

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 6th April, 2006

The House met at 2.30 p.m

*[Mr. Speaker in the Chair]*

### PRAYERS

### COMMUNICATIONS FROM THE CHAIR

NOTICE OF MOTION UNDER STANDING  
ORDER NO.18(2):GOVERNMENT LINKS  
TO ARMENIAN "MERCENARIES"

**Mr. Speaker:** Order! Hon. Members, I have received Notice of Motion for Adjournment of the House under Standing Order No.18(2) from the hon. Member for Mathioya, Mr. J.J. Kamotho, concerning unsatisfactory reply to Question by Private Notice, which was answered by the Minister of State, Office of the President on Tuesday, 4th April, 2006, concerning alleged mercenaries in the country. I have considered the matter and acceded to the request. I, therefore, call upon the hon. Member to move the Motion of Adjournment at the interruption of Business on Wednesday, 12th April, 2006 during the morning Sitting.

NOTICE OF MOTION UNDER STANDING  
ORDER NO.18(2): ARREST OF KQ  
CREW ON DRUG-RELATED OFFENCES

**Mr. Speaker:** Order, again! I have also received Notice of Motion for Adjournment of the House under Standing Order No.18(2) from the hon. Member for Ndhiwa, Mr. Joshua Ojode, concerning the unsatisfactory reply to a Question by Private Notice which was answered by the Minister of State, Office of the President on Wednesday, 29th March, 2006, concerning drug-related offences. I have considered the matter and acceded to the request. I will, therefore, call upon the hon. Member to move a Motion of Adjournment at the interruption of Business today, Thursday, 6th April, 2006.

### PAPERS LAID

The following Papers were laid on the Table:-

Report of the Third Session of the Pan-African Parliament of the African Union held from 29th March, 2005 to 11th April, 2005 in Midrand, South Africa.

Report of the Fourth Session of the Pan-African Parliament of the African Union held from 21st November, 2005 to 2nd December, 2005 in Midrand, South Africa.

(By Mr. Oparanya)

### NOTICES OF MOTIONS

#### ESTABLISHMENT OF SELECT COMMITTEE TO REPORT ON PERFORMANCE OF ANTI-CORRUPTION INSTITUTIONS

**Mr. G.G. Kariuki:** Mr. Speaker, Sir, I beg to give notice of the followingy Motion:-

THAT, noting with the concern misappropriation of funds and the endemic corruption that has pervaded both the public and the private sectors; in view of the commitment of the Government to curb this vice; and, considering that a number of agencies have been put in place to investigate and collate evidence on the blatant misuse of public resources; this House resolves to establish a Select Committee to report on the performance and output of the anti-corruption institutions and make such recommendations as would be necessary to facilitate zero-tolerance for corruption and related economic crimes; and that the following be appointed as hon. Members of the Committee; the Chairperson of the PAC, Capt. D. Nakitare, Dr. S. Rutto, the Chairperson of the PIC, Mr. D. Khamasi, Prof. R.Oniang'o, Mr. G.G. Kariuki, Mrs. J. Kihara, Mr. M. Omingo, Mr. G. Rai, Dr. A. Ali, Mr. Z. Syongo, Mr. O. Ogur, Mrs. N. Mwendwa and Mr. ole Metito.

#### ADOPTION OF REPORTS OF THE THIRD AND FOURTH SESSIONS OF PAN-AFRICAN PARLIAMENT

**Mr. Oparanya:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Reports of the Third and Fourth Sessions of the Pan- African Parliament of the African Union held on 29th March, 2005 to 11th April, 2005 and 21st November, 2005 to 2nd December, 2005, respectively, in Midrand, South Africa, laid on the Table of the House on Thursday, 6th April, 2006.

### COMMUNICATION FROM THE CHAIR

#### CORRECTION: MOTION FOR ADJOURNMENT BY THE HON. OJODE TO BE ON WEDNESDAY, 19TH APRIL, 2006

**Mr. Speaker:** Order, hon. Members! I want to make a correction on the matter that I dealt with a few minutes ago. That is in respect of the Motion of Adjournment by the hon. Member for Ndhiwa, Mr. Ojode. I am sorry that I ordered that he moves the Motion on 6th April, 2005 which is today. That was not my intention. I think that Motion is slated for Wednesday, 19th April, 2006, at the rise of the House, and not today.

### QUESTIONS BY PRIVATE NOTICE

RELIEF FOOD FOR TIGANIA  
NORTH DIVISION RESIDENTS

**(Mr. Munya)** to ask the Minister of State, Office of the President:-

(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 due to the drought ravaging the area?

(b) Is he further aware that the half a 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:** Is Mr. Munya not here? His Question is dropped!

*(Question dropped)*

OPERATIONALIZATION OF PUBLIC  
PROCUREMENT AND DISPOSAL ACT

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

(a) Has the Public Procurement and Disposal Act, 2005, which was assented to on 16th October, 2005, been operationalized?

(b) If so, why are State corporations still procuring goods and services by single-sourcing?

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

(a) No. However, the Ministry has already held a stakeholders' workshop to collect views on regulations required to operationalise the Public Procurement and Disposal Act, 2005. We are now in the process of drafting the regulations.

(b) Public procurement entities are guided by the Exchequer and Audit (Public Procurement) Regulations of 2001 and amendments made thereafter in 2002 in their procurement activities until new regulations come into force. These rules provide for direct procurement under certain specified conditions.

**Mr. Weya:** Mr. Speaker, Sir, I thank the Assistant Minister for the answer he has given in this House. What is transpiring in the country right now is that State corporations and Government organisations are single-sourcing goods and services. Could the Assistant Minister lay on the Table, the single-sourcing incidences done in the past three years? Could he also lay on the Table, the names of the companies and tenders awarded to them so that hon. Members, and the country at large, can see that the country is operating in a transparent manner?

**Mr. Kenneth:** Mr. Speaker, Sir, the hon. Member is asking for documented details of single-sourcing in the past three years. Obviously, this will require some time. This is another Question altogether.

**Mr. Billow:** Mr. Speaker, Sir, even as we wait for the Public Procurement and Disposal Act to be operationalized, some of the Permanent Secretaries use their powers or offices to direct State corporations to procure goods and services without going through the procurement procedures. A good example is the Kenya Power and Lighting Company (KPLC). I would like to lay on the Table, documents showing a letter which was written by the Permanent Secretary on 16th December to the Managing Director of the KPLC directing him, among other things, to directly purchase poles from local farmers without going through the procurement process. Could

the Assistant Minister explain the action his Ministry is taking against Accounting Officers who flout the existing regulations?

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

**Mr. Kenneth:** Mr. Speaker, Sir, the procurement rules are very clear. When it is justified on sound economic grounds, the Public Procurement Directorate at the Treasury may permit use of a procedure other than the one in the Exchequer and Audit Public Procurement Regulations of 2001. Indeed if, arising from what the hon. Member has said, there was any infringement, one could of course, be called upon to account for it.

**Mr. Speaker:** Last question, Mr. Weya!

**Mr. Weya:** Mr. Speaker, Sir, what this Government is doing with State corporations is that they are instructing their managing directors through three senior civil servants, namely, the Head of the Civil Service and Secretary to the Cabinet, the Permanent Secretary, Ministry of Finance, and the Director of Procurement, to single-source items and give business to their friends. An example is the shares that were sold recently by the National Social Security Fund (NSSF) which belonged to the Kenya Power and Lighting Company (KPLC). No procurement procedures were used. A company called Transcentury Limited bought those shares. There is also the example of the East African Cables which supplies cables to the KPLC without following the correct tendering procedures. Could the Assistant Minister assure this House that they will stop issuing letters through Permanent Secretary to the heads of State corporations to single-source materials because they are giving tenders to their friends?

**Mr. Kenneth:** Mr. Speaker, Sir, the Treasury does not issue instructions to Accounting Officers on issues of procurement. On the issue that has been raised by the hon. Member, on the NSSF shares, this is an investment policy of the NSSF. If it had shares in the Stock Exchange and it decided to sell them, it does not need to seek our instructions, or concurrence, to do so.

**Mr. Speaker:** Next Question by the Member of Parliament for Yatta Constituency. I understand that the hon. Member and the Assistant Minister have agreed to defer it to Tuesday, next week. Is that so?

**Mr. C. Kilonzo:** Yes, Mr. Speaker, Sir. That is the position.

**Mr. Speaker:** Very well! It is so ordered!

ALLOCATION OF FPE MONEY TO  
MBANDA SALAMA PRIMARY SCHOOL

**(Mr. C. Kilonzo)** to ask the Minister for Education:-

- (a) Is the Minister aware that Mbanda Salama Primary School, A/c No.166124090, has not received any money under free primary education programme?
- (b) What is the Minister doing to ensure that the school receives its allocation?

*(Question deferred)*

**Mr. Speaker:** Next Question by the Member of Parliament for Eldoret East Constituency!

SHORTAGE OF ELECTRICITY MATERIALS

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

(a) Is the Minister aware that there is a shortage of electricity materials such as transformers and poles?

(b) What plans does he have to ensure that these materials are urgently procured to facilitate the expansion of power supply, especially to rural areas?

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

(a) I am aware that there has been a shortage of some materials that are required for construction of electric power lines such as poles. However, there is no shortage of transformers.

(b) Arrangements have already been put in place to facilitate urgent procurement of the necessary materials. This includes the following: One, preparation of weekly materials status reports for monitoring stock position with a view to avoiding any stock-outs. Two, award of contracts in January, 2006, for supply of 41,500 poles from Tanzania on an emergency basis. Three, award of contracts in March, 2006, on an urgent basis for supply of materials that were in short supply.

**Mr. Kipchumba:** Mr. Speaker, Sir, I asked this Question because many Members of Parliament, including myself, have paid for the supply of electricity to our various constituencies, and yet, the KPLC has been unable to do the necessary construction because of the shortage of these materials. Could the Assistant Minister assure the House that, indeed, there will be no further shortages? It looks like there is poor planning by the KPLC.

**Mr. Kiunjuri:** Mr. Speaker, Sir, it is true that there has been poor planning. But I want to assure the House that all the projects will commence between this month and June. By June this year, we shall have no shortage of any type of material.

**Mr. Muturi:** Mr. Speaker, Sir, granted that the Ministry made requests to all Members of Parliament to submit at least five projects per district to be funded through the Rural Electrification Programme (REP), could the Assistant Minister tell this House what is the estimated number of poles required for the KPLC to be able to implement those projects, so that procurement of poles will not, in future, be done on emergency basis? It is through emergency basis that single-sourcing is being perpetuated and we are discouraging it.

**Mr. Kiunjuri:** Mr. Speaker, Sir, between now and June, we require over 70,000 poles. Out of these, we are expecting to receive 41,500 poles from Tanzania and the balance from Kenya. That will be adequate to serve us until August. Also, tenders are already out for the supply of more poles. We will close them this month. We are expecting to receive the second supply, which will be done competitively, between August and September. That will ensure that we have no shortage of materials for the whole of this year. We are also ensuring that purchases are made in good time. We are procuring six months in advance, so that work will go on uninterrupted.

**Mr. Bett:** Mr. Speaker, Sir, transformers are very expensive equipment, and yet, every time consumers apply to be supplied with power by the KPLC, they are made to pay for them. To whom do the transformers belong at the end of the day?

**Mr. Kiunjuri:** Mr. Speaker, Sir, transformers are no longer expensive because we removed the Value Added Tax (VAT) on them. Secondly, we no longer require anybody to put up a transformer, so that we can connect his station with power. Through the Customer Creation Programme (CCP), we only require five to 15 people to come up together and pay fully the Kshs31,000, and we will straightaway instal up a transformer. I challenge hon. Members to do that. If we fail to instal a transformer, then we will take the responsibility.

**Mr. Speaker:** Last question, Mr. Kipchumba! Are you happy with the answer?

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

**Mr. Speaker:** Okay! We will now move on to ordinary Questions.

## ORAL ANSWERS TO QUESTIONS

### *Question No.030*

#### RELEASE OF MWANGOVYA REPORT ON DISTRICT BOUNDARIES

**Mr. Ojaamong** asked the Minister of State for Administration and National Security:-

- (a) how much money the Government spent on Joseph Mwangovya Commission which was constituted to determine the boundaries of Teso, Mt. Elgon, Bungoma and Busia districts;
- (b) when the Mwangovya Report will be implemented; and,
- (c) whether he could table the Report.

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

(a) The Government spent Kshs5,087,100.20 on Joseph Mwangovya Commission.

(b) Whether or not Mwangovya Report will be implemented, will depend on the Government decision which has not been made yet.

(c) The Report can only be made public after the Government has considered and adopted the recommendations therein.

**Mr. Ojaamong:** Mr. Speaker, Sir, sometime last week, the Chair ordered a certain Minister to produce a report which had been kept for almost three or so years. This Report has taken over 15 years, without being implemented, or even being made public. I have been sent by the people of Mt. Elgon and Teso districts to ask the Government, on their behalf, when exactly this Report will be made public and implemented because they also spent resources.

**Mr. Kingi:** Mr. Speaker, Sir, if I heard the hon. Member right, he has claimed that it is now 15 years since the Government constituted the Commission he has referred to. However, the Commission referred to was established in the year 2000. Therefore, it cannot be 15 years since that Commission was constituted. It is only five years. As I said, there are some issues and technicalities we have to sort out before the report can be implemented.

**Mr. Bahari:** Mr. Speaker, Sir, the year 2000 is not just the other day. It is now six years since then. It is these kind of issues that result in unnecessary conflicts among communities. Could the Assistant Minister take up his responsibility to ensure that this is done with the speed that is required to ensure that these communities live in harmony, and that they do not engage in unnecessary boundary disputes?

**Mr. Kingi:** Mr. Speaker, Sir, the hon. Member's point is taken. We will ensure that we resolve the issue with speed.

**Mr. Ojaamong:** Mr. Speaker, Sir, the Assistant Minister has accepted to act with speed, make the report public and implement it. Could he give us a specific time-frame within which he intends to do so, so that I can have a specific answer to give to the people of that area?

**Mr. Kingi:** Mr. Speaker, Sir, as I said, there are technicalities that we have to sort out before I can give a time-frame. However, I would like to assure the hon. Member that we will do this very soon.

### *Question No.009*

MONEY COLLECTED/DONATED BY  
KENYA CHARITY SWEEPSTAKE

**Mr. Salat** asked the Vice-President and Minister for Home Affairs:-

(a) how much money the Kenya Charity Sweepstake has collected in the last four years;

(b) whether he could give the breakdown on how much each constituency has received in form of charity donation over the same period; and,

(c) what he is doing to ensure transparency and accountability in the operations of Kenya Charity Sweepstake and other lottery organizations in the country.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, I beg to reply.

(a) Kenya Charity Sweepstake has collected a total of Kshs1,879,146,000 in the last four years. The breakdown of the amounts raised is as follows: Year 2002, Kshs570,496,000; year 2003, Kshs468,501,000; year 2004, Kshs432,149,000; year 2005, 408,000,000. Total, Kshs1,879,146,000.

(b) It should be noted that the Kenya Charity Sweepstake gives its donations in terms of provinces and districts, but not per constituency. It is, therefore, not possible to give a breakdown of how much each constituency has received in the form of charity. However, the Kenya Charity Sweepstake intends to adjust its format to capture donations to constituencies.

The following is the breakdown as far as the provinces are concerned: In the year 2002, Central Province got Kshs7.5 million, Coast Province got Kshs7.3 million, Eastern Province got Kshs8.4 million, and Nairobi Province got Kshs4.6 million. The Kenya Charity Sweepstake also gave a national contribution of Kshs4.7 million. In the same year, North Eastern Province got Kshs2.6 million, Nyanza Province got Kshs6.3 million, Rift Valley Province got Kshs16.6 million, and Western Province got Kshs9.2 million. These amounts add up to Kshs67 million.

In the year 2003, Central Province got Kshs7.9 million, Coast Province got Kshs5 million, Eastern Province got Kshs9 million---

*(Loud consultations)*

**Mr. Speaker:** Order! Order, hon. Members! We cannot hear the answer being read out by the Vice-President and Minister for Home Affairs. Could you, please, consult quietly?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Speaker, Sir, in 2003, the Kenya Charity Sweepstake gave Nairobi Province Kshs2.7 million and made a national contribution of Kshs9.4 million. The charity organisation also gave North Eastern Province Kshs1.2 million; Nyanza Province, Kshs8 million; Rift Valley Province, Kshs12 million; and Western Province, Kshs9.4 million.

In the year 2004, the Kenya Charity Sweepstake gave Central Province Kshs5.9 million; Coast Province, Kshs3 million; Eastern Province, Kshs6.2 million; and Nairobi Province, Kshs5.9 million. In the same year, the charity organisation made a national contribution of Kshs7.5 million and donated to other provinces as follows: North Eastern, Kshs600,000; Nyanza, Kshs5.4 million; Rift Valley, Kshs6.9 million; and Western, Kshs4.6 million.

In the year 2005, the Kenya Charity Sweepstake donated Kshs5.1 million to Central Province, Kshs2.6 million to Coast Province, Kshs2.6 million to Eastern Province and Kshs7.7 million to Nairobi Province.

**Mr. Bifwoli:** On a point of order, Mr. Speaker, Sir. The Question seeks to know the amount of money given to each constituency. However, the Vice-President and Minister for Home Affairs is giving us the amounts given to each province. Is he in order to give us a breakdown on province by province basis when the Question sought the breakdown on constituency by constituency basis?

**Mr. Speaker:** He is perfectly in order! The Vice-President and Minister for Home Affairs explained that contributions by the Kenya Charity Sweepstake have never been on constituency basis. It has been on provincial basis. That is why he is reading that breakdown. Otherwise, he would say "not applicable". The constituencies are also found in provinces. They do not hang in the air!

So, proceed, Mr. Awori!

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Speaker, Sir, also, in the year 2005, the Kenya Charity Sweepstake made a national contribution of Kshs5.8 million and made donations to other provinces as follows: North Eastern, Kshs400,000; Nyanza, Kshs3.2 million; Rift Valley, Kshs6.8 million; and Western, Kshs6.2 million. These amounts add to Kshs40,800,000.

Mr. Speaker, Sir, I will table the breakdown of the total amounts given to each province over the period in question, because it is quite long.

*(Mr. Awori laid the document  
on the Table)*

(c) The licensing and control of lotteries is governed by the Betting, Lotteries and Gaming Act, Cap.131 of the Laws of Kenya. The Act empowers the National Betting Control and Licensing Board to impose such conditions as it may deem necessary to ensure that lotteries are promoted and conducted as efficiently as possible, in the interest of the purpose for which it was being promoted, of the public in general.

Pursuant to this, the Board has come up with a number of requirements which all lottery operators must adhere to. They include submission of returns by all lottery operators. All lottery operators, including the Kenya Charity Sweepstake, are required to submit returns on a quarterly basis, showing details of the number of tickets printed, number of tickets sold, cost of each ticket to the public, amount of money collected, amount of money devoted to good cause, amount of money one ascribes, names of all the winners, names of all the beneficiaries and the amount received by each.

Other requirements include presiding and supervision of all lottery draws by Board officials, publishing of all draw results in the media, provision of a guarantee to cover the prizes to be awarded in the lottery on application, conducting lottery draws in public and, finally, the witnessing by Board officials of the awarding of prizes won in the lottery.

Thank you, Mr. Speaker, Sir.

**Mr. Salat:** Mr. Speaker, Sir, I thank the Vice-President and Minister for Home Affairs for that reply. In part (c) of the Question, I asked him what he is doing to ensure that there is transparency and accountability in the operations of the Kenya Charity Sweepstake and other lottery organisations. How many other licensed lottery organisations are currently operating in the country?

**Mr. Awori:** Mr. Speaker, Sir, in his Question, the hon. Member did not ask how many other lottery organisations are currently operating in the country, but, I can, indeed, respond to that. I have stated the conditions that have to be followed to ensure that there is transparency. We will check on all those organisations to ensure that they follow all the conditions. That is the only way



we can have transparency. I am quite willing to bring to the House the names of all the other licensed lottery organisations.

As far as I know, there is only one organisation which is similar to the Kenya Charity Sweepstake. The others are lotteries which are pegged to companies such as the Kenya Breweries Ltd. and the British American Tobacco (BAT) to promote and market their products.

**Mr. Balala:** Mr. Speaker, Sir, I want to thank His Excellency the Vice-President and Minister for Home Affairs for the comprehensive answer that he has given. I also want him, if possible, to table the projects which have been supported by the Kenya Charity Sweepstake in every constituency. I am not aware of any project in Coast Province which has been supported by the organisation. However, what criteria does the Kenya Charity Sweepstake use to choose the projects to support?

**Mr. Awori:** Mr. Speaker, Sir, it would take a lot of time to table all the projects that have been supported by the Kenya Charity Sweepstake in every constituency.

**Mr. Balala:** Mr. Speaker, Sir, I asked him to table a list of the projects which have been supported by the organisation in every province.

**Mr. Awori:** Mr. Speaker, Sir, that again, will be quite a job. When we go to the province, we will need the projects from each constituency and then we put them together. The initiative is on the members of the public. The Kenya Charity sweepstake helps a great deal in emergencies. The organisation helps schools whose roofs have been blown off by the wind and areas that have been affected by floods. It also engages in development projects.

The Kenya Charity Sweepstake is very open and any hon. Member can collect forms from its offices, fill them and send them back and if he qualifies for assistance, he will be given. We have used the Kenya Charity Sweepstake in the construction of schools, health facilities and other development projects. The onus is on the hon. Members to utilise the Kenya Charity Sweepstake.

**Mr. Bifwoli:** Mr. Speaker, Sir, the Kenya Charity Sweepstake funds various development projects. There is no harm in the Minister writing down the names of the projects that have been funded by the organisation. He should also inform us in what constituencies the projects are. Some constituencies have received more funding from the organisation than others. The Vice-President and Minister for Home Affairs should table the list of these projects in the House, so that we can see whether there is corruption at the Kenya Charity Sweepstake. If he does not do that, he will be unfair to Kenyans. He should table the list of the projects that have been funded by the organisation even if they only received Kshs10,000. We want to know which are these projects and how much money they received.

Mr. Speaker, Sir, I would like to request you to defer this Question, so that the Vice-President and Minister for Home Affairs comes back with the correct answer.

*(Applause)*

**Mr. Speaker:** Order, hon. Members! That is a lot of passion from hon. Bifwoli. The issue being raised here is on the accountability of this organisation in the utilisation of public funds. It is fair that a document is laid on the Table of this House. I am inclined to defer the Question to a later date. Mr. Vice-President and Minister for Home Affairs, how long do you think you require?

**Mr. Awori:** Mr. Speaker, Sir, I will just be a conduit. The information will obviously come from the Kenya Charity Sweepstake. It is as simple as that. So, there should be no worry whatsoever. Immediately I leave, I will ask the organisation to start preparing the information.

**Mr. Speaker:** So, how long do you require?

**Mr. Awori:** Mr. Speaker, Sir, how can I speak for the Kenya Charity Sweepstake? In a situation like this, perhaps, I will need two weeks.

**Mr. Speaker:** All right! I will give you the two weeks.

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. I would like to request the Vice-President and Minister for Home Affairs to also include the criteria of how people are given this money. For the last six years, I have been writing to the Kenya Charity Sweepstake and I have never got a shilling. Obviously, there is a lot of corruption there.

**Mr. Speaker:** Anyway, let us not presume. I have given the Vice-President and Minister for Home Affairs two weeks.

*(Question deferred)*

**Mr. Salat:** Mr. Speaker, Sir, I asked the Vice-President and Minister for Home Affairs how many licensed lottery organisations are in the country. Could he also include Toto 649? We would like him to include Toto 649 because in part (c) of his reply, he has said---

**Mr. Speaker:** Order, Mr. Salat! First, I have deferred the Question. So, you are talking to emptiness! The space occupied by the Question is now empty. Secondly, your request that His Excellency the Vice-President and Minister for Home Affairs gives a breakdown of other lottery organisations is another Question. It is not there!

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

**Mr. Speaker:** Order, Mr. Salat! Take my advice! It is not part of this Question! You are at liberty to frame a Question in those lines and then it will be addressed. The Question has been deferred for two weeks.

*Question No.034*

PAYMENT OF DUES TO MR. MOSES ONYANGO

**Mr. Speaker:** I am told that this Question has been overtaken by events. So, it has been struck out.

*(Question withdrawn)*

*Question No.025*

SITTING ALLOWANCES FOR MEMBERS  
OF MARAGUA LAND DISPUTES TRIBUNAL

**Mr. Mbau** asked the Minister for Lands:-

(a) whether he is aware that members of the Land Disputes Tribunal from Maragua Constituency have not been paid their sitting allowances for the year 2004 and 2005; and,

(b) when these members will be paid to prevent them from being lured into the vice of corruption.

**The Minister for Environment and Natural Resources** (Prof. Kibwana): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the members of the Land Disputes Tribunal from Maragua Constituency have not been paid their full sitting allowances for the year 2004 and 2005.

The current situation is that the allowances for the Tribunal members are being serviced from Government voted funds and given that the number of meetings they hold are many, the

funds have not been sufficient. This has led to members' payments falling into cumulative arrears. This situation is not peculiar to Maragua Constituency alone, it also obtains throughout the country.

(b) The Ministry has been raising this matter with the Treasury to allocate more funds for the Tribunal expenses. Once enough funds are allocated, the Ministry will clear the pending arrears.

**Mr. Mbau:** Mr. Speaker, Sir, the Minister has admitted that the members of this Land Tribunal have not been paid their sitting allowances for the last two years. I would like him to explain why districts should be having Land Boards and Land Tribunals if the Ministry is not able and willing to support them financially.

Mr. Speaker, Sir, my second question is whether this is not encouraging members to take bribes from people who want to get services from them. What is the Minister doing to ensure that this matter is resolved?

**Prof. Kibwana:** Mr. Speaker, Sir, I want to say that Kshs424,000 was paid to Maragua Constituency Land Disputes Tribunal. For the Financial Year 2004/2005, nothing was paid at all. However, I have admitted that there are arrears. When Parliament is able to make provisions in the Budget for these monies, my Ministry will be very happy to do the needful; that is, pay the members of the tribunals their allowances so that the work can be done without members being compromised. The problem is that we have not received money from the Ministry of Finance to do this necessary job that previously used to be done on a volunteer basis.

**Mr. Omamba:** Mr. Speaker, Sir, you have heard the Minister say that these tribunals will get their allowances in arrears. Is he suggesting that the hearing and determination of land cases will be stopped in Kenya?

**Prof. Kibwana:** Mr. Speaker, Sir, I think there was an oversight in terms of Parliament allocating sufficient money for these tribunals. Subsequently, some of the members of the tribunals thought they were employed on a full-time basis. Sometimes they would sit from Monday to Friday and, as a result, ask for more allowances. The Ministry is coming up with guidelines so that, that does not happen any more and they only sit during the times that are necessary for them to do the work that is required. However, it is important for hon. Members of this august House to help me as the Acting Minister for Lands in terms of budgeting sufficiently so that we can pay for this very useful work that is done in the administration of land matters.

**Mr. Khamasi:** Mr. Speaker, Sir, this is another form of corruption on the part of the Government because it is getting services from its citizens and they are not paid. This is not unique to Maragua Constituency. It is almost everywhere in the country. They are not being paid and the Acting Minister for Lands has not given us a specific timeframe within which he intends to include this in the budgetary system. Could he tell us specifically when this is going to be included in the Budget so that the people who have served this country can be paid their allowances?

**Prof. Kibwana:** Mr. Speaker, Sir, it is this House that includes public payments within the Budget. Indeed, my Ministry has asked the Treasury to avail additional budgetary allocations of Kshs235 million so that we can clear the arrears---

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

**Mr. Speaker:** Order, Prof. Kibwana!

**Mr. Oparanya:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that this House allocates funds while it is the Ministry which makes a provision and the House just approves?

**Mr. Speaker:** That is correct! Mr. Minister, I do not think the House ever originates the Budget.

**Prof. Kibwana:** Mr. Speaker, Sir, we have asked the Treasury for a budgetary allocation of Kshs235 million so that we can clear all the arrears. Therefore, the Ministry has done the needful and it is up to this House to assist in terms of the necessary approvals.

**Mr. Speaker:** We shall finish now! However, I will give "Bishop O.K. Mwangi" an opportunity.

**Mr. O.K. Mwangi:** Thank you, Mr. Speaker, Sir. The Acting Minister has told the House that these tribunals thought that they were being employed on a full-time basis and that is why they were meeting from Monday to Friday. Is the Acting Minister telling the House that it is not his responsibility to guide the tribunals on how they should work? Is that the reason why the Government does not pay the members of the tribunal who are doing a great service to this country?

**Prof. Kibwana:** Mr. Speaker, Sir, currently, when the Ministry realised that there is a problem of how often some of the lands tribunals meet, we are now developing guidelines, which are almost ready, to rationalise the operations of these committees so that they can do reasonable work so that there is payment for that. This will ensure that they are not paid on a weekly basis. I am sure the "Bishop" will pray so that we get money for these tribunals.

**Mr. Mbau:** Mr. Speaker, Sir, I would like the Acting Minister to either confirm or deny whether the services of members who serve in the tribunals are relevant to this country or not. This will enable these members to know that they are offering voluntary services. I am saying this because those citizens who get services from the land tribunals pay some fees to the Government through the Land Registrar. Two years is far too long for the Acting Minister to tell us that money has not been provided. Could the Acting Minister explain whether these tribunals are necessary to the Government or not? Could he also tell the House why the Government is reluctant to pay the members of the tribunals their allowances?

**Prof. Kibwana:** Mr. Speaker, Sir, I agree that these are very necessary bodies in terms of ensuring that land disputes are solved. The problem is that we have had a shortfall because when we ask for certain monies, we do not get those budgetary allocations. We hope that this will be sorted out in the next Budget which will be presented to the House in June, 2006, because the House is in the knowledge of the problem.

**Mr. Speaker:** Very well! That is the end of Question Time. The Minister of State, Office of the President in charge of the Civil Service has a Ministerial Statement which he wants to issue. However, I will allow Mr. Bahari to request for his Ministerial Statement and then come to the Minister.

## POINT OF ORDER

### FLOODS IN MALKADAKA AND GAFARSA LOCATIONS

**Mr. Bahari:** Mr. Speaker, Sir, I stand to demand a Ministerial Statement from the Minister of State, Office of the President responsible for Special Programmes concerning the situation in Malkadaka and Gafarsa locations of Garba Tulla Sub-District and Marti Division, which is the adjacent division following reported flooding that left part of the area submerged, houses destroyed and people displaced. I need to know from the Minister what action in terms of rapid assessment and response the Ministry has undertaken.

Mr. Speaker, Sir, I will further demand to know what preventive actions he is contemplating to institute to prevent recurrence of the same as it appears that this happens regularly during the rainy season; given that the areas are of necessity located on the banks of the Ewaso

Nyiro River with the last incident having happened in April and May 2005.

**Mr. Speaker:** Very well! Mr. Minister, are you prepared?

**The Minister of State for Special Programmes** (Mr. Munyes): Mr. Speaker, Sir, I will report back on Tuesday, next week.

**Mr. Speaker:** Very well! Mr. Akaranga, proceed to give your Ministerial Statement!

## MINISTERIAL STATEMENT

### PAY POLICY IN PUBLIC SERVICE

**The Minister of State for Public Service** (Mr. Akaranga): Mr. Speaker, Sir, several hon. Members have been asking me about the pay policy in the public service that I launched last month. That is why I feel obliged to make a Ministerial Statement, so that hon. Members can understand what the pay policy is all about.

Mr. Speaker, Sir, in January, 2006, the Cabinet approved the pay policy for the public service. The policy was prepared through a participatory and consultative process under the overall coordination of my Ministry, and seeks to address and guide remuneration issues in the Public Service. I officially launched the policy on Friday, 24th March, 2006. The policy covers organisations in the public sector that are wholly or partly dependant on the Exchequer for their operations. With the exclusion of the armed forces, those organisations employ a total of 657,400 personnel. The compensation package which includes the basic pay, monetary and non-monetary benefits and performance related works constitute; a wage bill of about Kshs107 billion annually. The need for policy formulation in that area was driven by lack of an explicit, coherent and codified pay policy for the Public Service and hence, undue reliance on a variety of official documents such as the Code of Regulations, the Pensions Act, Cap.189, recommendations of *ad hoc* commissions and committees, Government circulars and personnel general letters for policy guidance.

Mr. Speaker, Sir, the absence of a pay policy directly and indirectly resulted in the following observed weaknesses in the management of the public service.

(i) A Recurrent Expenditure that is skewed towards personal emoluments at the expense of operations and maintenance.

(ii) A blotted Public Service that is characterised by low pay and poor retention of technical and managerial personnel.

(iii) Proliferation of allowances and fringe benefits, partly as a supplementary to the low pay.

(iv) Highly compressed and overlapping salary scales and wage disparities among the various sub-sectors, especially among persons holding comparable jobs with similar duties and responsibilities.

Mr. Speaker, Sir, the pay policy addresses those weaknesses by defining the principles for determining pay for Public Service employees with the aim of attracting, retaining and motivating them for better service delivery. These principles are:-

(i) Equal pay for equal work. That will be measured against the contents of the job as determined by a job evaluation and regrading exercise, skills, competence and responsibilities associated with the position.

(ii) Capacity to attract, retain and adequately motivate personnel with requisite skills. That will be done through compensation levels that are competitive in comparison to those enjoyed in other sub-sectors of the Public Service, and with the appropriate labour market that will stand competitiveness under a compensation structure that is linked to the activity, accomplished task,

responsibilities and achieved results, so as to maintain and sustain a stimulated public service.

(iii) An affordable and sustainable wage bill. The pay policy will be sustained through a prudent management of the wage bill in the economy, including the implementation of measures such as staff right-sizing, linking the pay to economic performance and improving the management of the recurrent budget.

(iv) Improved transparency of the compensation structure to improve links between pay and performance. The use of non-salary benefits in the public service compensation structure will be minimised by consolidating remunerative allowances---

*(Loud consultations)*

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

**Mr. Rotino:** On a point of order, Mr. Speaker, Sir. The consultations are so loud that we cannot hear what the Minister is saying.

**Mr. Speaker:** Yes! It is a very important policy statement! I have, in the past, encouraged Ministers to originate policy statements in the House, so that this House can know from the very beginning, any change of policy from the Executive! The Minister is doing well by bringing to the attention of the House a policy statement. But hon. Members are not listening at all! Please, listen!

Mr. Akaranga, please, proceed!

**The Minister of State for Public Service** (Mr. Akaranga): Thank you, Mr. Speaker, Sir.

(iv) Improved transparency of the compensation structure to improve links between pay and performance. The use of non-salary benefits in the public service compensation structure will be minimised by consolidating remunerative allowances into basic salary. That will enhance transparency of the pay system, achieve vertical and horizontal equity and ease salary administration.

In order to operationalise those principles, the policy seeks to enhance competitiveness and harmonise remuneration packages for all public service employees through the adoption of the banding system as recommended by the Kipkulei Harmonisation Commission of 1998 to 1999. The system is divided into three levels and comprises seven distinct bands.

Level one consists of bands A(1), A(2) and A(3). Level two has bands B(1) and B(2); with B(2) being the entry point for fresh university graduates. Level three is divided into band C for holders of diplomas and/or A-Level certificates. Band D is for those with O-Level certificates, recognised skills or lower qualifications.

Mr. Speaker, Sir, other related policy guidelines currently under implementation include: Development of mechanisms to relate pay to performance, engaging personnel on performance contract schemes and, where necessary, on employment contracts. The pay policy will also consider pension issues in the Public Service. My Ministry, through the Permanent Public Service Remuneration Review Board will be the lead agency responsible for overseeing the implementation process, in collaboration with other interested bodies.

Mr. Speaker, Sir, a Bill seeking Parliament's authority to put in place an enabling legal environment for the harmonisation process is currently being prepared, and will be brought to this House for consideration in due course.

Thank you. I now lay a copy of the pay policy for the Public Service on the Table of this House.

*(Mr. Akaranga laid the document on the Table)*

**Mr. Speaker:** Mr. Minister, as you lay that document, you know hon. Members have to have--- Is it the document or the Statement?

**The Minister of State for Public Service** (Mr. Akaranga): Both of them, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Minister, you know when you lay a document as important as this on the Table of the House, you must make available sufficient copies for every hon. Member and deposit them in Room No.8! When can you do that?

*(Applause)*

**The Minister of State for Public Service** (Mr. Akaranga): Mr. Speaker, Sir, Mr. Omollo has already confirmed to me that the copies are already here. We have brought the copies.

**Mr. Speaker:** Anyway, Mr. Minister, ensure that by Tuesday--- I have got information that the copies are not here yet. Could you ensure that they are here on Tuesday?

**The Minister of State for Public Service** (Mr. Akaranga): It is okay, Mr. Speaker, Sir. They will be here by Tuesday, next week.

**Mr. Speaker:** And the Clerk of the National Assembly will confirm to me that he has received them. If they are not, I will strike out your document!

Very well. Next Order!

### COMMUNICATION FROM THE CHAIR

#### LAUNCH OF PARLIAMENTARY WEBSITE

**Mr. Speaker:** Hon. Members, I would like to invite all of you on Thursday next week, at 10.00 a.m., at the Gardens of Parliament during the official launch of the Parliamentary Website.

*(Applause)*

All of you are welcome. I know there are a few hon. Members who have not supplied their full information, but that will not stop us from proceeding! They are welcome to provide the necessary information. If they are very shy about their own information, they are at liberty to leave their spaces blank. Thank you!

*(Laughter)*

**Dr. Godana:** On a point of order, Mr. Speaker, Sir. I am referring to your comment that some hon. Members have not supplied their information. I think I will be right to say the Research Department needs a jolt because information on some hon. Members of this House is available on international websites. When you see Parliament providing half-a-page or four lines about hon. Minister Dr. Kituyi or hon. Dr. Godana, it just shows that those who are preparing it have no information or do not know where to get the information.

**Mr. Speaker:** Order! Dr. Godana, we supplied forms to every hon. Member to fill. If you want to fill half-a-sentence, that is your wish. I hope hon. Members will take time to attend to these questions. You may think they are mundane but they are not. They are important, but one's information can be updated. That is the beauty of this matter. The information is not static. It must be alive and enlivened by lively hon. Members. So, please, enliven the website, but for sure, I am

going to launch it on Thursday and from there on you will be able to access whatever you want properly from wherever you are since you have your own computers.

Next Order!

## BILLS

### *First Readings*

#### THE COTTON (AMENDMENT BILL)

**Mr. Speaker:** Order, hon. Members! There is a correction to be made on Order No.7 below the title of the Bill. The hon. Member responsible in this case is not the Minister for Agriculture because this is a Private Members Bill. It is directed to the Minister for Agriculture but the hon. Member in charge of the Bill is hon. Dr. Julia Ojiambo. Mr. Clerk-at-the-Table, may the records be rectified in that regard? Can I have the Standing Orders? Is hon. Dr. Julia Ojiambo here?

**Dr. Ojiambo:** Mr. Speaker, Sir, I am here.

**Mr. Speaker:** Would you like this Bill to go to the relevant Departmental Committee in accordance with Standing Order No.101?

**Dr. Ojiambo:** Mr. Speaker, Sir, the Bill should now be taken to the relevant Departmental Committee.

**Mr. Speaker:** Very well. I order that it goes to the relevant Departmental Committee.

#### THE NATIONAL MUSEUMS AND HERITAGE BILL

**The Minister for National Heritage** (Mr. Shakombo): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order No.101(A), Sub-section 1, The National Museums and Heritage Bill be referred to the relevant Departmental Committee on Administration, National Security and Local Authorities.

**Mr. Speaker:** Very well. So, ordered.

#### THE KENYA MARITIME AUTHORITY BILL

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order No.101(A), Sub-section 1, the Kenya [**The Minister for Transport**]

Maritime Authority Bill be referred to the relevant Departmental Committee on Energy, Communications and Public Works.

**Mr. Speaker:** So ordered!

*(Orders for the First Readings read -  
Read the First Time and ordered  
to be referred to the relevant  
Departmental Committees)*

## MOTION

#### ADOPTION OF PAC REPORT ON SPECIAL



AUDIT ON PROCUREMENT OF  
PASSPORT ISSUING EQUIPMENT

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. Kenyatta on 5.4.2006)*

*(Resumption of Debate interrupted  
on 5.4.2006)*

**Mr. Speaker:** Order! Hon. Members, you will recall that yesterday when we completed the business of the House, I requested you to return to this debate again this afternoon with the same sobriety and dignity we had yesterday. I expect this to continue and we will now go to the debate. Mr. J. Nyagah, you were on the Floor and you had seven minutes left.

**Mr. J. Nyagah:** Mr. Speaker, Sir, thank you very much for giving me this opportunity to contribute to this very important Motion. As I said yesterday, I support this Motion because it is in the national interests that we address, tackle and solve this issue of corruption so that this nation can grow. As I said yesterday, corruption goes back to the Independence of this nation and we should bring it to an end 43 years later for our nation to grow. If we do not do it now, our children will have no hope in us as leaders.

Mr. Speaker, Sir, it is important that we address this issue as thoroughly as we did yesterday and we agree as a House to move forward. I see no reason whatsoever why there should be any disagreement between the Opposition and the Government on this particular subject because it is good for this nation. As I have already stated, the youth of this country need role models. What kind of role models are we if we are going to continue encouraging corruption? I think we will be the wrong parents, grandfathers and grandmothers if we do not do something about it. So, this is a God-given opportunity for us as a nation to address this particular issue.

Mr. Speaker, Sir, as I summarise, corruption goes back to the first, second and the present regime. My question is: For how long are we going to continue practising corruption? If we do not bring it to an end there will be another commission of inquiry once this Government's term expires. The people who served this Government will also be affected. So, we must avoid that scenario by dealing with corruption now so that in future people do not fear taking up jobs. I am concerned because people are soon going to be worried and fearful of taking up certain positions if at the end of their tenures they will be taken to court and jailed.

Mr. Speaker, Sir, I am also concerned about the effects of sacking senior officers, Ministers and Assistant Ministers. At this rate, we might have Ministers, Assistant Ministers, Permanent Secretaries and senior civil servants getting embarrassed because they are forced by circumstances to resign. It becomes very difficult to manage a country this way. A country cannot be managed if every week its officers are being sent home. We must change. This is only possible if both sides of the House support this particular Report which has been prepared by the Public Accounts Committee (PAC). The PAC has done a very good job of presenting this Report to the House.

Mr. Speaker, Sir, there are two types---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Do you know why this Chamber is called the Debating Chamber? It is because hon. Members are supposed to listen to the arguments being put forth by their colleagues. When they stand up to speak, hon. Members are supposed to respond to those arguments, either in favour of, or against them. Apparently, we are not listening. So, in the end, we will breach the Standing Orders by repeating what other hon. Members have already said. I will be very vigilant on the rule of tedious repetition. So, please, listen so that, that rule does not catch you.

Proceed, Mr. J. Nyagah!

**Mr. J. Nyagah:** Mr. Speaker, Sir, I also want to draw the attention of this House on the need to keep a very strong oversight role in our functions. The Anglo Leasing contracts were, in fact, approved by this House. I have seen this record in the second last page of the Printed Estimates under External Debts. If you look at that section, it clearly talks of items such as Silverson, Anglo Leasing, Midland bank *et cetera*. All the things we see here were, in fact, approved by this House. This is a very good lesson for this House, so that, in future, we will be very thorough. We should ensure that some of these things are not passed because Ministers end up accusing us of having approved them just because we did not play the oversight role. So, I hope that the PAC will be very thorough, so that they protect the possibility of our names being misused, in the future, by a Minister trying to cover up his past, saying that some of these projects were approved by this House.

Mr. Speaker, Sir, I see two things that happened which were highlighted by the PAC Report. One category is contracts that were purely fake. No goods or services were supplied. This was outright taking money out of the public coffers. That is criminal and action must be taken against those people involved.

There is a second category which consists of genuine projects which were highly overpriced. I call them "genuine" because it is very clear to me, whether we like it or not, that the issue of computerised passports must be introduced in this country. Otherwise, Kenyans will not be in a position to visit some countries very soon. However, this must be supplied at a price that makes sense and is competitive. It is very clear that the Criminal Investigations Department (CID) must have forensic laboratories. This must be done at prices that are not Anglo Leasing prices. Prices that are competitive because our nation must move forward. We must have this new technology. As a result of corruption, we have not been able to achieve it.

We must go for the warship in Spain. We all know that these projects did not succeed because things were implemented wrongly. I am told we are still paying interest for that ship. If we do not want to give it to the navy, we could give it to the Kenya Tourist Board (KTB) to be ferrying tourists to Zanzibar and Seychelles. However, it is important that we stop punishing ourselves. It looks like we are really punishing ourselves. We are incurring huge debts and interest charges because of carelessness of senior officials who signed these contracts. They must never be allowed to do so again.

Mr. Speaker, Sir, when we make a mistake of this kind, there should be room for renegotiation. I am sure there is no contract on earth, which does not have a clause for renegotiation. Could we openly renegotiate with Parliament playing an important role, so that we get better terms than what we got before? The moment we left this to a few individuals, that is when we got into a mess. However, it is important for us, as a nation, to think soberly, so that our nation moves forward.

Mr. Speaker, Sir, I want to emphasise the need to renegotiate. I am not saying we should forgive those who were involved in these scams. Please, do not misunderstand me. We, as a nation, should not punish ourselves. Sometimes I preach. When I do, at times, I refer to the book of John Chapter 8 in the Holy Bible. Jesus Christ was approached by a crowd and they presented before

him an adulterous woman. They said she should be punished. Jesus looked at them and said: "He that is without sin among you, let him first cast a stone at her." All of us in Kenya have been corrupt, whether a traffic officer or Mr. J. Nyagah. So, it is important that when we are asked to "throw a stone", we want to see who will be the first one to do so. I suspect it will be like the days of Jesus. People will walk out one after another and nobody will be left, except, like in the case of the Bible, Jesus and the adulterous woman. I am just preaching this because it is relevant for the PAC to---

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

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

**Mr. Cheboi:** Mr. Speaker, Sir, is it in order for the Chair to allow the hon. Member to confess because he is saying that everybody has participated in corrupt activities in one way or another? He should confess the bit of corruption that he has participated in!

*(Applause)*

**Mr. J. Nyagah:** Mr. Speaker, Sir, all I have done is to give that example from the Holy Bible. Let us admit, we have done it. I have said, including myself---

**Mr. Speaker:** Order, Mr. J. Nyagah! Hon. Members, he is saying, let the first person throw the first stone. So, can you throw the first stone?

**Mr. Rotino:** On a point of order, Mr. Speaker, Sir. Since the hon. Member has admitted that everybody has committed an offence, could he begin by confessing what corrupt activities he has engaged in?

**Mr. Speaker:** Order, Mr. Rotino! This is not a church now. Can we come back to Parliament?

**Mr. J. Nyagah:** Mr. Speaker, Sir, that is the end of my preaching. I will not preach in a mosque or a church---

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

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

**Mr. Twaha:** Mr. Speaker, Sir, while Mr. J. Nyagah has invoked the Bible, he should know that Jesus did not preach water and drink wine, he preached water and drunk water! However, the NARC Government preaches water and drinks wine!

*(Applause)*

**Mr. J. Nyagah:** Mr. Speaker, Sir, that was my next point. I agree---

**Mr. Speaker:** Order, all of you! Now we are beginning to side-track. We must come back to the real thing. I think we have heard enough of your sermon. Now, come back to the Report!

**Mr. J. Nyagah:** Thank you, Mr. Speaker, Sir. However, it is quite difficult to---

**Prof. Anyang'-Nyong'o:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Order, What is it, Prof. Anyang'-Nyong'o?

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, I just want to give my friend, hon. J. Nyagah, some information.

**Mr. Speaker:** Mr. J. Nyagah, do you want his information?

**Mr. J. Nyagah:** Mr. Speaker, Sir, I do not need it.

**Mr. Speaker:** Please sit down; he does not want it.

**Prof. Anyang'-Nyong'o:** It will be useful to him, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Order, Prof. Anyang'-Nyong'o! The best judge in these circumstances

is hon. J. Nyagah. He says he does not require your information. Please, keep it to yourself.

Proceed, Mr. J. Nyagah.

**Mr. J. Nyagah:** Mr. Speaker, Sir, the father of the Leader of the Official Opposition at Independence told us to forgive the past but not to forget it. These were very important words for a nation like Kenya. They are important to us because a time has come when we must forgive the past and not forget it. I wrote an article recently on this subject. We must forgive the past and not forget it. We have been wronged. Our children are walking in the streets with no food, because of corruption. Our youths have no jobs, because of corruption and we all agree on these things. But I have a problem. For how long is this going to continue?

I would like to suggest the following things. First, we should strengthen the Anti-Corruption and Economic Crimes Act, so that it can become stronger than it is. We have passed a law but it is not doing what we expected it to do. For instance, we need to do what other countries have done. We need to get to a point, in my view, where we should negotiate with people who have taken money out of this country. We need to negotiate with people who have acquired illegal assets. Theft of public assets has taken place over the last 50 years, and a lot of our money has been stolen. A lot of money has been taken out of our country. We are suffering even though we are arguing here politically. What we need to do, and I have written on this authoritatively, is to strengthen this Act, so that we formally and officially tackle this matter. With the oversight role of this House, we must move forward. Using the good recommendations made by the PAC, we can negotiate with people from previous regimes and people in this regime. We have to draw a line, and say from now on, if you are caught stealing you will be jailed for over 20 years.

Mr. Speaker, Sir, this happened in countries like Pakistan, Ukraine and others. People have returned more resources and money into their countries than was expected by their Governments. Those countries have since become a little richer than they were before their asset recovery laws were passed. If necessary, I will try to propose an amendment to our Act, so that we can officially reclaim stolen wealth. There are rumours that people might bring back money and then some other people may grab it and treat it as their own. This fear creates a difficult situation. That is one issue we must look into, if we are to address this matter in a serious manner.

The second category is that of those who have stolen and become very rich. These people should be identified. We have already identified some of them. We read newspapers everyday. We should go after their assets aggressively. We should grab those assets. Since they have refused to co-operate, we should not only grab everything we know of, but also the money in their bank accounts overseas and make them public property of Kenyans. We should then jail them for 20 years. It is important for us to have a "carrot and stick" policy. This is what has happened where other countries faced the situation we are facing today.

Mr. Speaker, Sir, even if you took over as the President tomorrow, you would not deal with court cases effectively because they are too many. So if we do that, this country will be rich in resources. People will have learned a lesson and we will have done what we were told at Independence, to forgive but not to forget. That is the only way in which we can move ahead. We must get to a point where we draw a line in order to make progress.

I am not supporting corruption. I am not supporting what has been done. Some people must pay for it. Before a nation takes a leap, some people, who have committed wrongs, must pay for them. There is no doubt in mind my that, unfortunately, a few people will have to suffer. If the culture of corruption is to be replaced with a no-corruption culture, some people must pay dearly for that change. That is a price we all have to pay, unfortunately. That is a price a nation must pay. It is part of growing up that we must go through

Mr. Speaker, Sir, with those few remarks, I wish to end my contribution to give other hon. Members a chance to also contribute. I hope I have provided a way forward for this nation.

**Mr. Speaker:** Yesterday, I promised the Government Responder an opportunity, and I think this is the time for the House to hear what the Government has to say.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Thank you, Mr. Speaker, Sir. I beg to rise to, on behalf of the Government, support the recommendations of the Report before the House.

*(Applause)*

Mr. Speaker, Sir, we have come to a time when we have to rise to the occasion, as the national leaders of this country, and jointly embark on a serious mission to uproot corruption in the country. As has been stated, corrupt transactions started several years back. There was a regime change but they found their way into our Government. The reason is that we did not clean up the system. We are called upon now to clean up the system, so that Kenyans may read once and for all of these corrupt practices.

Mr. Speaker, Sir, this process will entail cleaning up the Civil Service and screening the political class and the business people we deal with. It will require co-operation from both sides of the House. We cannot afford to make this a partisan issue. When investigations show us who the actual Anglo Leasers were, whether civil servants, politicians or businessmen, and the axe falls, let nobody whimper that this is my villager, brother or cousin. We should all accept that Kenya needs to once and for all deal with the issues of corruption, past and present, so that we may release our energy for development.

It was rightly observed by the Leader of the Official Opposition that unless we deal with this matter decisively it will be an issue not only during the tenure of this Government but even after this Government has gone. It is a very heavy responsibility, and Parliament has to rise to the occasion. We all know that the Government has stepped up its war against corruption. These matters are part of the matters that are being dealt with under what we have called "past and present cases of corruption", in order to free the country from corruption. I am calling upon all hon. Members of this august House, and all Kenyans, to co-operate. When you are asked questions by the investigators, however clean you consider yourself to be, why do you not co-operate and let them know what they want, so that the matter may be closed? We cannot approbate and reprobate. On the one hand we say that, as a House, we want to fight corruption and on the other hand if you, as an individual, are called upon to answer questions, you either rush to court or resist. It is your right to do so, if you think that there is unfairness. But let us be serious; let us not obstruct this war against corruption.

The Government, on its part, is serious, and that is why unprecedented steps have been taken to pave way for investigations. That is why the Government co-operated with this Committee of the House as it investigated this issue. You heard that a staff member from the Controller and Auditor-General's office accompanied the Committee to London for investigations. We too as, a Government, are interested in nailing the real culprits. There are culprits who could be in this House. There are culprits out there and in the Civil Service. We need to get to each one of them.

Mr. Speaker, Sir, just to understand how complex this matter is, if you look at the back of this Report, where there is a tabulation, you will see that the 18 or so projects, now commonly known as "the Anglo Leasing-type of projects" started in 1997. The very first one started in 1997; then, we had another one in 1998 related to the Police Airwing. We had one in 1998, the Kenya Police Airwing Project, and we also had several in the year 2001. In 2002, the projects started in January, ending with the very last one on 18th November, 2002. As we were busy campaigning, other people were busy planning how to loot, probably to fund the Election. We do not know, and may never know, wittingly or unwittingly, because many people may have been beneficiaries of the

scam. However, it is time to find out, with certainty, who is responsible and who the beneficiaries are because Kenyans want back every penny they may have lost in these transactions.

*(Applause)*

Mr. Speaker, Sir, if you look at the first two transactions in the year 2001, which were entered into on 15th August, 2001, the Forensic Science Laboratory which has been mentioned, although not really the subject of the probe, Silverson Establishment, which dealt with security vehicles were signed on the same day. Promissory notes for the whole amount were issued the next day, 17th July; a total of US Dollars 144 million. The dollar was then going for about Kshs80. A total of a staggering Kshs11.9 billion was given away by a stroke of a pen. We know the laboratory was never built, and not a single vehicle was ever delivered. We know that some of the money has found its way back and some of the promissory notes have been brought back. However, until a comprehensive audit is done, we may not with certainty, say what, as a country we have lost. We may not be able to say, with certainty what we are likely to lose because of the cases that are arising now, in foreign jurisdictions over the contracts.

I, therefore, want to agree with the recommendations of the Committee, that the audit report of all the 18 projects be brought before this House for further scrutiny. We also agree that in respect of the passport issue, which is the subject of this report, conclusive investigations have not only to be done, but to be expedited. You know they are already underway and Kenya Anti-Corruption Commission (KACC) has informed us that it is about to conclude the work. We need to know who the culprits are. It is the interest of the Government, and of Kenyans to find out.

I want to say that given the doctrine of separation of powers, and the way our institutions are, we all have different roles. Parliament as the watchdog of the people has a duty to point out where something ought to be done. I am glad that this Committee has pointed out where they think investigations should be carried out, so as to establish the truth. Like I have already noted, and my colleague from Finance, if he gets a chance will say, the Government is prepared and will very soon lay on the Table of this House, a comprehensive audit report to enable Parliament to do its work.

I want to refer to the recommendations of this report which are found on page 57. First, I would like to say that the Government is already doing much of what has been recommended, and it would not make sense for anybody to resist what we are doing. Therefore, we support the recommendations. The Director of the KACC should liaise with the Attorney-General, the Police Commissioner and other relevant bodies with a view to prosecuting those who were involved in negotiating and the approval of the procurement of passports and equipment project.

As you may be aware, through public pronouncements by the Government on the 9th February this year, the Cabinet approved the setting up of a coordinating mechanism consisting of my Ministry, the Attorney-General's Chamber, and the CID so that we can, in a comprehensive manner, deal with issues of corruption including the Anglo Leasing matter. I have already stated that the investigative agent, KACC will very soon give a report on this and we will know whether there will be more prosecutions. We know there are already some prosecutions that have taken place. We are also doing our best to ensure that matters in court will progress with speed.

As you know, it has become fashionable in this country when one is charged with a criminal offence, to wave the Constitution and say that it protects them from being prosecuted for such cases. Luckily for us, early this year, the Chief Justice published rules that will help with the speedy disposal of these cases. It is the right of any Kenyan aggrieved to go to court, but it is not the right of anyone to go to court as a means of creating total paralysis of cases. Those rules are designed to ensure that anyone who thinks they can make a Constitutional reference or review for

purposes of killing a case, are not able to do so. There is a time frame, according to the rules when a case must be disposed of. You can run, but you cannot hide. Everyone should be ready to answer before the court, be acquitted or convicted for the case they have been taken to court with. You will, therefore, be seeing, not in the far future, many activities coming from this coordinative chain. Those who have paralysed their cases through the courts should know that there is now a way of fast-tracking from the courts using the new rules. Therefore, on the part of the Government, we are upbeat and need cooperation of you as the law-makers, as the leaders, and of every Kenyan.

We have also, in the second recommendation, asked the Attorney-General to ensure that the 18 projects, which have not taken off are legally terminated. Yes, they were terminated in the sense that the Government is no longer paying. However, I want to agree that we need to be neater than that. The legal processes must take place so that we are not surprised by cases coming from other jurisdictions. Some work is underway; we have not tied all the loose ends. We are in the process of doing that and we will expedite the process. So, that recommendation is in line with what we are doing and we welcome it. The recommendation that in future, no financial agreement should be signed, I take it that it is the financial agreements, especially for external loans, without the approval of the relevant Minister, the Accounting Officer of the procuring Ministry and the Attorney-General, and that the Treasury is satisfied that due diligence has been done by the supplying financing company. Equally, no payments should be made before due diligence requirements are complied with. That has always been the law, by the way. Part of the investigations will be checking who failed to do their work. If you failed to do due diligence, do you deserve to still hold an office if you are a civil servant? If you are a Minister or a business person dealing with the Government, do we need to deal with you again? Anybody who failed to do something or who did something wrong, this is the day of accounting.

Mr. Speaker, Sir, the State Law Office is the legal firm that the Government looks upon. We must check whether the work was done in all the offices where these transactions were supposed to be vetted. What does a lawyer do when a client says that he is entering into contracts with company "x"? What is the lawyer supposed to do? He is supposed to conduct a search to prove that, that company is a legal entity. Was this done? We will also be checking what the Treasury is supposed to do when it gives authority. Are they supposed to check whether the project is viable? What about the Ministry concerned, is it supposed to check on the viability? Who in particular is vested with this responsibility in the Ministry? It is not very well to talk about a Ministry because it is an institution. We want to go beyond the institution to see the individual responsible who committed an act of omission causing loss to this country and to its citizens.

Mr. Speaker, Sir, we cannot, within the workings of this House, be able to get to the bottom of everything. But it is possible to get to the trail, and the investigator will pick it from there. We will then expect answers to come from our investigating agency. I also find it useful that the Committee has, in recommendation No. IV, said that the use of promissory notes as a means of financing Government's expenditure should be restricted and vetted to avoid misuse. I have just told you how Kshs11.9 billion was signed off with a stroke of the pen. This was done through promissory notes which were issued. Promissory notes are as good as money because those people go and discount them with foreign banks the same day. How can we, as a Government, give away Kshs12 billion in a day when we are looking for donors to finance most of what we are doing? Is that reasonable?

*(Applause)*

We need to check our systems to see where the weaknesses are. We know that these systems used to work before when there were no scams of this kind. But because the human mind

continues to be very devious and goes on to devise ways of escaping the normal, we also have to be advanced in the way we conduct surveillance on one another. We are now called upon in this law-making House to look for ways and means to ensure that the loopholes that allow these types of scams are sealed once and for all.

Recommendation No. V tells the Accounting Officer, Office of the President in charge of internal security, to ensure that security equipment is categorized in order to ascertain their degree of secrecy. This, once again, is a useful recommendation. Look at what has been done in the name of security projects; cars and communication equipment. Granted, that some communication equipment can be classified as security, but what we have seen in all this, not all of them are security issues. We need that categorization.

Once again, I want to agree with this Committee that we need a Parliamentary Security Committee whose Members can be vetted so that they help in scrutiny. The system of having three Arms of Government which provide checks and balances are necessary, and providing a watchdog Committee that can scrutinize what is going on in the Government is part of those checks and balances. After all, it has been proved that this very crappy and devious cartel has been able to evade two Governments for over one decade. We, therefore, also need to find ways and means of being able, where the Government, the Civil Service or bureaucracy is unable to detect, at least, Parliament will be able to raise it in its audit. So, it is to the advantage of every Kenyan that these measures be taken.

Mr. Speaker, Sir, we also agree to the recommendation that the Minister for Finance should report regularly to Parliament on all external loans contracted by the Government. It is a pity that part of the loan portfolio is part of the scam. If it is money that has benefitted Kenyans, then we have no problem as a nation paying the loans. But it is totally wrong to pay for services that have not been rendered to Kenyans to enrich just a few people. It is actually criminal to do that when we have people starving.

*(Applause)*

Therefore, Mr. Speaker, Sir, as a Government, we are seeking partnership with the House and with all Kenyans in the war against corruption. This is not a partisan issue. I do not need to read out all the other resolutions one by one. I have indicated that we welcome those resolutions.

I am also aware that when these matters were hatched, a Cabinet Paper was then taken to the then Cabinet in July, 2001, not only to approve policies but in particular, to approve three projects: The housing project, the vehicles and the Forensic Sciences Laboratories. Therefore, I want to correct the Leader of the Official Opposition that it was not only policy which was approved. If you revisit that Cabinet Memo, which I happen to have here, the three projects were also approved on that day of 11th July, 2001. The recommendations of the Cabinet meeting of that day were to approve the use of lease financing for high priority security projects of housing, transport and forensic laboratory.

*(Applause)*

This is a proof of use of suppliers credit for essential security equipment and supply and a direction to the Minister of State in charge of Provincial Administration and Internal Security and the then Minister for Finance to take action, and they took action. What is appearing here and what is quite clear at this time is that although the Cabinet approved, and there are very many hon. Members in the Opposition side of this House who were in that Cabinet then, I am not convinced that all of them were necessarily involved in the illegality. That is why investigations must be held



to find out who was involved.

*(Applause)*

Mr. Speaker, Sir, what is appearing right now, and it is quite clear, is that even when this memo was taken to the Cabinet, it is clear that it was a scheme to milk the country. That is why those two contracts were signed, promissory notes given the next day and not a single thing has been supplied to-date.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. M'Mukindia) took the Chair]*

From the word go, it was a fraudulent scheme. It is possible for colleagues sitting in the Cabinet to listen to one or two of them in good faith and to approve something they know nothing about. This also now informs both the current and future Cabinet that when matters are heavy, they require serious consideration.

*(Applause)*

Mr. Speaker, Sir, it is also beginning to dawn on everyone that holding the office of a Minister is not just the joy of the flag. On the contrary, it is also a very heavy responsibility because you can actually be duped or recruited into a scheme to rob the country, and we are checking on those two possibilities.

Mr. Temporary Deputy Speaker, Sir, this is what investigations will show: All those who have come into contact with this scheme, yesterday and today. How many of them were criminally involved? How many of them may have negligently performed their duties? How many of them may have been duped in spite of being diligent? Those are the issues to address. The other serious issue is that Kenyans want their money back.

*(Applause)*

You whose pocket is bulging, we need that money in our Treasury. We are asking you to co-operate because this is a serious issue. We are going through a very hard time. We have had people starving and others dying of thirst. Our infrastructure is dilapidated. We do not need to hold a begging bowl. If we can seal the leakages of our hard earned finances, we would not have to go begging. We would be able to provide for everyone. I am, therefore, asking that we rise beyond partisan lines and take this responsibility seriously. Kenya is looking upon us. If we do not rise to that responsibility we are postponing a problem because this matter will not go. It has to be resolved and that is the message. We either resolve it now or we shall be postponing and prolonging our own agony.

Mr. Temporary Deputy Speaker, Sir, I recall that this is the third time I am a Member of Parliament having been in the Seventh and the Eighth Parliaments. I was recalling today that in the previous two Parliaments, not much happened, but towards the end of each Parliament, I think the good Lord touched most of us and something would happen. I am praying that we now be touched so that something may happen and we take this responsibility seriously. In the Seventh Parliament, it was not until towards the end that we came together in a show of patriotism and reviewed the

Constitution together thus

enlarging the democratic space which has enabled us to come this far. That is why today there are no cases of detention and that is why we were able to remove a sitting Government. It is all because democratic space had been enlarged. In the Eighth Parliament, the great happenings, in my view, were the enactment, through a Private Members Motion which was taken over by the Government, of the Parliamentary Service Commission to enable and equip Parliamentarians to perform their tasks and the enactment of the Constituencies Development Fund (CDF) both of which are being implemented by this Parliament.

Mr. Temporary Deputy Speaker, Sir, sadly, this Ninth Parliament, I do not think, so far, we have anything to show. Maybe we have distinguished ourselves by name-calling and generally behaving badly. We have spread this to the entire nation. Here, we are hurling insults at each other and outside the House we are showing no respect for institutions and leaders. Likewise, our competitors in our constituencies have borrowed cue and they are calling us names. We bear the name honourable, but without honour because out there we are not being given the respect that is due to us. Why is that the case? It is because we too are not giving institutions and leaders their due respect. We can differ with respect. We can criticise and at the same time perform our duties. As a Government, I must say, we appreciate constructive criticism. However, we as a House must rise and return dignity to the institution of Parliament and also help to redefine our social values as a nation. Who else if not Parliament?

*[The Temporary Deputy Speaker  
(Mr. M'Mukindia) left the Chair]*

*[Mr. Speaker resumed the Chair]*

These are the last few months towards the General Elections because 2007 is the D-Day with our employer. We are called upon to rise up to this occasion. We are supposed to deal decisively with issues of corruption, constitutional review and the redefinition of our social values. We have been complaining to you about migration. I am not talking about the Mara Migration of August, but the migration of hon. Members between the two sides of this House.

Mr. Speaker, Sir, this is a unique problem and we need to understand that ours is a transition Government and this is a transition Parliament. This is the first change of regime after Independence. It, therefore, means that to get over the difficulties that we are having now, it is not the course of law which will help us out of this. It is not Mr. Speaker we should be telling that he is failing. It is us who are failing. Those weaknesses we see which are enabling the situation of which we complain now, it is us the lawmakers who are going to tighten the law to make it impossible for another Parliament to be revisited by the sort of confusion that has been visited on this Parliament.

*(Applause)*

Let us also stop blame-game. We are all to blame. Therefore, we need to correct the mess we have created in and out of the House. This is a course for unity of purpose and for a minimum agenda for this country that will then make it better for us to compete. Agreeing to a minimum agenda does not mean that we have returned to a one-party State. It just means that we are responsible and patriotic leaders who can identify issues that are so grave and important for this nation that need bipartisan support to go through.

Mr. Speaker, Sir, a time has come when this august House--- If we do not want to be

relegated to irrelevance, we will have to take up this responsibility. Speaking to many honourable Members, I am glad that there is now a mood to rise up to this occasion and we are not saying that anybody is to blame. However, we realise that there is a problem and we need to rise up and do what we need to do.

Going back to the Report, I have indicated that as a Government, we support all the recommendations in this Report. However, I would be failing in my duty if I did not explain a little about the role of a Minister. I am sure that most honourable Members, and especially those who have served in Government before, know the workings of Government. What is the role of a Minister? In this Report, on page 43, Section 22 (3) of the Constitution it is cited, but not in full. It reads thus:

"The Minister has the responsibility to exercise direction and control over his Ministry."

Actually, the proper wording is, "general direction and control" and that is at the policy level. The day-to-day person, according to that Section, knows that each Government department is under the supervision of a Permanent Secretary. So, there are two people in the Ministry: A Minister and a Permanent Secretary. What are their roles?

Mr. Speaker, Sir, it is true that sometimes a Minister will be given documents to look at for approval. I want to agree that it is the responsibility of the Minister to look at those documents as he approves them. However, we also work on the basis of trust. I cannot become my own Permanent Secretary. I cannot do the work my technical officers do. I can ask questions and especially when an irregularity has been brought to fore, I can call for the entire file and read it from back to back. However, on an everyday basis, operations of Government are possible because we work on the basis of trust. This is not to minimise the responsibility of each person, be it a Minister or a Permanent Secretary, to do their work diligently.

Therefore, until there is clear evidence of involvement and which gives rise to suspicion, we are obliged to take each other at the face value and also take it that we are all working towards a common purpose. We, therefore, recognise that it is possible for a person to be duped, but it is also possible for a person to be recruited into an illegal activity. That is why we are submitting to investigations. In this Government, there are no sacred cows. All the Ministers and civil servants in the Ministries concerned have already submitted themselves to investigations including the Leader of Government Business. As a Government, we have done all we could do to facilitate even the Public Accounts Committee (PAC) in its work. However, we urge for patience. We urge that Members of this House desist from attempting to lynch one another and to short-circuit the due process. If someone is involved, the day of reckoning will still come. So, why would we want to short-circuit the due process?

Mr. Speaker, Sir, I have looked at this Report especially on page 42. There is nowhere in the entire Report where His Excellency the President has been implicated. It is very sad that some of us and the media have actually said categorically that the President has been implicated in this Report. Are you truly a patriotic Kenyan? Are you being fair? There are some things you even do not wish on your enemy. Who would want to be accused falsely of matters of this nature? Let us take our responsibilities seriously.

Since this Report is now in the public domain I would like to urge media to read page 42 of the Report and stop falsely accusing the Head of State and maligning his person. I beg the indulgence of the House to read this paragraph because I think it is a very serious issue. It reads as follows:-

"The Committee accepts Mr. Githongo's evidence that he regularly briefed the President on the Anglo Leasing contract and the related contract from the time Anglo Leasing became the subject of a parliamentary query."

How then does one say that the Report implicates the President? He was briefed from the time investigations arose because of a parliamentary query. He was briefed on the progress of investigations. His Excellency the President and the Government have taken action. Colleagues have given way for investigations to take place. People have been arraigned in court and audit is ongoing. You will realise that it requires very extensive work to uncover these kind of transactions, because it is not one.

Mr. Speaker, Sir, I cannot categorically state before this House that we have even been able to weed out all those connected to this scandal. Investigations are still ongoing and we are seeking the support of everyone. We are afraid that there may be people holding office who are involved in this scandal; civil servants and others, who may still be dealing with Anglo Leasing type of businessmen. We need to summon our collective will, not just as a Government, but as Parliament and as people of this nation to fight with this monster. I would hate to think that some of those involved may be the ones now maligning others wrongly when this Report does not say so.

The Report further states:-

"In support of this, the Committee accepts the memorandum tendered in evidence by Mr. Githongo which is sent to the President as a brief on the Anglo Leasing contract."

I need not read all of this, but it is quite clear that arising from all that, the Report then says:-

"The fact that top civil servants were sacked on the authority of the President, clearly points to adequate information having been provided to him."

At what stage was this information provided? This was done from the time Anglo Leasing became the subject of a parliamentary query. Let us be honourable and truthful. Let us not be peddlers of falsehoods. If you feel that the Government has not done adequately since discovering this scandal, say so. But do not try to say that the President knew of the illegal dealings when they were going on when you very well know, and it is in black and white, that he was not part of it nor does this Report implicate him.

Mr. Speaker, Sir, when you malign the Head of State of your country, unfortunately you malign yourself. When you destroy institutions that govern your country or offices that you desire to occupy the next day, you malign yourself. Let us rise above petty politics. That is not to say that we should abdicate from the duty of correcting what has gone wrong. That is a duty we must guard jealously. We must be able to speak truthfully all the time then we shall be taken seriously by Kenyans. Let us compete on the basis of ideas not rumours, insults or falsehoods. Parliament should be a market place of ideas but not rumours. I am urging my colleagues that we should have a new start where we deal with issues seriously. We should return honour to ourselves and the House so that we may truly be honourable.

Mr. Speaker, Sir, it is worth noting that the President directed Mr. Githongo to investigate who Mr. Kettering was. You heard what the Leader of the Official Opposition said that even civil servants who had said that they dealt with Mr. Kettering, all of a sudden claimed they did not know him. He ordered things to be done after he heard the report on the investigations. That is what this Report says. The media and those who have peddled falsehoods owe an apology to His Excellency the President.

Let us respect institutions and be fair to one another. I have seen the code of practice of journalism in Kenya. One of the cardinal rules is to be fair and accurate. A self-respecting media must not deliberately distort or subvert contents that are in black and white. I hope that this will get to the respective boards, managers and editors, so that an apology and a correction will be forthcoming. I am not seeking an order of the Chair. I am leaving it to your good conscience and to any other lawful action that can be taken in the circumstances of this case.

Mr. Speaker, Sir, I have also looked at this Report on matters touching on the Leader of Government Business, the Vice-President and Minister for Home Affairs, under whose docket the Immigration Department was. I must again begin by saying that he has subjected himself to investigations which are ongoing. But it is good to set the record straight. I have also looked at the minutes and the HANSARD report of the Committee. The Report says on page 43 that there is abundant evidence on record that the Vice-President and Minister for Home Affairs was, contrary to his evidence before the Committee, sufficiently involved in the implementation of Anglo Leasing contract as to take responsibility for his shortcoming. Does that not pre-judge ongoing investigations? That takes us back to the question. I am not going to give conclusions here. What are the responsibilities of a Minister? Can a Minister do some technical work? The Committee, in the body of that page, has referred us to a memo that was given to the Permanent Secretary in the Ministry of

Home Affairs on 8th September, 2003 by His Excellency the Vice-President and Minister for Home Affairs. That memo has been reproduced in summary. But when you look at the memo in full - and it is available in the exhibits that form part of the Committee's Report--- It is just one paragraph. I beg the indulgence of the House to read it. The subject is: Immigration, Security and Document Control Systems Project. It reads:-

*(Mr. Kosgey consulted loudly  
with other hon. Members)*

**Mr. Speaker:** Order! Mr. Kosgey and company there, you are disrupting us completely! Please, relax!

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Thank you, Mr. Speaker, Sir! It reads:-

"I refer to your memo on the above subject dated 5th September, 2003. Will you please go ahead and submit the proposal to the Treasury for technical evaluation. Submit the proposed contract document to the Attorney-General for legal opinion and finally, request the Ministry of Finance to consider and approve the project, if it finds it viable. The only point that may need to be re-looked at is the interest rate. Perhaps, 4.75 per cent would be more acceptable to Treasury."

It is true that he saw the documents! But he is saying: "Do the work as you should." I have read it in full, so that hon. Members, are clear on the full contents of the memo. Can this memo be said to show that one knew about the illegal on-goings? That answer will be given by the investigators. But it is quite clear that he said technical evaluation should be done, Treasury should be contacted on the viability of the project and the Attorney-General should give a legal opinion. A Minister cannot be a jack of all trades. You have to submit to the experts.

Mr. Speaker, Sir, I am, however, very glad that the Public Accounts Committee (PAC) performed commendably under the circumstances. Both the Chairman of the Committee and the Seconder of the Motion, who is the Vice-Chairman, agreed that the matter requires more investigations. That way, we will not make prejudicial conclusions before investigations are carried out. It is very important in law! It is better to let a guilty person go free than convict an innocent person. That is why we have a due process where the investigator is not the same as the prosecutor, nor is he or her a judge. A person is given ample opportunity to do all that. As a Government, we are committed to due process.

I invite those who were not in the House in August, 2004, when I moved a Motion not only to expunge the name of Mr. Mwiraria when he was the Minister for Finance, but also to expunge a blanket recommendation saying: "Ministers and Permanent Secretaries will, henceforth, be

responsible for any theft in their offices---" I said: "No, that is not due process!" I want, as a Minister, to be responsible for my own acts and omissions. But if somebody else deliberately does something wrong and I am not involved, I cannot bear the burden of that person. Even on political responsibility, if it is shown that I did not do what is expected of me, then I am ready to bear that political responsibility. Today, we are seated on this side. Yesterday, you were on this side. Tomorrow, you could be seated here and we are there. You will demand the same fairness. Let us give the same measure that you would want to be measured with, even to your enemy. If you do not do that, you will go the same way tomorrow. You will push someone unfairly. So, let us all advocate for due process.

Mr. Speaker, Sir, we know that the task of bringing those matters to a close; that is, investigations and prosecutions, may take us a long time. But it can also take us a very short time if we have unity of purpose as leaders of this country. Information will be forthcoming. We will know those who have assets disproportionate to the sweat they have put in. We will know those who have acquired massive riches within a time you, ordinarily, could not have acquired. That applies to everybody, whether you are a Minister or an ordinary Member. The Statute Law (Miscellaneous Amendments) Bill has now been published. It is going to come here. As a Parliament, we must show Kenyans that we are committed to fighting graft. We must, as a House, agree to declare our assets. There is an amendment to the Public Officer Ethics Act that will force us to declare our assets to the people. That way, we will be able to check how much you accelerated when you entered Parliament, when you became a Minister and when you ceased to be one. Is that possible in normal business?

*(Applause)*

Mr. Speaker, Sir, we can only check on each other if we agree to declare our wealth. I am inviting Kenyans to be vigilant and see whether we will rise to our duty and to agree to be open to scrutiny. Otherwise, why do we want our colleagues, civil servants and businessmen scrutinised, when we do not want to be scrutinised ourselves? Let us agree to be scrutinised.

Mr. Speaker, Sir, all we want is our money back. Luckily, the law we passed--- At least, we have passed a few Bills in the last three years. It is not a total zero score. It may be 0.1 per cent, but we have some score. We have passed the Anti-Corruption and Economic Crimes Bill. That Bill introduces something noble. Previously, pre-bargaining was only available in murder cases. It is not written in black and white as pre-bargaining. But I can assure you that, if you look at that Bill, the law looks very kindly to people who co-operate. Why can we not encourage those we know have queries, either in PAC, Public Investments Committee (PIC), Ndung'u Land Report, Goldenberg and any other scandal, to quietly approach the investigating officers. All we want is our money back. That is why I am saying that, it can take us a long or short time. But the message is clear. Kenyans have become very inquisitive. Parliament has become terribly inquisitive. In my 14 years in Parliament, this Parliament is most inquisitive. It may be irritating a little to those of us in Government, but it is necessary. How else can the checks and balances be observed? You can run, but you cannot hide. If you are able to avoid it now, someone will raise it tomorrow. Why not settle it now? Do not leave to your family what they may believe is riches, when all you are leaving to them are cases. Settle it now and let your children, who may have nothing to do with it, live in peace after we are gone. All of us are on a journey. We are asking for everybody's co-operation. We are asking that we rise up together.

Our nation is very blessed with abundance of natural resources and a tax base. If we completely implement the taxation measures proposed by this Government, we could easily get a trillion! We are now at over Kshs300 billion. As lawmakers, let us encourage people to pay taxes.

Let us also encourage efficiency. I do not want to mention about issues in court, but reforms are about efficiency. When you have an electronic tax register, it means you cannot erase. When the tax man comes, he is able to check how much you forwarded to him. Time has come when we must identify a minimum agenda for bi-partisan support. If we do not do that, we may not go far. I am here, for instance, in my capacity as the Member for Gichugu. I will be asking for more CDF allocation. But where will that money come from if we are not going to encourage people to be responsible and pay taxes? Where will it come from if we are not going to encourage those who have looted money to return it so that it may build our country?

Mr. Speaker, Sir, I appreciate the ruling of the Chair in this matter, that although the Public Accounts Committee, by virtue of Standing Order No.147 should commence its work when a report is laid, these are exceptional times needing exceptional measures. I am, therefore, asking Parliament to adopt that reasoning of the Speaker. Let us rise up and take exceptional steps to redeem our country.

*(Applause)*

Mr. Speaker, Sir, it is very sad when we are talking to development partners and they talk down to us. When something happens out here, they talk to us as if their countries are perfect. Recently, I asked one of them whether an event in their country where human rights were violated was a demonstration of change of policy by their Government. I am not advocating that we lower standards. But it is necessary that our citizens and our friends point out where we go wrong. But you point out about the incident, not as though it is a change of policy. We can join them and laugh at ourselves, but at the end of the day, it is me and you who are called upon to clean the mess that we have occasioned in this country. So, let us rise up and do what is necessary so that this great country of ours may move forward.

*(Applause)*

Mr. Speaker, Sir, I know that there are many Members wishing to participate in this Debate. But I want to agree that the error of single sourcing under the banner of security--- I will not say it will be gone because exceptional circumstances can demand. But single sourcing must be restricted and scrutinised. It is up to us to come up with a mechanism of being able to scrutinise. Why did we not hear of such scams in the 1960s? There may have been land allocations and all that. But stealing of money from public coffers is something that has come up in the last two decades. Why? Because we have become dishonest and we are encouraging dishonesty. People who have acquired assets unlawfully, even to our knowledge, are celebrated in society. They go to churches donating their money and instead of asking them how they reached where they are so fast; whether they bought rockets, we are clapping and inviting them. That is why I am saying we must redefine our ethics. Therefore, we need extra-ordinary measures that were not envisaged by yesterday's lawmakers because the human mind had not got to the deviousness it has gotten to today.

Mr. Speaker, Sir, may I end by saying that we are called upon to rise to the occasion. Let us not politicise the war against corruption. It is not the time to lynch your enemy. You may just fall to the lynch mob yourselves. Let us advocate due process so that we do not convict innocent people. We should not let a guilty person go scot free. Let us advocate due diligence. Let us agree on the minimum agenda that we must all support as leaders, and let us be patriotic to our country.

Most of all, let us respect one another. Let us respect our institutions. The Presidency is one of those great institutions. Parliament is another. Let us criticise where we have to. Let us be very

harsh in our criticism, but let us do it respectfully. Otherwise, we despise ourselves when we do otherwise.

With those remarks, I beg to support.

*(Applause)*

**Mr. Speaker:** Order, hon. Members! You see what joy there is in order; in us debating intelligently and putting forth facts. This is what I have been craving for and we are slowly getting there. Let us proceed that way. If you attempt to breach that, you are in trouble.

*(Applause)*

**Mr. Raila:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to the Motion. I am very happy today that we are listening to each other.

Mr. Speaker, Sir, I want to begin by thanking the Leader of the Official Opposition for making a very eloquent presentation of this Report yesterday. In the same spirit, I would like to thank the Committee for doing a very splendid job under very difficult conditions. Thirdly, I want to thank the Official Government Responder, the Minister for Justice and Constitutional Affairs, for a very eloquent and able presentation of the Government case.

Mr. Speaker, Sir, listening to Ms. Karua speak, I was reminded of Mark Anthony speaking at the burial of Julius Caesar. I think the Government should be very proud of her for her very able presentation this afternoon.

*(Applause)*

Mr. Speaker, Sir, this Government should be different. When we came into power, we started by saying that we were going to bring fundamental changes to this country. Whereas we can say that today we are guilty of actions of commission or omission, we can also admit that it is because we completely departed from the path that we charted when we started.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Listening to the Minister say that the corruption network was never uprooted, I could not help but draw comparisons between Kenya and the Republic of Georgia in the former Soviet Union. The Government there came to power on the platform of reform and change, and there was a lot of goodwill from the people of that country. But the Government did not move fast to rein in the networks of corruption, and within two years, the network had resurfaced, and in the end that Government went down the drain, consumed by mega corruption.

When we took over Government, there was a lot of hope. Surveys showed that Kenyans were the most optimistic people in the world. The *wananchi* used to arrest corrupt police officers manning roadblocks and take them to the police stations. But, gradually, because of our inaction, the old system has bounced back. All over the country, the police are now doing business as usual at roadblocks.

Mr. Deputy Speaker, Sir, I was interested to see the Minister look at the list on page 52 of the Report. I would like to make another comparison in line with what she was doing. We realise that in one day, Kshs11 billion was signed off. Looking at this list from page 52 to 53, we find that



in a period of five years, that is, 1997 to 2002, a total of 12 contracts were signed. From 2003 to 2004, a total of six of those contracts were signed. That is an average of three contracts per year, which is higher than those signed by the previous regime, and yet, the NARC Government had sworn that it wanted to rein in on corruption.

On page 53, in one day, that is, 16th July, 2003, a contract worth Euro 60.2 million was signed for the Oceanographic Survey Vessel. The exchange rate at that time was about Kshs100 per Euro. That amounts to Kshs6 billion. So, we have not performed any better than our predecessors.

Mr. Deputy Speaker, Sir, for the general information of all hon. Members here, I would like to say that when we took over leadership, we did suggest that the starting point should be a comprehensive reform of the Civil Service. I remember saying sometimes in the Cabinet meetings that we needed, for example, to revive the Civil Service Code. The responsibilities of the Minister have been mentioned here several times, as contained in Section 22, Subsection 3 of our Constitution. It says:

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

Mr. Deputy Speaker, Sir, we said that we wanted this to be changed. Article 117 of the Ugandan Constitution states as follows:

"A Minister shall individually be accountable to the President for the administration of their Ministries and collectively responsible for any decision made by the Cabinet."

The Tanzanian Constitution says that a Permanent Secretary is a principal advisor to the Minister. Those constitutions are very clear when it comes to separation of powers. The Minister is the boss and the Permanent Secretary is answerable to the Minister. But our Constitution has created two bosses in a Ministry, without clearly stating who is superior to the other, and that is the problem. We never reined in on this monster and it has come to haunt us. We said that we wanted a Minister to be properly responsible, because in the eyes of the public, the buck stops with the Minister and not the Permanent Secretary. Yet, out there, we will find a Permanent Secretary in a Ministry who has been brought there just to undermine the Minister. He does not answer to the Minister, but to the Head of the Public Service who keeps on summoning him to meetings in his office without reference to the Minister. This is a problem. It needs to be dealt with. But I am sorry to say that it is rather too late in the day for this Government to deal with that problem. We actually identified it when we took over power, but unfortunately, our plea was never heeded.

Mr. Deputy Speaker, Sir, I have a lot of respect for the Vice-President and Minister for Home Affairs. At the same time, I have a lot of sympathy for him. I want to say the following with a lot of respect for him. The lease finance has been mentioned and it has been stated that this was passed by a resolution of the Cabinet. I was present at that meeting and I want to set the record straight. The memorandum that has been referred to here under Minute No.91 of 2001 and reads as follows:

"The Minister presented the memorandum which had approval for specified financing arrangement of priority security projects for the police force. Cabinet was informed that an inter-Ministerial Committee on Security had ranked security needs in the country given high priority into three key projects; namely, police housing, transport and forensic science laboratories. Fifteen stalled housing projects had been earmarked for urgent completion, while new housing units will be developed in

phases in different parts of the country, beginning with the urban areas. The Cabinet noted the contents of the memorandum and approved the use of lease financing as the appropriate mode of financing for the high-priority security projects of housing, transport and forensic science laboratories and the use of supplier's credit for essential security equipment and supply. The Minister of State responsible for Provincial Administration and Internal Security and the Minister for Finance, to take the necessary action."

Mr. Deputy Speaker, Sir, this minute here did not approve any specific project. It basically states that the Cabinet approved the principle of the use of supplier's credit and lease finance. Those of us who are engaged in business, know that lease financing as well as supplier's credit is a very normal way of transacting business the world over. A number of companies in this country use equipment which have been financed through lease financing. So, there is nothing wrong with the principle of lease financing or the use of supplier's credit. The problem here is the abuse of that facility and yet, the Cabinet did not sanction it. Therefore, I want to set the record straight that the Cabinet did not approve Anglo Leasing projects or any other projects. I would like to, once, again refer the House to page 42 of the Report, which Ministers have referred to extensively. I would like to state that I have the highest regard and respect for His Excellency the President---

**The Minister for Environment and Natural Resources** (Prof. Kibwana): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member on the Floor to mislead the House by saying that the Cabinet resolution did not approve specific projects when the Cabinet Memorandum, which is an appendix to this Report, says clearly on page five:-

"Thirteen year lease financing agreement has been reached with Leyland Exports for 515 Land Rovers and 479 security trucks."

**Mr. Deputy Speaker:** Order, Prof. Kibwana!

**The Minister for Environment and Natural Resources** (Prof. Kibwana): Then on the Forensic Science Laboratory, agreement has been reached---

**Mr. Deputy Speaker:** Order! Order! Prof. Kibwana, you should learn to listen! You cannot ignore the Chair when it is ordering you to stop. Are you referring to the same minutes Mr. Raila has referred to?

**The Minister for Environment and Natural Resources** (Prof. Kibwana): Mr. Deputy Speaker, Sir, the minutes that Mr. Raila is referring to also have, as an appendix, the Cabinet Memorandum, which was approved. I believe that, within the appendix, those documents are there. Even in the Cabinet Memorandum, it is clearly stated that---

**Mr. Deputy Speaker:** Order! Order! I want to get the matter clear. Mr. Raila referred to specific minutes, but you are talking about a Cabinet Memorandum. Those are different things!

**The Minister for Environment and Natural Resources** (Prof. Kibwana): Mr. Deputy Speaker, Sir, the minutes of the Cabinet were approving a Cabinet Memorandum. It is in the Cabinet Memorandum where it is clearly stated that there was a 13 year lease financing agreement which had been reached between the Government of Kenya and Leyland Exports for 515 Land Rovers and 479 security trucks. Regarding the Forensic Science Laboratory contract, the memorandum states that agreement had been reached between the Government and an international firm for a new forensic science laboratory, with equipment and training, and a 12-year lease financing.

**Mr. Deputy Speaker:** Very well! Proceed, Mr. Raila!

**Mr. Raila:** Mr. Deputy Speaker, Sir, of course, the professor is still new in the Cabinet but what I have read out here is a seven year memorandum resolution. This is what the Cabinet was invited to approve, and that is what the Cabinet approved. I do not know where he got the other information from.

Having said that, I would like to invite the House to look at page 12 of the Report. Paragraph two, the fifth line from the bottom, says:-

"On the same day, Mr. Githongo said he was visited by hon. Murungi, MP, in his office, who expressed his concern about the investigations that were going on regarding Anglo Leasing. Hon. Murungi wondered whether Mr. Githongo appreciated the political costs of his investigations. Hon. Mwiraria, MP, also dropped in on Mr. Githongo and informed him that Mr. Jimmy Wanjigi, a businessman, who was concerned about the Anglo Leasing investigations, had sworn that he would kill Mr. Githongo."

Mr. Deputy Speaker, Sir, on page 14, starting from the seventh sentence from the bottom, the Report further says:-

"At this meeting, he (Mr. Murungi) informed Mr. Githongo that Mr. Alfred Getonga was concerned about his involvement in the Anglo Leasing investigations even after the monies had been repaid. Mr. Murungi also said that he had now realised that Anglo Leasing is us."

Mr. Deputy Speaker, Sir, the question is: Did Mr. Githongo brief His Excellency the President about this development? That is the question that needs to be established. If he did brief His Excellency the President about this development, what action did the President take? If what has been said on page 42 of this Report is relevant, then these are the questions that we need to ask. Otherwise, we will not have any other issue with His Excellency the President.

I agree that we need to look forward. This House needs to take the leadership and lay foundations for eliminating grand corruption bedeviling this country. It is not true that there was no corruption in the 1960s. Corruption in this country started in those years. The other day, I gave an example of a City engineer who committed suicide because he was found to have been involved in corrupt activities. So, corruption among the political class of this country started in the 1960s when the issue of "5 per cent" kickback became apparent. This was subsequently increased to 10 per cent.

Mr. Deputy Speaker, Sir, I am reminded of a conversation I had with an American businessman who had come to invest in this country in the early 1970s. He went to the then Minister for Trade, Commerce and Industry to acquire the relevant licences. Those were the days when it was mandatory for one to get a trade licence, as well as an import and export licence. After the American businessman elaborated on his proposal to set up an industry in this country, the Minister told him: "I will do everything you want if you give me 10 per cent of the total cost of your project."

When I met that American investor in the evening, he looked very frustrated. He told me: "Mr. Raila, things happen in this country that would make Mr. Spiro Agnew look like a schoolboy." Spiro

Agnew had been a Vice-President of former American President Nixon. He was the first American holder of public office to have resigned because he had been found to have been involved in tax evasion back in his State.

Mr. Deputy Speakers, Sir, this American was mesmerised that the Minister had actually demanded 10 per cent of the total cost of the project before issuing him with the necessary licences. So, it is not true that corruption in this country started just the other day. So, the seeds for grand corruption in this country were sown at that time. It is the Ndegwa Commission which institutionalised corruption in the Civil Service. It all started when civil servants were allowed to engage in business, sometimes without regard to conflict of interest.

Mr. Deputy Speaker, Sir, we have seen people who joined the Civil Service as Under Secretaries rise through the ranks to become Permanent Secretaries, and Heads of Civil Service and Secretaries to the Cabinet, and subsequently leave Government service as multi-millionaires. Some

of them are now in this House, shouting at the top of their voices that they are against corruption, yet all the wealth that they own was corruptly acquired at the expense of the taxpayer.

*[Mr. Deputy Speaker left the Chair]*

*[Mr. Speaker resumed the Chair]*

Mr. Speaker, Sir, I agree with the hon. Member who has said that it is time for people to confess. We started with the judicial reforms. There was a radical surgery of the Judiciary and we fully supported it. The first victim was Justice Oguk and he was followed by the then Chief Justice, Justice Chunga. I came out and supported the action that was being taken. Some people were saying that a certain community was being targeted. For the information of the House, Justice Oguk is my cousin and so is Justice Chunga. I came out and said that we will not support people who have been involved in any kind of corruption and they should face the music if it is true. Little did I know that this was not genuine. It was only certain people who were being targeted. Immediately, Chief Justice Chunga left, and a new Chief Justice was appointed, who then proceeded to appoint Justice Ringera to carry out the investigations.

The question that arises is: Who investigated Justice Gicheru? Who investigated Justice Ringera, so that he was found to be clean to investigate other judges? That is where I have a problem. We were speaking one language on one side, but doing other things on the other side. There was no genuine commitment to carry out proper reforms, whether in the Civil Service or in the Judiciary. That is the problem that we have today. That is the reason why I have a problem when we say that we want the Kenya Anti Corruption Commission (KACC) to investigate and prosecute.

When I was in detention, I was being defended by a legal firm that was called M/s Gibson Kamau Kuria, Kiraitu and Ringera Advocates. Recently, I saw on television hon. Murungi accompanied by his lawyer, Mr. Kamau Kuria, going to appear before Justice Ringera.

*(Laughter)*

If that is the manner in which investigations are going to be carried out, then I am afraid we cannot expect any kind of fairness to be carried out.

Mr. Speaker, Sir, this country needed a proper reconciliation. When we started, we said that we should appoint a truth and reconciliation commission to carry out a comprehensive review of where we have come from and where we are. Some people said that we did not need this because we

have not gone through some kind of traumatic situations like in South Africa, and that we could deal with these matters through the normal judicial process. However, we appointed a committee to go around the country and seek the views of Kenyans as to whether we needed a truth and reconciliation commission or not. The committee went around and made a recommendation that we need a truth and reconciliation commission. That recommendation was put in a back burner and even the expenses that had been incurred in setting up that committee and running around the country; for example, going all the way to Mandera, Wajir, Mombasa and Kisumu, were all thrown to the dogs. My view is that, had we travelled that route, we would not be talking about the Ndungu Commission, the Goldenberg Commission and all the other issues that we are talking about.

Mr. Speaker, Sir, I want to advise the Minister for Justice and Constitutional Affairs on the route that she is proposing to take. I know that she is committed to it and she means very well, but very many countries have tried to travel that route without any substantive results, for example,

Philippines, Nigeria and Peru. Through a Truth and Reconciliation Commission people can own up, ask for forgiveness and reconcile. People shake hands and there is restitution and people return whatever they took away. The Government is going to spend a lot of money in court through a judicial process without much to show for it at the end of it. That is why I am trying to urge this Government to go back to the drawing board and look at other avenues that are available. We would want to say that it is not yet too late for this route to be followed.

I would like to support fully the recommendations that have been made in the Report. Hon. Kenyatta spoke passionately and said that the Government should terminate the contracts properly. I am happy to hear that steps are being taken. We need to see them. We should try to recover all the money that had been siphoned out of the country. If there was genuineness, we would be told where the money that has been sent back, has been coming from. Every time that a name is mentioned, money is thrown back. If you ask where the money has come from, you are told that the Government does not know.

Mr. Speaker, Sir, this reminds me of an animal called porcupine. When you are chasing a porcupine, it runs and drops spikes on the way. So, you must be very careful when you are chasing a porcupine lest you get pricked by the spikes that it has dropped on the route. This is like a goat thief, who goes to steal where he knows that there are dogs and when a dog comes, he throws meat to it and then he proceeds to steal.

Who are these people? We have been told that these people are known. Mr. Melvine Kettering is known. We are told that the former Minister for Finance only instructed a Mr. Oyula to let Mr. Kamani return the money, and that a phone call is all that Mr. Oyula had to do and the money was returned by Mr. Kamani. If there is genuineness, we would like to see tomorrow a comprehensive list of the people who entered into these dubious contracts with the Government. Their addresses and contacts are fake, but I know that the people who signed those contracts with them, who are pretending not to know them, know exactly where they live.

Mr. Speaker, Sir, I know, for example, that these people know where the Kamani's are hiding. We are now seeing some advertisements in newspapers saying that certain people are wanted, and yet, when money was wanted, only a phone call was necessary and the money was returned. They know exactly where these people live and where they are hiding. Why is the NARC Government, which swore to have a zero-tolerant administration to corruption, protecting these people? Whom did the money come from, from Switzerland?

There is still a disconnect between their pronouncements. They are speaking very sweet words here on the Floor of the House, but there is still no genuine commitment to carry out a radical surgery in order to reduce corruption. Therefore, I would like to urge the Government to take the recommendations of this Report seriously and ensure that all these contracts are fully terminated, and the money returned. More importantly, action should be taken to ensure that there is no recurrence of this kind of phenomena in the future.

Mr. Speaker, Sir, I am speaking as somebody who leads one of the poorest constituencies in Nairobi. People in Kibera do not even know what they are going to eat tomorrow and yet somebody, just by the stroke of the pen, can sign off billions of shillings of our taxpayers' money.

With those remarks, I beg to support.

**Mr. Okemo:** Thank you very much, Mr. Speaker, Sir. I would like to support the Report of the Public Accounts Committee. In doing so, I would like to commend the good work that was done by the Committee. I would also like to take this opportunity to appreciate the contribution by the Responder on behalf of the Government.

Having served as a former Minister for Finance, I probably have the benefit of knowing a little bit more about some of the transactions than what the other hon. Members might know. First

of all, it is important for the hon. Members to know what is the role of the Minister for Finance, the role of the originating Minister and the role of the Attorney-General. These are all procurements. Most of them are termed as security procurements. When you are talking about security procurements, you must know that the definition or classification comes from the originating Ministry. In this particular case, we are talking about the Office of the President. However, the passports issue is only in the Office of the Vice-President and Ministry of Home Affairs - the Immigration Department - because that department changed. Originally, it was in the Office of the President and it was transferred to the Office of the Vice-President and Ministry of Home Affairs.

Mr. Speaker, Sir, if you look at each of these projects on its own merit and if you do not have foresight or hindsight of culpability or criminal activity, they are very good projects in their own merits. Therefore, we should start from that point. I can particularly speak about the passports issue and the Forensic Science Laboratories because I was privileged to have more information on them.

The justification for these projects came from the originating Ministries and they were completely acceptable and could have stood on their own feet. I think the problem comes in when you look at the procurement procedures that were involved. In the case of the Forensic Science Laboratories, the vehicles, passports and several others, there is one common trait. They are all defined as security. Once they are defined as so, as Minister for Finance, I could not have gone too far to ask why are they security, or why can they not be subjected to normal procurement. If you were directed that they are security, they are so and the matter ends there.

Mr. Speaker, Sir, our role as the Ministry of Finance was to ensure that procurement procedures are followed. However, in the case of security, procurement procedures had to be waived. The reasons were because they were in the interest of national security. You are serving as the Minister for Finance and there is also a serving Minister in the originating Ministry and you have the overall boss of the national security. You are, therefore, acting within this set-up. Once you have been told that it is national security, all you have to do as a matter of course and procedure, you approve.

The next question is: After approving it for waiving the procurement procedures, what is the next thing that happens? The parent Ministry is supposed to go back and use whatever methods they want, whether it is single-sourcing or restrictive procurement. That is up to the originating Ministry after they have got the waiver from the Ministry of Finance. I think it is important for hon. Members to understand that this is how all these projects proceeded from the time they were conceived, approved, to the time the contracts were entered into.

Mr. Speaker, Sir, if you look at lease financing or suppliers' credit, I think I heard some of the speakers say that this was fleecing the country. However, from a purely technical financial point of view, that is not true. That is technically incorrect! It means you do not understand what lease financing means. What it means is that you are not getting a loan because if it is a loan, then you have to make a provision in the Budget for a lump sum amount of money. If it is a lease, you make provision in the Budget for only the payments that are entered into for the period of the lease. Every successive year, you have to make provision in the Budget. That was the difference. The reason why that line of credit financing was approved was because of budgetary constraints at that time. It was not done because somebody wanted to make money! That is, at least, in my mind. Maybe, somebody else wanted to make some money. The Government at that time had been denied donor financing. We were under a lot of stress. There was a lot of insecurity. There was pressure to make sure that we have a forensic laboratory. We wanted to stem the immigration of illegal people. So, there were a number of reasons.

Mr. Speaker, Sir, for some of us who happened to occupy those positions, we did that in good faith. There was nothing binding in the Exchequer and Audit Act and Procurement Rules and

Regulations. There was no reason for us to go to the Cabinet for approval. We felt that it was in the interest of the nation and the whole Government be involved. So, it was, basically, to bring everybody on board. It was not a legal requirement to go to the Cabinet and ask for permission to enter into those contracts or go the lease financing route. There is nothing in the Exchequer and Audit Act or the Procurement Rules and Regulations which demands that the Minister for Finance must go to the Cabinet to seek approval. However, myself, and other colleagues who were involved, thought that it was better to bring the whole Government on board. That was the reasoning behind taking the matter to the Cabinet.

Mr. Speaker, Sir, the question is: After the Ministry of Finance had given the authority for waiving, and the originating Ministry went ahead to do the job, how far does the Ministry of Finance get involved? The Ministry of Finance does not get involved from there on, until the contracts come to its office. Those contracts are as a result of negotiations between the parent Ministry and the contracting party. The Ministry of Finance only satisfies itself with the document availed to it, whether it makes financial sense or the terms look reasonable or not! You do not go into the other details like: "Who are the contracting parties?" That is supposed to have been taken care of by the originating Ministry.

Therefore, as far as Anglo Leasing and other related projects are concerned, the contracting parties are completely the purview and privilege of the originating Ministry. Now, that having happened, if you look at the contracts that were signed between the Government and third parties--- I cannot say that I did not see the contract. I saw and read the contracts. I was satisfied because the interest rates that were charged on those contracts were commensurate with commercial rates of interests that were being charged by commercial banks overseas. You could have looked at other contracts and seen that the interest rates that were being charged were not out of the way.

The other thing that is significant - and which the House must note - is that to charge a commitment fee is a very normal commercial practice. Even when you go to borrow money from a bank, and you are given a mortgage, there is a certain percentage of money that you pay as a one-time payment. That was provided for in those contracts. For example, in one of the cases, we had 3 per cent interest rate as a commitment fee. That was the amount of money that was paid at the time of the signing of the contract. By the way, all those contracts were being signed after we had already been advised by the Attorney-General. He advised us that the contracts were okay and we could go ahead and append our signatures there. The Minister for Finance does not append his signature, but he gives approval to the Permanent Secretary to append his signature. That is the law. We proceeded exactly according to the law. The 3 per cent commitment fee that was provided for in the contract was paid and signed for according to the contract. So, there was nothing illegal about that.

Mr. Speaker, Sir, what became illegal in this case was when the payments began to be made without any goods or services having been received by the Government. I think that is where the illegality and corruption starts. You do not pay in one instalment but in two instalments for no goods and services. In the case of the forensic laboratories, the land was supposed to have been made available by the Government. Some of these funds were to go towards the construction of the buildings and the forensic equipment. That is why in the contract there was an 18- months period within which, with the Government land being there, was sufficient time to construct a building and procure equipment so that by the time you start the first instalment payments, you will be paying for something. So, why the payments were made and no services rendered and no land had been made available, is where the problem is, but everything else was done according to the rules, regulations and Exchequer and Audit Act. It was done absolutely to the letter. Now, if other parties were using this opportunity to make money, I think that should be the subject of investigation as the Government Responder mentioned.

Mr. Speaker, Sir, the other thing that I would also like to correct is the impression that money was signed off through promissory notes in one day and given out. I think one needs to understand what a promissory note is and its role. A promissory note, as far as the Government was concerned, was only supposed to act as security. It was a negotiable instrument which acts as security for Government and must be given to whoever is advancing you the money, and it falls due at the end of the contract period. This means that even if it changes hands one hundred times, the Government obligation to repay will only be when it matures. The maturity of the promissory note coincided with the contract period. So, there is a lot of mystery and misunderstanding, I think, purely from the technical point of view because a promissory note is not about giving money. A promissory note is a negotiable instrument, which is an acceptable form of security that governments give all over the world to secure credit, loans or whatever payments, and they fall due at the end of the contract period because it is a promise to pay money at a future date which is defined in that document. That is how we secured this supplier's credit. So, I think it is important that things must be understood in their proper perspective and in the circumstances under which they were done.

Mr. Speaker, Sir, now there may have been individuals, and it is not for me to judge, who may have taken advantage of the fact that it is single-sourcing and restrictive tendering that they wanted to make some extra money for themselves by inflating prices. Now, let me mention one thing: If this special audit report had not come out, I do not think we would be talking about Anglo Leasing today. Nobody would have known anything about it. The special audit report is what triggered it! There have never been audits of all these Anglo Leasing contracts and when they were audited, questions have been triggered. We must say that we are wiser today than we were then. If I were the Minister for Finance, sitting in hon. Kimunya's chair today, I think I would ask a lot of questions before I would sign a contract of this nature or even before I would give authority to waive the necessity for normal procurement. I would do it differently.

Mr. Speaker, Sir, I believe if a government tells you that they are getting involved in a security contract, you just accept it. The Government then goes ahead and does the necessary. They even negotiate, but you do not know who they are negotiating with because that is not your business. They later come back and say: "This is what we have agreed on in the form of a contract." They ask the Attorney-General: "Is the contract good? Can it be signed?" The Attorney-General gives the Government a written opinion and says: "Yes, the contract is good, it can be entered into." All the Minister has to do is authorise his Permanent Secretary to go ahead and sign the contract because that is the way the law is.

So, in terms of history, I am trying to put these things in perspective, because I saw there were a bit of insinuations from some hon. Members as to the wrong-doings of the previous Government. However, that is not really the issue here. It is not a question of the previous Government or the present Government. The issue here is: What will we do to close these loopholes? There is a lot of money that is involved, that has been lost and could be lost if we do not do something about it. Therefore, we, as leaders, have to be bi-partisan. That is why both sides of this House must approve the Public Accounts Committee (PAC) Report. I believe that anybody who has been adversely mentioned in that Report must be investigated and let the due process of law take its course. The law is there. Why do we want to take short-cuts? If, for example, Mr. Okemo or the Vice-President and Minister for Home Affairs or Mr. Kimunya are found guilty, they must face the music. That is what we would like to encourage. We would like to encourage a country where the rule of law is respected.

Mr. Speaker, Sir, some of us believe that Kenya is bigger than any of us individually. We should be judged by history as people who cared about our country, and not those who cared about themselves, as individuals. It is in that spirit that I thought I should throw some light on the



background to the Anglo Leasing issue.

Mr. Speaker, Sir, I would like to go further and suggest that, let us not just investigate this matter from 1997 to date; let us go a little bit further. There are a lot of other security projects that were approved earlier than 1997. If we really have to solve this problem, we ought to go further and look at all the security projects. We should look at how they were approved and whether there was culpability. If there are people who were culpable, they should face the music. That is what we are all yearning for. That is what Kenyans will respect us for.

Thank you, Mr. Speaker, Sir.

**Mr. Murungi:** Thank you, Mr. Speaker, Sir. I would like to make a few comments on this Motion.

First, I would like to thank and support hon. Karua, the Deputy Leader of Government Business, for her brilliant and eloquent contribution to this Motion this afternoon. This Motion marks an important landmark, and, possibly, a turning point in our struggle against corruption in this country. I personally fully support the war against corruption. As the former Minister in charge of this docket, I am fully aware of the crippling effect of corruption on our economy and society. I am also fully aware of the intricate complexities that surround the war against corruption. It is not a straight forward thing. It is not a hop-step-and jump process. It is fairly complicated process. It is for these reasons that I support the broad objective of this Motion, which is to put the war against corruption on a higher gear.

Mr. Speaker, Sir, for us to succeed in this war, it is absolutely necessary that we all be honest. It is necessary that we are sober and genuine in our intentions. As the Deputy Leader of the Government Business said, it is also necessary that we respect institutions and strictly follow the law. The war against corruption must be waged within an ethical and legal framework. We cannot break the law in the process of fighting corruption. We must respect the rule of law, even as we fight corruption. We must also be aware that reckless imputation of criminal guilt to persons mentioned in the Press or in a PAC Report can do irreparable damage to those persons' reputations and political careers, especially if in the end they are found to be innocent.

With regard to respect to institutions, one of the institutions we should respect is the Kenya Anti-Corruption Commission (KACC). This is a specialised agency for dealing with corruption in this country. It is true that I appeared before the KACC and was questioned for five hours regarding this Anglo Leasing affair. But it is not true, as my friend hon. Raila was insinuating, that I went to appear before my former law partner, Mr. Justice Ringera. I went on a notice sent to me by an institution called the KACC. I did not meet Justice Ringera. Contrary to what was reported in *The Standard* newspapers, I did not have tea with Justice Ringera. I have not seen Justice Ringera for months. It is very wrong for hon. Members to impute improper motives on officers, who have sacrificed so much to serve this nation.

Mr. Speaker, Sir, unless there is evidence to show impropriety on the part of KACC, we should not be the people to destroy the institutions that we create by gossip, rumours and unfounded innuendo.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Eng. Muriuki) took the Chair]*

Mr. Temporary Deputy, Speaker, Sir, since 19th January, 2006, I was continuously in the Press for one month, under a headline, sub-headline, cartoon or jokes in relation to the issue of Anglo Leasing. I have been systematically vilified, accused, condemned and convicted by the

media without being granted a hearing. There were various calls from 19th January, 2006, for me to step aside, so that investigation could take place. There were various calls that I be charged and prosecuted because I was implicated in the Githongo dossier.

*[The Temporary Deputy Speaker  
(Eng. Muriuki) left the Chair]*

*[Mr. Speaker resumed the Chair]*

Mr. Speaker, Sir, even on 20th January, 2006, there was a report in the *Daily Nation*, saying that the Githongo report had incontrovertible evidence, which was good enough to sustain a charge against me.

Mr. Speaker, Sir, I have been made to suffer severe personal pain and anguish. I have also been forced to pay every political cost by the media without a fair hearing and without due process of the law. We should not allow McCarthyism to creep into our society, under the guise of fighting corruption. During the days of Senator McCarthy in the 1950s in the USA, all you needed to say is that someone was a communist, and without any evidence, the person would lose his or her job or find himself or herself in jail. This form of public lynching and labelling must stop if we are to genuinely address the issue of corruption.

We should not repeat the trial of Jesus Christ in this country. The mere fact that there was a mob saying: "Crucify him! Crucify him!", did not mean that the man was guilty. We should evaluate evidence and see whether, indeed, the person is guilty or not. It is not time for leaders to wash hands like Pontius Pilate did, even after being convinced that the man had done nothing. Let us follow proper legal procedures and due process in all investigations of corrupt cases. We are not afraid of being investigated. We welcome the investigations. If after due process, and after proper investigations have been done, Kiraitu Murungi is found to have been involved in Anglo Leasing, then he should be taken to court. If the court finds me guilty and takes me to Kamiti, I will be ready to eat *ugali* like any other person. However, let me not be tried and convicted by *The Standard* and the *Daily Nation* newspapers. Let me be tried by a proper court.

It was very painful for me when I woke up one Sunday morning and saw the picture of my mother on the front page of the *Sunday Standard*. A team of journalists had travelled all the way to Meru, to my village, to ask my mother about Anglo Leasing. What does the old woman know about Anglo Leasing? Please, if you want my blood, take it but leave my mother out of this issue.

*(Applause)*

Mr. Speaker, Sir, coming back to the report, I have read it several times. However, I must say that there is a major problem of analysis of evidence and conclusions that the PAC arrived at. I am not saying that the report is bad. However, I am saying that the Report has not adequately analysed the evidence, and consequently, does not come up with proper conclusions and recommendations, especially regarding persons who have been mentioned in it. If you look at the Report on page 46, at the top, it reads as follows:

"Hon. Murungi, MP, advised Mr. Githongo to go slow on corruption investigations in return for a similar favour being extended on his father's case pending in court. This was obviously a bribe by a Minister in charge of justice, punishable under the Public Officer Ethics Act, 2004."

There was no case pending in court. It continues to say:

"The Committee was satisfied that hon. Murungi, MP, acted to protect Dr.

Murungaru and Mr. Alfred Getonga, hence obstructing justice that he was in charge of in his former Ministry."

Mr. Speaker, Sir, if you look at the Report, it has not made any recommendation at all regarding hon. Murungaru or Mr. Alfred Gitonga. So, one wonders how I acted to protect Mr. Murungaru or Mr. Gitonga, for whom the Committee has not found anything for which they could be protected against.

*(Applause)*

Mr. Speaker, Sir, the Committee further says that further investigation is required to establish my interference with the Judiciary as a whole, including the appointment of Mr. Tobiko, a counsel in one of the cases, and the removal of special magistrates for corruption cases. If you look at this Report as a whole, you will not see any evidence at all or any allegation made to show that I interfered with the Judiciary, or indeed, I was involved in the appointment of Mr. Tobiko or the removal of a magistrate. So, this is a conclusion which is not supported by evidence. We feel that the Committee could have done a better job if they could have pointed at the evidence and implicated me directly, instead of arriving at a conclusion which is not supported by facts.

Mr. Speaker, Sir, I am aware that one of the witnesses who appeared before this Committee was the former Director of Public Prosecutions (DPP), Mr. Murgor. Mr. Murgor had his own bone to pick with his successor, Mr. Tobiko. He did not tell the Committee that he was relieved of his duties because of mishandling the Delamere case. The pretence that he was involved in the Anglo Leasing investigation is neither here nor there. The Committee should not have accepted such evidence, which was just meant to settle a score between him and his successor.

Mr. Speaker, Sir, as I said earlier, I am already being investigated by the Kenya Anti-Corruption Commission (KACC) regarding the allegations that I interfered with investigations into the Anglo Leasing matters. So, I do not mind the recommendation being made in this Report that I be investigated regarding my interference with investigations of the Anglo Leasing projects, because I am already being investigated. So, the Committee is recommending that what is already being done, be done! This does not affect me in any way! I welcome the investigation and I do not mind the recommendation because I am already being investigated.

*(Laughter)*

Mr. Speaker, Sir, there is evidence being put forward to support the allegation that I assisted in cover-up, interference, and throwing down of the Anglo Leasing investigations. The allegations made against me by my old friend, who is now my enemy, Mr. Githongo, are based on two arranged conversations: The first one is during lunch at the Vice-President and Minister for Home Affairs' home on 4th May, 2004, and the second one is at an allegedly tape-recorded meeting in my office on 20th May, 2005. I would like to inform this House that I could not possibly have interfered with investigations. It is also a legal impossibility for me to have interfered with the Kenya Anti-Corruption Commission's (KACC) investigations because under the Anti-Corruption and Economic Crimes Act, the only investigator of corruption in this country is the Director of the KACC or a person appointed by the Director. Mr. Githongo was neither the Director nor was he a person appointed by the Director. Under his duties, Mr. Githongo, was an advisor to the President. So, he was not an investigator of corruption and, therefore, I could not have possibly interfered with investigations because this person was not an investigator.

Secondly, Mr. Githongo, appeared before the PAC on 28th June, 2004. The meeting, which I am supposed or alleged to have interfered with investigations was in May. Three weeks later, in

June, he appeared before the PAC. He spent two-and-a-half hours with the PAC. During that meeting, and since I was alleged to have interfered with investigations, it would have been fresh in his mind, but he did not tell the PAC about any interference. He told the PAC that the Anglo Leasing and Finance Company investigations were going on very well. He said that the taking of statements, the collection of information and investigations had continued unhampered. He also said that the KACC was making very good progress. All these statements appeared in the HANSARD of the PAC on 28th June, 2004, on pages 34, 35 and 42. It would have been very good if the Members of the PAC would have looked at their own previous record because it would have borne us out that the allegations being made by Mr. Githongo are clearly an afterthought. These are thoughts of a lonely man in exile, trying to imagine things.

Mr. Speaker, Sir, when Mr. Githongo, appeared before the PAC on 11th February, 2006, in London, he told the Committee that he was not an investigator of corruption. He told the PAC:

"I did not have authority to conduct investigation in a criminal investigator process."

This is on page 40 of the HANSARD. He says:

"I was working with the other agencies, assisting them in clarifying, systematising and analysing corruption information and putting it in a manner that His Excellency the President could consume and make decisions on the basis thereof."

So, that is how he described his work. If he was not an investigator, what is this shouting and crucifying of Kiraitu Murungi for interfering with investigations for?

Mr. Speaker, Sir, there have not been any complaints from the Kenya Anti-Corruption Commission or the CID that I covered up or obstructed any investigations that they were carrying out. I would like to keep this House at ease that I am ready to face the law on this matter. I believe, with proper investigations, I will be found to be innocent.

A lot of reliance has been put on the alleged tape-recorded conversations between myself and Mr. John Githongo which have been widely broadcast, both by the British Broadcasting Corporation (BBC) and the Cable News Network (CNN) and our local media. I would like to inform the House that I have taken legal advice. Those tape-recorded conversations are not admissible in evidence in any court. They are also immoral and dishonest. Mr. Speaker, you can imagine sitting in your office having a cup of tea and Kiraitu Murungi is carrying a tape-recorder.

*(Laughter)*

Mr. Speaker, Sir, I do not think we should be celebrating this crime. It is an immoral and dishonest act. It will make relationships impossible in this country if all our private conversations are being recorded without our knowledge. I have a question to ask: Mr. Githongo was well-known in this country. He was the Secretary of our Cabinet Committee on Anti-Corruption. He was on first name terms with many officers, including Ministers who are in this House. How comes that the only person he taped was Kiraitu Murungi? Where is the tape for Prof. Anyang'-Nyong'o? Where is the tape for Raila Odinga who were Members of this Committee? Where are the tapes for all these other officers? I think there are various questions we need to ask.

**Mr. Raila:** On a point of order, Mr. Speaker, Sir. I do not want to interrupt my friend. Is he denying the content of the tape or is he just talking about the tape itself?

**Mr. Speaker:** Order, Mr. Raila. I think the House will make a judgement whether or not he is denying, accepting or circumventing.

**Mr. Murungi:** Mr. Speaker, Sir, I am saying that those tapes are not genuine. The PAC did not even listen to any original tape. They listened to compact disks (CDs). In these days of digital technology, you can fool around with sounds or documents. Mr. Speaker, Sir, what I am saying is

that those tapes do not contain any authentic, complete, accurate or audible discussion between me and Mr. Githongo. How come it is only Mr. Kiraitu Murungi who is being heard? Where is Mr. Githongo's voice? What is he telling me?

*(Laughter)*

So, those tapes were played for a certain purpose, and it is quite clear on the HANSARD itself! On page 28 of the HANSARD of 12th February, 2006, Mr. Githongo was asked why he prepared the dossier. This is what he said, and I quote:-

"I cannot hide the fact that Prof. Anyang'-Nyong'o, among other Kenyans for various reasons, was pushing or encouraging me to strongly make available publicly any information I may have with regard to corruption."

That is number one. At pages 35 and 36, he says:-

"When I prepared this document, I was preparing it for the President very quickly because I was advised that the Referendum had gone the way it had gone. You should do a report putting everything together. The President had sacked the Cabinet. So, I was asked to put it in very quickly as soon as possible. Perhaps it would influence his decision with regard to his subsequent appointments."

Mr. Speaker, Sir, that is the genesis of the report. It was meant, and that is why Mr. Kiraitu Murungi appears so many times in it--- It was intended to influence the mind of the President, so that I am not re-appointed to the Cabinet. Shame on them!

Mr. Speaker, Sir, the political motive---

*(Loud consultations)*

**Mr. Speaker:** Order! Yes, I encourage you to laugh, but do not talk on your seats. Laughter is permissible.

Proceed!

**Mr. Murungi:** Mr. Speaker, Sir, what I was saying is that--- One day, when I was walking within Parliament Buildings, I was followed by a young journalist. He asked me: "Why do you not resign and Mr. Githongo has named you?" Mr. Githongo has been elevated to a god! When he has spoken, you must collapse!

Mr. Speaker, Sir, time has come for us to question the intentions of Mr. Githongo. What are his political motives? It is quite clear from what I have read that they sat somewhere and planned all this. I read political conspiracy. This is meant to throw mud and tarnish the names of selected leaders who appear in that Report.

**Mr. Marende:** On a point of order, Mr. Speaker, Sir. You have heard Mr. Murungi say that Mr. Githongo and others sat together somewhere and conspired. Could he substantiate by naming who the "others" are?

**Mr. Murungi:** Mr. Speaker, Sir, I think this hon. Member must have been asleep when I was talking! That is because the---

**Mr. Speaker:** Order! Order! I think we have already invested heavily on decorum! I am not going to allow that investment, at this late hour, to be decimated. I will hold onto my investment as strongly as I can. Return to sobriety!

**Mr. Murungi:** Mr. Speaker, Sir, we read political conspiracy behind this dossier. There appears to be an intention to paint key leaders of this Government and the people around President Kibaki as corrupt, with the intention of discrediting the Government and robbing it of legitimacy so that, those who have been calling for fresh elections this year, could have a chance of the

Government collapsing and being forced to go home on allegations of corruption, so that their dream of a change of Government can be fulfilled.

Mr. Speaker, Sir, it is good for us to fight corruption, but let us be genuine. Let us not politicise the fight against corruption. It is a very serious matter. I have said that I am innocent, but if I am found guilty, I am ready to go to jail.

Thank you, Mr. Speaker, Sir.

**Mr. Billow:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Motion. First and foremost, I want to take this early opportunity to congratulate the Deputy Leader of Government Business, Ms. Karua, for her positive contribution in support of the Motion. However, I want to clarify some issue here so that Members can be very clear in their minds.

Mr. Speaker, Sir, Mr. John Githongo was a Permanent Secretary in the Office of the President in charge of Ethics and Governance. He was required to report directly to the President. He was appointed to that position because they believed he was a man of integrity. The Head of Civil Service and Secretary to the Cabinet, Ambassador Muthaura, told us very clearly that he did not doubt for one moment that Mr. Githongo was a man of integrity. He said that he was not a perennial liar and he was not a mole that was planted there by the Opposition or any other group with a conspiracy. One does not become a liar or an enemy simply because he finally decided to do his job and expose corruption in this country.

Mr. Speaker, Sir, the tone given by the Minister for Justice and Constitutional Affairs, when she responded as Deputy Leader of Government Business, was very acceptable to us. She admitted that Anglo Leasing is a scam. We, as Members of the Public Accounts Committee (PAC), concluded, in fact, that these Anglo Leasing type of projects were organised crime. It was a planned, sophisticated scheme that was there for a long time; close to a decade.

Mr. Speaker, Sir, the Leader of the Official Opposition said clearly that without political culpability, there was no way Anglo Leasing would have been executed in this country, in the past or even today.

Mr. Speaker, Sir, Mr. Githongo's dossier was corroborated in many ways. We did not just take it at face value. The statements he made in his report were subjected to other pieces of evidence that were provided by not less than 19 witnesses whom we interviewed as PAC. We subsequently obtained documents to verify some of those events. He provided to us three tape recordings he made. Those tape recordings were not on Mr. Murungi alone. The PAC had opportunity to listen to those tapes one by one when we were in London. The transcripts are available to all Members. So, they can listen to the tapes or read the transcripts. They can also understand what is contained in them. Technology has made it easy for one to record something using a pen like the one I am holding and transfer it onto a CD without a lot of difficulty. But it is very important to make it very clear that it is wrong for any Member to create the impression that this thing is a whole conspiracy.

Mr. Speaker, Sir, this is just one of the projects. There are 17 other projects, out of which, 12 were mooted during the previous Government, and eight during the current one. We will be looking at all those audits. So, I think it is wrong to suggest that we are targeting certain individuals only. When those reports come up, God forbid, some other people may be mentioned who may be on this side or the other.

**Mr. Speaker:** Why do you want God to forbid the finding out of culprits?

*(Laughter)*

**Mr. Billow:** Mr. Speaker, Sir, I just wanted to be humble to the Members. These are honourable Members and I did not want to cast aspersions on any one.

**ADJOURNMENT**

**Mr. Speaker:** All right. Order, now! You will continue on Tuesday.

Hon. Members, we have concluded a very good debate today. I believe, for the first time, we have truly debated in a parliamentary atmosphere. I truly thank each one of you. I want you to go and contemplate over the weekend whether this good atmosphere of debating is the way forward, or weekend! the chaos of the past. Have a very good weekend.

The House is adjourned until Tuesday, 11th April, at 2.30 p.m.

The House rose at 6.30 p.m.