? We also saw it being used in the procurement of meteorological equipment. What is of security nature in knowing whether it will rain or not? We, therefore, need to categorise security equipment in order for us to ascertain the degree of secrecy required in the procurement process. Mr. Deputy Speaker, Sir, perhaps, this will satisfy hon. Katuku. We have also recommended in our Report that since the Controller and Auditor-General has audited all the 18 security-related contracts, the Minister for Finance should ensure that the audited Reports are urgently laid on the Table in this House.

We have also stated that for far too long, this country has been fleeced under the guise of acquiring security equipment. We have given a lot of authority to civil servants who have been elected by nobody. They are just appointees of individuals like you and me.

Mr. Deputy Speaker, Sir, it is also true that there are Members sitting on the Front Bench on the Government side who have, as part of their duties as Government Ministers, taken an oath of secrecy and are hence entitled to look at some of those secret documents. Our Committee, therefore, in full acknowledgement that the 222 Members of Parliament are potential Ministers, recommends that a Committee of this House be formed and also be subjected to the oath of secrecy. Such a Committee will, on behalf of this House, be responsible for investigating and looking into all security-related issues so that we ensure that there is accountability and transparency.

*(Mr. Omingo gave Mr. Kenyatta  
a glass of water)*

That is my former Chairman, and I thank him.

Mr. Deputy Speaker, Sir, we have also recommended in our Report that the Standing Orders Committee, which we understand has not met for a long time, must urgently ensure that Standing Order No.161, which prohibits premature publication of evidence, is re-examined. Why have we recommended this? It is because we Members of Parliament have been constantly accused of talking to the media and leaking information to it.

Mr. Deputy Speaker, Sir, I wonder why it should be viewed that way and yet we have already agreed that we should have live broadcasts of the proceedings of this House. Let the Standing Orders Committee sit and review our Standing Orders so that, once and for all, we can let the public learn what is rightfully their information without always having to beat around the bush

when required to address critical issues.

The Attorney-General should move quickly and bring to this House Bills that will allow for stiffer penalties on officers who fail to adhere to the laid down laws and financial regulations and procedures when sourcing goods and services on behalf of the Government. I have already mentioned of a consistent ping pong that existed with regard to finding out who was responsible for all this mess. Why should responsibility and accountability keep shifting and yet there are clearly laid down rules and regulations which govern procurement and financial management in our country? When we asked, we were told: "Practise more in observance rather than in practice." We demand that those who may wish to continue to practise more in observance should meet with the full force of the law. This House needs to pass such laws so that such practices are finally put to rest. By doing that we shall ensure that officers are bound by rules and regulations that are passed in this House.

We have also recommended that the Kenya Anti-Corruption Commission (KACC) should hasten its investigations and make its Report public as soon as possible. We cannot continue talking about corruption forever. Let us put this monster to rest once and for all. There are more urgent issues that this House ought to deal with. There are more urgent issues that this nation desires to be addressed. Let us stop using KACC as a tool of hiring individuals or whatever the case may be. We need to take action and put this matter to rest once and for all so that we may focus on more productive issues.

*[Mr. Deputy Speaker left the Chair]*

*[Mr. Speaker resumed the Chair]*

Mr. Speaker, Sir, all major Government projects, whether security-related or otherwise, and of a certain magnitude, must receive Cabinet approval. As a Committee, we found it incredible to be told that Kshs2.3 billion or more could be signed out so easily and yet when officers responsible are asked to explain, all they could say is: "I did not know of it. I was misled." It is, therefore, the Committee's view that projects of a certain magnitude must receive Cabinet approval. The Cabinet must be briefed about such projects. By extending the number of people who are aware of what is going on, we will be able to reduce the capacity of a few individuals who might try to use this loophole. That accountability will create greater transparency.

It is clear, in our Report, that in all the 18 security-related projects an incredible US\$800 million plus which is about Kshs62 billion or 20 per cent of the gross expenditure of the Kenya Government in a year, was fleeced. It will shock you as it shocked the Committee that that expenditure was incurred without due approval of this House through the budgetary process. It is you, Mr. Speaker, Sir, who reminded us the other day that one of the key responsibilities of this House is to go through the Government's Budget. No further contract, security-related or otherwise, should be approved outside the budgetary system. That should be brought to an end.

The Controller and Auditor-General audited all the 18 Anglo Leasing and Finance Company security-related projects. This Committee requests the President to give exemption to all public officers from Section 18 of the Kenya National Assembly Powers and Privileges Act so that this House, through its PAC, can, indeed, look into those details without having to be consistently told that, "I cannot answer that question because I have not been given authority." There is every good reason to do that.

Mr. Speaker, Sir, we also state that all other recommendations that had been included in our Report be incorporated as part of the recommendations that will be passed by this House. For some of us it has been a very trying time. It has been a very trying time for myself. I would also in this regard like to acknowledge the Chief Whip of Government. It has been a very trying time because accusations have consistently been made by one side or another that we have interests or no



interest.

For the record, I was once on the Government side of the House. When I was on that side of the House there did exist a Public Accounts Committee (PAC) with a constitutional mandate. It was not a PAC for the current President, His Excellency, President Mwai Kibaki. Today I have that responsibility as the Leader of the Official Opposition to Chair the PAC not, on behalf of KANU, but on behalf of the alternative voice in this House. Let us learn that those responsibilities will continue to shift from one side to the next. In another term, we might be on that side of the House and you will be on this side of the House.

Mr. Speaker, Sir, let us mature to the point where we can understand that this is not about one individual or one government versus another. The role of ensuring that public funds are used in the best interests of Kenya will last for perpetuity. We should avoid making personalisations and accusations that are baseless. Ultimately, I believe that we were all elected to this House to ensure that Kenyans are given the best that they can get from whichever side of the House.

I urge my colleagues on both sides of the House that we rise above sectarian and partisan interests and debate this Report earnestly. We should not try to be investigators because we are not. We should accept that we have a problem that we need to rectify. We should exude a sense of patriotism as we debate. This Report should not be treated as a basis for acrimony or animosity amongst us. This is an important opportunity for our country to rid itself of a monster that we have consistently talked about. This is also an opportunity for the Government to walk the walk in its tough talk on corruption. Take that positively.

Mr. Speaker, Sir, let us send a very strong message to all Kenyans. Let this House send word to the whole world about our commitment as an institution called Parliament, to fight corruption honestly and in earnest. Let us look at this Report and find out where further investigations are required and if that is the case, let them be carried out. Whoever is found to be guilty, including myself, should face the full force of the law because that is the only way we will begin to get political accountability in our nation.

Let us not look at each other as adversaries. Twenty percent of our budget which is Kshs60 billion was misused. Let us imagine what we could do with that amount in our constituencies in terms of building roads, hospitals and schools. We would also have used that money to provide proper infrastructure so that investments can grow in this nation and our millions of unemployed can find employment, hope and faith in their nation. That should be the attitude that we adopt. As I beg to move, that is why I request 222 hon. Members of Parliament to support this Report and let this nation move on.

I beg to move, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Kenyatta, do you have a preference for a Seconder?

**Mr. Kenyatta:** Yes, Mr. Speaker, Sir. I would like to request Mr. Kipchumba who has acted as a Vice-Chairman in our Committee to second this Motion.

**Mr. Speaker:** Mr. Kipchumba, take the Floor with the experience and sobriety of the Leader of the Official Opposition and the Chairman of the PAC in delivering this Report. I expect you to follow suit.

**Mr. Kipchumba:** Thank you, Mr. Speaker, Sir. I also have the experience of being in this Committee for the last two terms. It will be very difficult to talk after the Leader of the Official Opposition has given such an eloquent and detailed account of the Report.

Mr. Speaker, Sir, in seconding the Motion, I want hon. Members to understand very clearly the genesis of the second Anglo Leasing Scandal. The initial Anglo Leasing Scandal cost an initial sum of Kshs600 million. That is what I would like to deal with mainly. Page 4 of our Report, No.38(c) states very clearly:-

"The request for direct procurement by the Office of the Vice-President and Ministry of Home Affairs and the approval of the same by the Treasury arose as a result of receipt of a proposal from Anglo Leasing and Finance Company and, was

therefore, meant to ensure that the contract was awarded to the firm."

Mr. Speaker, Sir, that was the genesis of the problem. That is why I would like to move to the Ministry of Finance. You will realise that most of these problems revolve around the procuring Ministry and the Ministry of Finance. The Minister for Finance is an executive Minister. Single sourcing was approved by the Minister for Finance well aware that the previous project was under restricted tendering. We, therefore, fault the Ministry of Finance and the Minister for Finance for approving single sourcing for this project, while aware that there was restricted tendering on the same. The Minister for Finance cannot escape blame.

Secondly, since this financing was approved, no goods or services were delivered. Finance people are aware that in lease financing, goods and services must be delivered before payments are made. To the extent that lease financing was used and the Ministry of Finance was unable to ascertain whether goods and services had been delivered and continued to convert the money into a public debt was, indeed, an abdication of the responsibility of the Ministry. We are all aware that the role of the Treasury is to source for funds on behalf of the Republic of Kenya. However, they abdicated that responsibility and left it to the Ministry of Home Affairs. Therefore, we fault the Minister for Finance in that regard.

Mr. Speaker, Sir, this project was given a warranty of only 12 months. You are all aware that even your car which costs about Kshs1 million or Kshs2 million has a warranty of about one year. A project of Kshs2.7 billion being given a warranty of 12 months is an abuse of the systems that exist in the world. The CBK which has experience in financial matters was excluded in negotiating for this contract.

Clause 31 of the CBK Act says clearly that, in procuring all debts the CBK must be involved from the beginning to the end. If you look at this case, the CBK was clearly excluded and this to us was probably intentional. To that extent, the CBK subsequently wrote many letters to ascertain whether all the 18 projects were, indeed, payable. The Permanent Secretary and the Minister for Finance never responded to those letters. To that effect, we would like to fault the then Minister for Finance, Mr. Mwiraria, for abdicating his responsibility.

Mr. Speaker, Sir, at this juncture, we would like to laud the former Governor of CBK. He went out of his way - we are not even sure what happened to him - and ensured that those letters were, indeed, delivered to Treasury.

Mr. Speaker, Sir, I would like to talk briefly about the Attorney-General of the Republic of Kenya. He has never won any case in this country.

*(Applause)*

If you look at the history of the Attorney-General, it is unfortunate! I am yet to know whether he has won any case! He lost all the cases that came before the Public Accounts Committee (PAC). If you look at the reasons that were given to us, the Attorney-General abdicated his responsibility. He was very keen to give a legal opinion to the financiers. But, unfortunately, he failed to assist our own procuring departments to get sound contracts. If you look at the contracts that were signed, the legal opinions and amendments that were given by officers in the Attorney-General's office were not subsequently incorporated into the final document and yet, the Attorney-General's office allowed the procuring Ministry to sign the contract. To that extent, we find out that the Attorney-General has not done his work to the satisfaction of this country.

Mr. Speaker, Sir, when payments were being made, promissory notes worth billions of shillings were given out. In a lease financing agreement, it is prudent to use a Letter of Credit (LC) It should have been the preferred mode of payment. To the extent that promissory notes were given out and the Attorney-General was aware that it was a lease financing--- There was even no performance bond that was given for that particular project! To that extent, we find the Attorney-General either incompetent or did not care about the repercussions of the contract.

Mr. Speaker, Sir, the legal opinion was meant to satisfy the suppliers that, indeed, the highest legal authority in the land had certified that the people who signed the contracts were bound by the law. I would like hon. Members to understand that, when we were interrogating the witnesses, Mr. Oyula, who was the Financial Secretary at that time, was ordered by our Committee to refund the funds. It took him only two days to bring those promissory notes to the Committee. If, indeed, that company was in London, it would be impossible for somebody to deliver original promissory notes in two days. That pointed to us that, indeed, people working at the Treasury, including Mr. Oyula, himself, were well aware of the principals of Anglo-Leasing.

*(Loud consultations)*

**Mr. Speaker:** Order! I think you are interested in hearing what Mr. Kipchumba is saying. Please, let us listen! Let that be our attitude and culture; to listen to one another.

Proceed!

**Mr. Kipchumba:** Mr. Speaker, Sir, I was saying that Mr. Oyula, in his testimony, said that he was ordered by Mr. Mwiraria to ensure that those funds are refunded immediately. When you go to a certain officer and order him to ensure that money is refunded and, indeed, it is refunded---

There was no correspondence to show that there was a legal tussle between Anglo-Leasing and Treasury! The money was refunded immediately. It is a clear indication that there was a special relationship between the Treasury and the principals of Anglo-Leasing. There was no tussle. The money was returned. Unfortunately, we lost Kshs2 million! The Committee would like that money to be refunded by those concerned.

Mr. Speaker, Sir, one other individual, a Mr. Silvester Mwaliko, who was the Permanent Secretary in the Office of the Vice-President and Ministry of Home Affairs, told us that one day, while in his office, a Mr. Kettering and people associated with Anglo-Leasing walked to his office to discuss security matters.

It would be very difficult for an individual on the road to imagine that there is a contract in the Office of the Vice-President and Minister for Home Affairs, walk in and discuss security matters! Mr. Mwaliko became very free and discussed secret security matters with a stranger! That showed us very clearly that senior civil servants were involved in those contracts. They sucked in the political figures.

Mr. Speaker, Sir, I would like to make it clear that, indeed, a Cabinet approval was given for that project in 2001. But what was approved was a policy that allowed lease financing to be used in this country for security equipment, forensic science laboratories and housing. What was not approved were the companies that, subsequently, took over the procurement of those items. Many senior politicians have argued here that they were not involved. We have three tapes. We have one tape on Mr. Murungi, one on Mr. Mwiraria and Mr. Githongo. Those tapes are available for hon. Members. In one of those tapes, Mr. Murungi pointed out that in 1997 and 2002, Mr. Perera supported the "Chief". We interpreted the word "Chief" in our own terms to mean the President. Those tapes are there and hon. Members---

**Mr. Speaker:** Where did you derive that?

**Mr. Kipchumba:** Mr. Speaker, Sir, there could not be any other chief. That was the conclusion of Members. The chief to us could not have been a chief in the village.

**Mr. Speaker:** Order! Standing Orders demand facts! No inference! Just say what the facts are.

**Mr. Kipchumba:** Mr. Speaker, Sir, I was just quoting what is on the tapes. They are available to hon. Members.

There have been cases where hon. Members have argued that we should also mention other projects in the past. We were only dealing with Anglo-Leasing. Anglo-Leasing related to the passport issuing equipment. We will have an opportunity, as the Public Accounts Committee, to

look at the other 18 projects once this House approves that. Therefore, there should be no issue as to why we looked at projects during the KANU or NARC era.

Mr. Speaker, Sir, I would like to look at Kenya Anti-Corruption Commission (KACC). This Committee wanted to find out whether KACC was doing a good job. We have reproduced what, in our own opinion, thought KACC failed to do.

In the initial stages, the KACC was very eager to investigate the case and it brought in names of civil servants and politicians. Ministers' names were included because the Constitution states very clearly that they are in charge and are supposed to direct and control their Ministries, under the supervision of Permanent Secretaries. That brings us to the reason why Members rejected the Report initially. When you are in charge of a Ministry, you must be clearly in charge. That is why we have included the names of politicians in this Report.

Mr. Speaker, Sir, the role of the Vice-President and Minister for Home Affairs was very clear. He approved, via a memo, that the project should go ahead. Of course, he gave certain conditions which had to be fulfilled before the project could go ahead. Nonetheless, he went ahead and said that the interest rate should be reduced. Indeed, if you look at the initial contract, the interest rate was 5 per cent and it was subsequently reduced to 4 per cent. That means that the Vice-President and Minister for Home Affairs was well aware of the project and he gave his approval. But when he appeared before our Committee, he said that he was not aware of the project. The Committee went out of its way to prove that indeed, he was aware of the entire project and that is why we have quoted this.

Mr. Speaker, Sir, I have said that hon. Mwiraria was an executive Minister. We have given reasons why we thought the former Minister for Finance should be held responsible. While we appreciate in this Report that hon. Mwiraria has since resigned, this Committee still recommended that he should be investigated further with a view to taking appropriate action. To this Committee, resigning is not sufficient. If, indeed, it is established beyond reasonable doubt that he was involved, we recommend that other Government agencies take appropriate action.

Mr. Speaker, Sir, let me now move to the role played by the Central Bank of Kenya. The Central Bank of Kenya pays money mechanically when directed and ordered by the respective Ministries. In this case, it mechanically paid the money as required by law. But we are saying as a Committee, that in these dealings, the Central Bank was aware of its exclusion in the negotiation process. The Central Bank of Kenya Act, Cap. 31 says that the Central Bank must be involved in the negotiations. To the extent that it was excluded but nonetheless went ahead and paid the money, it means the bank did not play its rightful role.

Mr. Speaker, Sir, I want to talk about prosecution. Initially, this case was being handled by Mr. Philip Murgor, who was by then the Director of Public Prosecutions (DPP). If you look at our Report, it says very clearly that while Mr. Murgor was handling the case, there was a Special Magistrate's Court headed by Ms. Maureen Mboya. When the case had just began, the Special Magistrate's Court was dissolved. What did that mean? It, therefore, meant that the case could not proceed. Subsequently, Mr. Murgor was removed as the DPP and replaced by Mr. Keriako Tobiko. According to evidence given to us, Mr. Keriako Tobiko was a defence counsel for some of the people who were involved in these cases.

Therefore, the Committee noted with concern that there was frustration by the degazettement of the Special Magistrate's Court and the appointment of the new DPP who was a defence counsel. This meant that the cases could not move expeditiously. It also meant that there was conflict of interest.

Mr. Speaker, Sir, from the foregoing, the Committee did not foresee any possibility of fair prosecution and possible effort to pursue the matter expeditiously. The Committee was concerned that there was no political will to prosecute the cases. But that was a mere observation.

Mr. Speaker, Sir, the civil servants, as much as we would want to criticise politicians, are the biggest culprits in this Anglo Leasing Affair. This Committee did establish that there was a web

of civil servants in the Office of the President, Ministry of Finance, Department of Public Debt Management who were so experienced in these matters that whenever there is a new Minister, they would always suck him in so that he becomes part of the system.

We would want to thank Mr. Githongo for being bold enough and breaking away from this web, despite being a public servant. Mr. Githongo sacrificed his salary and allowances as a Permanent Secretary and decided that once and for all, the truth must be told. In fact, at one stage, he told us in London not to imagine that he was enjoying himself in London. He said that while in Government, he was earning about Kshs600,000 per month and now, he has to moonlight; hope from one institution to another to get money to sustain himself. Therefore, Members here should not imagine that he is enjoying. But he has done a commendable job.

*(Applause)*

Mr. Speaker, Sir, there is a pertinent question that Members must ask themselves every time. Now, we are discussing issues that we referred to the Controller and Auditor-General, to audit and give us a report. The question is, why has this report not been brought previously to this House? Where has the PAC been previously? Some of the reports that are given to the Treasury are delayed. Evidence adduced before this Committee indicates that, indeed, all the 18 projects were audited way back at the beginning of last year and completed. They were given to the Treasury, but the Treasury sat on those reports for almost one year. We are grateful now that the National Audit Office Act was amended to the extent that if Treasury cannot give the reports to Parliament immediately, those reports can be given directly to Mr. Speaker. But those were management audits which required the input of the Minister for Finance. When the Permanent Secretary, Mr. Kinyua, received this management audit, he sat on them until this issue has become what it is. I would like to urge Treasury to sack a Permanent Secretary or the Accounting Officer who does not perform his role immediately. Treasury has always assumed that Permanent Secretaries are always appointed by the President. But the Act says that they are appointed by the Treasury and taken to the President for approval.

Mr. Speaker, Sir, I must also say that the Ministry of Finance has the responsibility of approving single-sourcing and security items. However, an approval is not just a mere signing of the contract. It also involves going through the entire document. To the extent that if you do not have the ability to read through documents, then, you should not be a Minister for Finance. That is the simple advice that I would like to give to those who would like to become Ministers and yet, they do not have the energy and patience to go through documents.

Mr. Speaker, Sir, the Vice-President did tell the Committee that, indeed, most of the work is done by the Permanent Secretary. We fully agreed with him. This Committee is saying that it is high time Ministers stopped being mere rubber stamps. They must be accountable and responsible. We cannot continue paying them handsomely when we know they hand over their responsibility to their Permanent Secretaries. I think it is abundantly clear now that if any Minister does not do his job, this Parliament will ensure that he is accountable. This is because the pertinent question is: Who brings the budget of the various Ministries to the House? Ultimately, it is the Minister. Therefore, he must ensure that all documents are in order.

*(Applause)*

Mr. Speaker, Sir, I want to talk about budgeting. If we look at all these contracts, as said by the Chairman of the Public Accounts Committee (PAC), we realise that they were paid outside the budgeting process. According to the External Audit Act, payments of such contracts must be brought to the House for approval. It would be very unfair to require the House to continue approving budgets while it is not aware of all the projects that have been done outside the budget

process. Land Rovers and items relating to the Meteorological Department are classified as security items. But I think if we want to look at a Land Rover, all we need to do is to look it up in the internet. The same applies to even the warships that we are talking about. If we want to look at the warship that this country is buying, all we need to do is to check for its details in the internet. We will clearly see what it is made of and what it can do. I think with the new technology that has developed in the world, it would be dishonest of us to say that there still exist some security items that hon. Members must not know of.

Mr. Speaker, Sir, this country still requires the computerised passports. Whenever we travel outside this country our passports have to be checked mechanically. I think when this scandal was discovered, everybody ran away. Nobody now wants to buy the passport equipment, yet, this country requires it. I think it is time that this issue is re-looked at again and the Ministry concerned must ensure that it uses restricted tendering to procure the equipment. If I had the powers, I would, in fact, ensure that single-sourcing is never used again. This is because the system ensures that there is overpricing of the item and that the tender is given to a particular company in exchange for a kickback. I doubt whether in this age and time, there can only be one company that can supply a particular item. There are many companies that can supply security related items to this country.

Mr. Speaker, Sir, with those few remarks, I beg to second.

*(Question proposed)*

**Mr. Speaker:** The Government side, of course, has the first response. Minister for Justice and Constitutional Affairs, are you prepared?

**The Minister for Justice and Constitutional Affairs (Ms. Karua):** Mr. Speaker, Sir, I will be responding on behalf of the Government, and I seek your indulgence to do so tomorrow.

**Mr. Speaker:** Very well! I will give you that opportunity.

Mr. M. Kariuki, do you want to contribute?

**The Assistant Minister, Office of the President (Mr. M. Kariuki):** Mr. Speaker, Sir, thank you very much for giving this opportunity. I think this is a great afternoon for this House and country. I would like to start by congratulating the Leader of the Official Opposition for his sobriety and level-headedness. I was very impressed by his presentation. I hope that all of us can take a sense of patriotism in approaching this debate.

*(Applause)*

Mr. Speaker, Sir, I have had occasion to read this Report and I must say that I have no quarrel with the recommendations. The general recommendations that have been submitted within the Report, I think are well intended, and they should be supported. However, listening to the presentation by the Leader of the Official Opposition, particularly about the history of this matter; stretching back to 1997 as the Report indicates and coming all the way to 2001 and 2003, I think there is need to have a more detailed Report than what we have. I think what we have is a tail-end of a long story. I think we need to bring all the facts to the fore, so that they can be put for consideration. We need a full-length picture of this scandal. We also need to engage all the people we suspect were the architects of this particular system, as the Leader of the Official Opposition states.

Mr. Speaker, Sir, an hon. Member said that the Committee did not want to draw any adverse conclusions on any individual. I think that is why it made the recommendations it made. But looking at the body of the Report, there are a few issues of concern that I think should be addressed. I know that the body of the Report, really does not carry as much weight as the recommendations. So, at the end of the day, I think we shall be voting for the recommendations in the Report.

I listened to Mr. Kipchumba's submission before the House and I would like specifically to refer to Section 22, Subsection 3 of the Constitution, on the responsibilities of Ministers. If you look at the Report, particularly in reference to His Excellency the Vice-President, it uses the word "control", but the Constitution says, "general direction and control." I do not know whether the omission of the word "general" was deliberate and intended to create a greater responsibility than that anticipated by the Constitution. The Constitution is very clear.

**Mr. Speaker:** What Section of the Constitution are you referring to?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): I am referring to Section 22, Subsection 3 of the Constitution. It says:

"Where the Vice-President or any other Minister has been charged with the responsibility for a department of Government, he shall exercise general direction and control over that department."

Now, if you look at the first paragraph of page 43 of the Report---

**Mr. Speaker:** Which page?

*(Dr. Godana consulted loudly)*

Order, Dr. Godana! I expect less agitation from your side. I think the Government side was very patient when your leader was speaking. So, the same courtesy must be extended! There is no favouritism here and neither will it be under my watch!

Please, proceed!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Thank you, Mr. Speaker, Sir. The last sentence of the first paragraph of page 43 of the Report, under the head, Vice-President and Minister for Home Affairs, says that Section 22, Subsection 3 of Constitution requires that a Minister exercises direction and control over his Ministry. However, the word "general" for some reason, is left out. To me, this is important.

*(Loud consultation on the Opposition side)*

**Mr. Speaker:** Order! I expect Members on the Opposition side to, at least, learn to listen. The word "general" is in the body of the Constitution, and your protestation notwithstanding, it will remain there!

Proceed, Mr. M. Kariuki!

Mr. Speaker, Sir, we have had a very orderly afternoon. I pray that we continue with that particular mood; trying to reason and engaging each other.

The clear statement contained in the Constitution is "general direction and control." Those are issues of policy. Ministers do not micro-manage Ministries.

The other observation I wish to make on the responsibilities of Ministers is that there is nowhere in the Constitution where the Minister for Finance is referred to as "an executive Minister". In this Report, the Committee says: "The Minister for Finance is not an ordinary Minister."

Section 22(3) of the Constitution covers all Ministers, regardless of whether you are the Minister for Finance or a Minister of State. We would be over-stretching the meaning of the statement in the Constitution, to say that the Minister for Finance is a special Minister with special executive authority. If that was the intention of the Constitution, it would have created that particular exemption. However, that exemption is not in the Constitution.

Mr. Speaker, Sir, the Constitution gives Permanent Secretaries (PSs) the responsibility of being the Chief Executives of the Ministries. There are certain things that the Minister cannot do. Ministers cannot micro-manage Ministries.

The day to day running of Ministries is left in the hands of PSs. That is important because,

if we agree that, that is the premise upon which conclusions should be drawn, then what follows on page 43 of the Report raises some issues of concern to me; as to whether the Committee should have gone ahead to reach a verdict.

Mr. Speaker, Sir, on page 43, as part of its recommendations, the Committee says: "We are very weary of making conclusions before the investigations are made." It could have been quite appropriate if the Committee said: "We think there are matters for investigation. Can we stick to our recommendation?"

Mr. Speaker, Sir, for the Committee to go ahead and condemn some people and make its own conclusion on a matter it subsequently says should actually go for further investigation, in my view, is not fair.

Mr. Speaker, Sir, if you look on the same page 43 of the Report which is, again, the Committee's recommendations on His Excellency the Vice-President and Minister for Home Affairs, you will realise that this is also a subject of another adverse conclusion.

Mr. Speaker, Sir, on paragraph five, under the heading "Vice-President and Minister for Home Affairs", the Report refers to a Ministerial Statement made before this House by His Excellency the Vice-President and Minister for Home Affairs and the subsequent findings by the Committee that, that particular Ministerial Statement may not have been accurate.

Mr. Speaker, Sir, I wish to draw the attention of the House to the provisions of Section 4 of the National Assembly, Powers and Privileges Act, which guarantees absolute immunity to the freedom of expression for any statements spoken or words uttered in a statement, Motion or debate before this House. It cannot become subject of civil or criminal investigation. That is absolutely clear. So, this particular recommendation on paragraph five of page 43 flies in the face of that particular section.

Mr. Speaker, Sir, these are only some of the concerns I am expressing, but I am not in disagreement with the general recommendation.

**Mr. Raila:** On a point order, Mr. Speaker, Sir. We do not know exactly where the hon. Member is referring to.

**Mr. Speaker:** He has referred to the National Assembly Powers and Privileges Act.

**Mr. Raila:** Mr. Speaker, Sir, I mean, in the Report before the House.

**Mr. Speaker:** Which part are you taking issue with? The hon. Member on the Floor is referring to page 43, paragraph five, which is about a Ministerial Statement that was issued in the House by the Vice-President and Minister for Home Affairs.

Order! Which part are you taking issue with? Is it page 43, paragraph 5 which talks about the Vice-President reading a Ministerial Statement?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, paragraph 5 states:

"The responsibility to verify facts in a statement cannot be delegated as the Vice-President tried to do when he testified before the Committee. The Committee was concerned that even after more information emerged, the Vice-President has never taken the liberty to apologise".

I want to draw your attention to Section 4 of the Kenya National Assembly Powers and Privileges Act. It provides that statements that we make before this House cannot be subject of any form of investigation, be it civil or criminal. The Committee decided to draw conclusions on a matter that it should have referred to investigation. I do not think that any body which is vested with powers to investigate would ignore that particular provision of the Kenya National Assembly Powers and Privileges Act, Section 4.

**Mr. Sungu:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House? Our Standing Orders provide that any person who makes a statement on the Floor of this House is responsible for the truth or otherwise of that statement. This Report is directed to this House and not to an outside body.

**Mr. Speaker:** Order! I think you got the two provisions mixed up. Under Section 76, if you



make a false statement in this House, the Chair can deal with you. If you do it on the Floor of this House and the Chair has not dealt with you, no prosecutor will base a charge on what you have stated here. To that right of hon. Members to be immune from both criminal and civil proceedings on what they utter in this House, the Chair will firmly stand in favour of the hon. Members and in favour of that provision remaining. Those are two different things. One deals with the House and the other one deals with the outside.

Proceed.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, going a little back, I did express my reservations at the time the Report was tabled here, but I am happy that Mr. Speaker was able to deal with my preliminary objection and he said that public interest is supreme.

The only point that I would like to make with regard to that, is that I appreciate your sentiments that these were extra-ordinary circumstances, which required to be dealt with in an extra-ordinary manner. For purposes of consistency, it is important to appreciate that the language of the law does not change; whether it is during peace or war. The language of the law is the same and there are no extra-ordinary situations that can change the law.

Mr. Speaker, Sir, having put your ruling the way you did, it is a lesson for all of us to learn that we are enjoined to stick to the mandate of the Committee, so that extra-ordinary situations are not developed and we take a lot of time discussing them. Those were some of the challenges that the Leader of the Official Opposition said that the Committee had to handle.

Mr. Speaker, Sir, I have not had the advantage of looking at the many exhibits which have been referred to in the Report. But in the course of my investigation on this matter, I have come across a number of documents which I doubt whether the Committee had the opportunity to look at. It is being stated here that a Cabinet decision was made regarding Anglo Leasing on 27th July, 2001. That is in the Report. I have not seen any exhibit to that effect. However, for the benefit of this House, because we need to put these matters in perspective, I would like to state that the Cabinet did consider a matter relating to Anglo Leasing on 27th July, 2001.

Mr. Speaker, Sir, I am saying this because the issue of whether this company exists or not, or was an outfit for fraud is a material issue for consideration before this House. I think we cannot hide away from that particular fact.

**Mr. Billow:** On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that the Committee did not table the documents from the Cabinet. Part of the documents that were tabled that were annexes to this Report, includes on the first page, an extract of the minutes of the Cabinet which approved the 2001 proposals. It is misleading to say that it was the project. What it clearly says, and I want to table it here for him to see, is that the Cabinet noted the contents of the Memorandum and approved:- (I) Use of lease financing as an appropriate mode of funding for---

**Mr. Speaker:** Order, hon. Members! Two things arise here; first, hon. Members must read the minutes of the Committee.

**Hon. Members:** Yes!

**Mr. Speaker:** When you table the report, the minutes are also available. It is an annex of the Report and it is available in Room No.8 for all hon. Members to read it.

Secondly, on the Floor of the House, we look at the minutes of the Committee and its recommendations. In the House, you do not introduce new evidence.

*(Applause)*

The only available avenue for hon. Members to introduce any evidence for any party for that matter is at the Committee Stage. Here we peruse and deliberate on the recommendations based on the Report and the minutes as the evidence available. I will not accept any new evidence here because

we are not a Committee of the House.

Proceed, Mr. M. Kariuki! I do not know whether you would like to see if that is what he has in mind. Even if you had anything new and it was not before the House, you are precluded from doing that.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, my concern is that names of certain individuals, who were apparently summoned, have been brought forward in the Report. I really wanted us to be very honest in our approach to these investigations. I am concerned that the very architects of this plot, who must have been in that Cabinet on that particular day, have not been brought forth. It is important that we know who started it all.

*(Applause)*

Much as you say I cannot produce the Report, I would like to say that the real people---

**Mr. Speaker:** Order, Mr. M. Kariuki! Let me ask you various questions so that if you satisfy me, then you can go that way because I think you are treading on quicksand. Would it make any difference whether or not the names are selectively mentioned? Could the Public Accounts Committee (PAC) be barred from presenting its Report? Much more importantly, in my view, if the Report is defective, what is the way forward? Maybe you should continue with your arguments.

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

Order, Mr. Billow! You must learn to sit down! I think you have a problem because you do not want to listen. You want to be heard and never to listen. I think you had better listen to the hon. Assistant Minister. You have no choice! I am afraid you have no choice but you have to learn to listen.

Proceed, Mr. M. Kariuki!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I have said that I have no quarrel with the recommendations which say: "Investigate the following people further". The Leader of the Official Opposition said that we have to bring that asystem to an end. How can we bring that system to an end when certain architects of that plot are still under cover? It is important that they be exposed so that, even as we make our final recommendations to this House, we say: There is another additional pack of conspirators! Put them together, investigate them and close this chapter once and for all!"

*(Applause)*

Mr. Speaker, Sir, that is very important. Saying that there was a minute of Cabinet approval is not enough! Was there any wrong-doing by that particular Cabinet which approved a contract of a company which, today, we say is an outfit that has defrauded Kenyans---

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

**Mr. Speaker:** Order, hon. Members! Mr. M. Kariuki, please, do not pervert facts! The Report says that the policy was approved at that time. The contract was signed two or three years down the road! Unless you have a different Report, you can show me!

*(Applause)*

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, if

you gave me the chance to tell you what I know--- The contract had been signed by the time the Cabinet sat on 26th, July, 2001. That is the information I was going to offer to the House. The contract was not signed subsequently---

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

**Mr. Speaker:** Order, hon. Members! Sit down! Let Mr. M. Kariuki say it! Please, you must listen to him.

Mr. M. Kariuki, please, proceed!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I am trying to assist the House. If you want to unravel the mystery behind Anglo-Leasing, an opportunity should be accorded to me to give whatever additional information I have. That will enable the House to have a full-length picture of what we are dealing with. But if we assume a protective attitude to certain individuals, we will not get anywhere!

**Mr. Speaker:** Order, Mr. M. Kariuki! First, you have no business accusing either the House or anybody for being protective! What we are doing is to follow the rules of the House. The rule says: "Anybody who has evidence when a matter is investigated must go to the Committee!" This House cannot receive evidence!

*(Applause)*

If you have fresh information that was not available to the Committee, it was your duty, as an hon. Member, to go to the Committee and provide it. You are not allowed to produce evidence on the Floor of the House. That is the law!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I understand your ruling. You do not want any documents produced here, but I am not stopped from saying what I know---

**Mr. Speaker:** Order, Mr. M. Kariuki! In fact, you are now getting even worse! You are now trying to draw the Chair into it by saying that I do not want any documents to be produced. What I am saying is: In the course of the proceedings of the Committee, all evidence relevant to the matter is tendered at that stage! It was within your knowledge.

Everybody else had knowledge that, that Committee was sitting. What I am saying is: It is not in order to produce evidence on the Floor of the House! It is a debate on available evidence. However, you can point out that they did not have certain evidence.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Thank you, Mr. Speaker, Sir. I thought we were truly committed to getting the truth.

I was so ready to assist the House to reach---

**Mr. Speaker:** Order, Mr. M. Kariuki! I think you really approach the debate in this House with an attitude that it is only you who is right. Now, if that be the attitude, I beseech you to discard of it because others also know. At least, I know the rules of the House.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, thank you for your guidance. I am not taking issues with you. I know you have stated the Standing Orders---

**Mr. Maore:** On a point of order, Mr. Speaker, Sir. I just want to plead with you that the issue hon. M. Kariuki is trying to raise is meant to perpetuate some kind of innuendo to the effect that, maybe, the Committee happened to have half-information and then eschewed recommendations. For that reason, I would plead with you to ask hon. M. Kariuki to table an Anglo Leasing Company contract that was approved by the Cabinet. In that way, it is the same pedestrian

argument being made to say that this is an old scam.

**Mr. Speaker:** Mr. Maore, you are asking me to do what I have refused to do. I am not holding a trial here. The debate is going on and we cannot have new evidence either from you or him. It is evidence available. The Committee had a time to get all the evidence. Proceed!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Thank you, Mr. Speaker, Sir. Given that they received the Report when it was tabled before the House, it was very difficult for an ordinary hon. Member of this House to anticipate the goings on within the Committee. However, now that we have the picture, this is the time---

*(Loud consultations)*

**Mr. Speaker:** Order, Mr. M. Kariuki! Hon. Members from this side, you interrupt the hon. Assistant Minister at your own risk now! Now, continue to interrupt him and I will ensure that his right to speak is protected by me. Proceed!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Thank you, Mr. Speaker, Sir. I was only expressing my anxiety, but when the Committees meet, it is very unlikely that an hon. Member of this House will know the kind of allegations or information that is received by the Committees. We get to know the reports of the committees when they are tabled here. So, we are disadvantaged in a way because we will not have done an intervention much earlier than the time that the report is tabled.

Mr. Speaker, Sir, however, my point was: Given the references made in the report that there was Cabinet approval, minutes and so forth, I am saying that picture is not complete unless we scratch below the surface and find out what was there that was being approved by this particular Cabinet. I am saying this with tremendous respect to the Leader of the Official Opposition, that indeed there is more than meets the eye in that particular Cabinet minute that has already been alluded to in the Report.

I think it will be in the interests of this House and the investigators to get to know any additional information that can bring up this picture in its full length. That was the point I was making, and it is my submission that, that particular Cabinet knew so well that, in fact, an agreement with the Anglo Leasing had been signed by the time they deliberated that minute. I stand by that. Since I cannot produce any supporting documents, I wish to state that as a matter of fact.

Mr. Speaker, Sir, this was a fraud being perpetuated at the Cabinet level and we need to deal with it and all the actors that participated in that Cabinet deliberation of the 27th July, 2001. I fear that almost half of that Cabinet is today sitting in this House, the majority on the opposite side. So, these are the issues I thought are really burning issues for people who are really anxious to get to the bottom of this scandal, and we blow it up once and for all and save our country.

*(Applause)*

Mr. Speaker, Sir, I appreciate that corruption is a major challenge and I would like to support the sentiments expressed by the Leader of the Official Opposition that let us not politicise this scam. When we move to the direction where your brother is touched, please, do not bring politics. Let us deal with your brother as a suspect to that conclusion. I think this is the length which we need to go. So, I am quite happy that the Committee was able to come with a report, but I am saying this is only 40 per cent of the whole picture. Can we get the 60 per cent out there which was not captured?

*(Applause)*

We cannot deal with the branches of a tree if we want to uproot it. We must get to the roots and uproot it. So, we need to get to the genesis of this matter all the way from 1997, from the Cabinet deliberations, deal with it firmly, and commit ourselves to a new cause. We have a new Kenya, free of corruption.

Mr. Speaker, Sir, it is also time that the deliberations of Committees of this House are made public. I do not see the secrecy in the findings of the Committees. We need to amend our Standing Orders, so that information is made public. Anybody who is adversely mentioned has an opportunity to know that something is going on within the Committee of the House, and he or she can make his or her intervention and be able to correct whatever misinformation which may have been told about him or her.

Mr. Speaker, Sir, I am sure, if I knew what was going on before the Committee regarding the issue of the Cabinet meeting, I would have told you who are the architects of the Anglo Leasing scam today. Today, they climb at the rooftops shouting how clean they are, and they are the same people who really designed this outfit to defraud Kenyans!

*(Applause)*

Mr. Speaker, Sir, I am not receiving any challenge from any hon. Member in this House. I am sure they are afraid because they know the direction I am moving to.

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

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

**Mr. Keter:** Mr. Speaker, Sir, you have heard Mr. M. Kariuki clearly say that there are some hon. Members shouting the loudest, and yet they are the architects of the Anglo Leasing scam. The Chair indicated that we should debate this matter in a manner that is adaptable to all of us. Could the hon. Member substantiate?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I am told that in the appendix to the Report, there is a list of the hon. Members of the Cabinet who attended the meeting which approved the Anglo Leasing agreement---

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

**Mr. Speaker:** Order, hon. Members! Mr. M. Kariuki, for a change, you had better be serious! I suspect you are trying to derail the debate that has been going on smoothly. So, please, be sober, like everybody else has been!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, let me correct the impression that I am trying to derail the debate. I would be the last person to derail the debate of such national importance as this particular one. My anxiety is, are we just scratching the surface, or do we want to get to the bottom of this matter? That is the challenge I am talking about. We need to get to the bottom of this matter. Let us not be afraid. It is the guilty who are afraid. When I say, let us name the architects, then you see the---

**Mr. Speaker:** Order, Mr. M. Kariuki! Could I ask you a question? Is the Cabinet of 27th July, 2001 secret?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, what remains secret is what the individual hon. Members of that Cabinet said. The final resolutions of a Cabinet is public information. The quorum which attended should be public information and nobody should be afraid to know who these people are. That is my point.

**Mr. Speaker:** Mr. M. Kariuki, would it, in your view---

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

Order, hon. Members! Could you, please, sit down? I do not want this debate to slide back to the mud. Would it make any difference to the outcome of this Report if the entire Cabinet, half or three-quarters of it was there, and if they are here?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I think that will greatly enrich this debate. This Report has some specific individuals who have been identified for further investigations. I was only going to add to the list of those who we can further investigate. That is in the direction of the recommendations of this particular Report. If you permit me---

**Mr. Speaker:** Order, Mr. M. Kariuki! You need to get out of this because this matter is very clear.

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

**Mr. Speaker:** Order, Mr. M. Kariuki! What is it, Mr. Raila?

**Mr. Raila:** Mr. Speaker, Sir, the resolution of the Cabinet which the hon. Member is referring to is clearly here on page 7 of the Report. It states in paragraph 4 when these contracts were initiated. It says very clearly: "The Cabinet in 2001 authorised the use of lease finance and supplier's credit to pay for priority security-related projects. It is important to note that the Cabinet approved a policy and not a specific contract".

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, you had already asked me to read out the names, and I will straightaway read them out. The following were in that particular Cabinet: hon. Raila Odinga, hon. Musyoka, hon. ole Ntimama---

**Mr. Speaker:** Hon. Members I wonder if what is transpiring now has anything to do with the findings of the Committee. If it is about the membership of the Cabinet, who does not know who was in that Cabinet?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, you have already made a ruling and given me the go ahead to read out the names. If the information is public, then why should anybody panic?

**Mr. Speaker:** I am really shocked. I am continuously getting disturbed by the irrelevancies being brought into this debate. The terms of the Cabinet approval is relevant, and you can read them out. What did the Cabinet approve?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I have said that I have documents showing that the agreement had been signed before the Cabinet met. That is the information I have here, but I cannot produce the documents. But I will go ahead and read out the list of the Cabinet.

**Mr. Speaker:** Order! Mr. M. Kariuki, if you want to please yourself, and think that you are actually doing anything useful, go ahead. But I think you are trying all the time to circumvent the rule against producing evidence on the Floor of the House. If you think that would be a good ruling, do not complain if it happens on the other side. What comes around, goes around; so, be careful.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Speaker, Sir, I am abiding by your ruling. You told me to read it out for whatever it was worth. I was ready to proceed from there.

**Hon. Members:** Your time is up!

**Mr. Speaker:** Order! your time is up!

*(Loud consultations)*

Order, hon. Members! I will restate what I said this afternoon, that any hon. Member or group of hon. Members who want this House to derail from discussing this issue in a sober manner will not be allowed by the Chair to do so. Please, get it right. It does not matter what route any hon. Member tries to follow, the debate on this matter must proceed in a sober way and within the rules of the House. We cannot escape it. We cannot turn the Floor of this House into a Committee to receive fresh evidence. I hope this side is listening as they take the Floor. Please listen to me, because I am not requesting I make rulings. I have made the ruling that the Floor of this House is not a Committee of the whole House. We are in a plenary now discussing an issue.

Is there any interested person?

Any other interested person?

Yes, Mr. Sungu! I hope you have heard me clearly.

**Mr. Sungu:** Mr. Speaker, Sir, I heard you clearly, and I support your sentiments. Thank you, for giving me this opportunity to say a few words regarding the Anglo Leasing Report. With respect to the hon. Member who was on the Floor of this House, the fact that the Anglo Leasing projects were initiated by the previous Government, that does not absolve the current Government of the problems it has caused in this country. Why did the current Government give restricted tendering as indicated in this report? Why did the Government get a particular contractor, who is named in this report? How did Government officers get him and know where his head office was, and why was the tender approved in just two days? That cannot absolve this Government of blame in the whole mess.

I want to state right from the word go that, as hon. Members of this House, we owe a duty to Kenyans, who have given us enormous responsibility over this country. The issue of corruption is very important, and so serious that our people are dying because of it. We should not take it lightly. I want to ask hon. Members of this House, through you, that we be the first ones to uphold and respect the rules of this House. So, when an hon. Member is summoned by a committee, the honourable thing for him to do is attend its meeting and give the information relevant to the issue at hand. If we do not do that, not only do we not respect this House and the rules governing it, but would also lead to questions as to what we are hiding.

We have amongst us in this House, and it is good that the hon. Minister for Justice and Constitutional Affairs is here to hear this, hon. Members who were here when the Vice-President and Minister for Home Affairs read to us a written statement regarding the scandal--- I almost shed tears. I went to his office and pleaded with him not to defend people who were involved in corruption since he was not responsible. If he is honest enough, he will tell you that I pleaded with him. He refers to me as "my son". I like the man!

*(Laughter)*

Later on, the Vice-President and Minister for Home Affairs told this House that he was misled and read a statement which had been prepared by a civil servant. I have already referred to this matter under Standing Order No.76 which reads:

"A Member shall be responsible for the accuracy of any facts which he alleges to be true and may be required to substantiate any such facts or to withdraw his allegation. This should be done with a suitable apology, (if Mr. Speaker so requires)."

Therefore, under the terms of the Standing Orders, the Vice-President and Minister for Home Affairs ought to apologise to this House for misleading it. If we are to be taken seriously, as hon. Members of the 9th Parliament, we must be seen to be above board. If we do not respect the rules of this House, no respect can come to us. Respect begets respect.

Mr. Speaker, Sir, I want to revisit another issue. We have parastatal heads, particularly the Governor of the Central Bank of Kenya who has been sacked because of being investigated for corruption. Why have the hon. Members not---?

**The Minister for Finance** (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to mislead this House that the Governor has been sacked when I clarified the status of the Governor in this very House?

**Mr. Speaker:** Order! Order, Mr. Sungu! It is only yesterday when that issue came to this House. You know the rules of the House! You cannot revisit that issue until six months are over, or you bring a Motion under Standing Order No.18.

**Mr. Sungu:** Mr. Speaker, Sir, I withdraw and apologise. Even if he was suspended or not, it does not matter to me. But what matters is that there are hon. Members---

**Mr. Speaker:** Order, Mr. Sungu! It matters to this House. That is a rule.

**Mr. Sungu:** Mr. Speaker, Sir, I have already withdrawn my statement.

I am sure that, within the Cabinet, there are those hon. Members who have been mentioned adversely in this Report and they have not deemed it fit to resign, including His Excellency the Vice-President and Minister for Home Affairs.

*(Applause)*

Mr. Speaker, Sir, where is Ambassador Muthaura, the man who misled the whole country by publicizing in the Press that there was no impropriety with regard to Anglo Leasing? Where is he? He is still the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. Why has he not resigned? Instead, he has gone ahead and suspended other Members of the Government who have security of tenure.

Mr. Speaker, Sir, I want us to approach this issue very clearly; in corruption matters, we should not brook any excuse whatsoever because the people of this country are counting on us to make sure that we make progress, eliminate poverty, ensure that we have medicine in our hospitals and that our people can progress and create employment. We cannot do this if we allow corruption to exist and prosper at higher levels of our society. Mr. Speaker, Sir, I want to submit humbly that there is a higher responsibility on us, as leaders, to take responsibility for what happens in our Ministries and departments. We cannot escape this by saying that civil servants are the chief executives because we have the political responsibility to the Kenyans who elected us. I want to proffer an opinion that this Government is responsible and culpable for what happened with the Anglo Leasing affair because they had every right to stop it when they came into power. They campaigned and I also campaigned, because I am a Member of this Government, on a platform of zero-tolerance to corruption. I have a lot of respect for hon. Members of the Government side. They are all my friends, some of them are my father's agemates. But when they defend corruption, that is where we part ways because my constituents are suffering. Very many people cannot afford a square meal in a day, and it is wrong that we, in the Government, are now being seen as protecting the corrupt, or condoning corruption when we have promised the people of Kenya that we do not want corruption. Corruption must be rejected in toto.

Mr. Speaker, Sir, on page 14 of the Report, hon. Murungi has been quoted as saying that the Anglo Leasing and Finance Company scandal involves us. I do not want to go to the argument as to whether what Mr. Githongo said can be questioned or not. However, all those issues are in the Report. That leads me to ask a question: Who is "us"? It refers to this Government. It is this Government which must be blamed for this scandal because they have themselves admitted that



this issue involves them. No wonder the Leader of Government Business in this House actually lied to Parliament. That is something that is not excusable.

Mr. Speaker, Sir, I want to remind this House that due to the fact that we do not have enough money---

**The Assistant Minister for Foreign Affairs** (Mr. Mungatana): On a point of order, Mr. Speaker, Sir. Did you hear the hon. Member say that the Leader of Government Business lied to the House? Is that really parliamentary language?

**Mr. Speaker:** Did you say that, Mr. Sungu?

**Mr. Sungu:** Mr. Speaker, Sir, I beg to withdraw that word and say that he presented to this House untruths. I really apologise for that.

**Mr. Speaker:** That is even worse, Mr. Sungu. Please, mind your language and get the correct one.

**Mr. Sungu:** Mr. Speaker, Sir, I was carried away. Please, may I apologise to the House, through you, and say that the Leader of Government Business misled this House.

Mr. Speaker, Sir, this is a very serious matter. If you look at everybody in this House, including me, we are shining. Our faces are shining because we can afford to eat three meals in a day, and yet the people of this country are hungry. Our health facilities and schools are in a mess. Even policemen who escort and defend us are sleeping in single-room roundlets made of *mabatis*. Some of them are forced to share four families to a room, and yet there are people who dare loot billions of shillings from the common man. That is exactly what worries me.

How do these people sleep? How do they talk to their children? What do they tell their grandchildren when the rest of Kenyans are going hungry? There is a particular Ministry through which money that belongs to the people is siphoned out of the country by some Asians. I do not even know what they tell their constituents. It is a shame to all of us, and to me in particular, that we can stand in this House--- I want to challenge any hon. Member of this House to come and defend corruption. I can assure you he will be answerable to the people of Kenya because they will never agree with him.

Mr. Speaker, Sir, mine is a simple appeal that we look at this matter on the basis of what our people want and what we were elected for. We should not be seen to be condoning corruption because we are aware of the extent of problems that our people have. However much money you stash away in foreign bank accounts, or even locally, not even a bed of gold will buy you sleep. The people of this country will rise against us if we allow this kind of thing to go on. It does not matter how big our stomachs will grow because nobody can eat much with that kind of money. I do not even know what kind of human beings these people are. They are people who would want to preside over the wanton looting of the property of Kenyans when Kenyans are dying of hunger. If you go to places like Garissa, Mandera, Kisumu, Kajiado and so on, you will find that there are people dying of hunger, and yet there are others in this country who defend corruption. I cannot stand that.

Therefore, I want to tell this honourable House that the time is now. This is the time for every hon. Member in this House to be counted, one and all. You may laugh now because tomorrow I may come begging in your office because I am poor, but those riches will haunt you forever.

Mr. Speaker, Sir, the time has now come for us to tell the truth because Kenyans must stand to be counted, not only in condemning corruption, but also in making sure that this malaise does not exist with us any more. We must condemn it both in words and action.

This is a call to action, that we as hon. Members in this honourable House must remember that Kenyans will hold us accountable. It is possible that together we can save this country if we become serious so that we can condemn and make sure this corruption does not exist in our midst.

Kenya could sink into a morass. It could sink into unredeemable levels like Somalia and Rwanda because we are sitting on a time bomb. We have many poor people in this country. Even those who are well-educated up to university level cannot get jobs. We are vulnerable. I do not want to be vulnerable because of the actions of a few people.

Mr. Speaker, Sir, the Government cannot escape this blame because it is in power and it commands the police force. It can direct the KACC and all agencies of the Government at their disposal to make sure that the corrupt are locked in prison. They cannot escape blame. On the same token, they cannot shift blame to any Government including the previous Government. If the Government can identify one person as being corrupt, they should prosecute him or her.

Mr. Speaker, Sir, this Report is also very clear on the fact that the President was kept well informed of the Anglo Leasing Project. If there is a duty of responsibility to Kenyans on us as Members of Parliament, I beg to say that there is a bigger and more important responsibility on the President on behalf of Kenyans, because all Kenyans elected him. He is their President. Therefore, it behoves upon the President to take action immediately and sack some of these Ministers who have been mentioned in this Report.

With those few remarks, I beg to support.

**Mr. J. Nyagah:** Mr. Speaker, Sir, I stand here to support this Report and to clarify a few issues since I was in Cabinet at that particular time. There is no question in my mind that the biggest problem with this country and in Africa in general is corruption. The other day, I attended a seminar where I was told that out of a purchasing budget of Kenya of Kshs150 billion, Kshs20 billion to Kshs30 billion is stolen.

Let me quote procurement officers of Kenya both in the private and public sectors. They said that if Kshs20 billion to Kshs30 billion was to be saved and used properly, we would have three times more primary schools. We have about 120,000 primary schools, whereas we would have about 300,000 at the same cost.

Mr. Speaker, Sir, I was also told that for the same saving, we would have double the number of health facilities that we have in this country. This means that we have a serious problem which all of us - whether you are from the Government side or not - must accept we have. We must also accept that this problem started soon after Independence. Stealing has been going on since Independence--

**Mr. Speaker:** Is that parliamentary language?

**Mr. J. Nyagah:** Mr. Speaker, Sir, I apologise for using the word "stealing". I meant that we have been making ourselves rich through other methods since Independence. No government should accuse the other one. If we go back to history, how do some people in Kenya become rich? It is because most of them were involved in security tenders from 1963. I can name them if you want me to name them.

**Hon. Members:** Name them!

**Mr. J. Nyagah:** Mr. Speaker, Sir, I will not name them because I am a diplomat.

**Mr. Speaker:** Order, Mr. Nyagah! You heard what I told Mr. M. Kariuki. If you have evidence, you have to submit it.

**Mr. J. Nyagah:** Mr. Speaker, Sir, what I meant to say was that corruption is so deep-rooted from Independence to today that we must now resolve these problems once and for all. If we do not, I can assure you that this debate will be repeated after 2007, and even after 2012, but it will never come to an end. We must find a way of bringing it to an end. This will ensure that our people stop getting poorer and poorer.

**ADJOURNMENT**

**Mr. Speaker:** Order! Hon. Members, it is time to interrupt our Business for today. The House is adjourned until tomorrow Thursday, 6th April, 2006, at 2.30 p.m. I want hon. Members to come back tomorrow with the same sobriety that we have had the whole of today.

The House rose at 6.30 p.m.