

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd May, 2007

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Coast Water Services Board for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the
Minister for Water and Irrigation)*

Annual Report and Accounts of New Kenya Co-operative Creameries Limited for the year ended 30th June, 200, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the Minister
for Co-operative Development and Marketing)*

Annual Report and Accounts of the Kenya Industrial Research Development Institute for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the
Minister for Trade and Industry)*

Annual Report and Accounts of the Town Council of Mwingi for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

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

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

Annual Report and Accounts of the Town Council of Taveta for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the*

Minister for Local Government)

QUESTION BY PRIVATE NOTICE

Mr. Deputy Speaker: We have one Question by Private Notice by the Member of Parliament for Rongo Constituency, Mr. Ochilo-Ayacko!

LEGALITY OF POLICE COMMISSIONER'S ORDER ON POLITICAL RALLIES

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

[Mr. Ochilo-Ayacko]

(a) Could the Minister confirm that on 23rd April, 2007, the Commissioner of Police issued an order requiring politicians and other persons organizing public rallies to apply for licences 36 hours before the event?

(b) Could the Minister table the statement containing the order issued to the public/politicians and indicate the law supporting the statements?

(c) Could the Minister give an assurance that the order was not intended to prevent politicians and political parties from freely campaigning in the on-going by-elections and/or the forthcoming general elections?

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

(a) I am aware that on 23rd April, 2007, the Commissioner of Police addressed a Press conference in his office on various issues pertaining to security in the country. Among those issues, he reminded politicians and other people organizing public rallies to give notices within time, as stipulated by the law, that is, the Public Order Act, Cap.56 of the Laws of Kenya.

(b) Section 5, subsection 2 of the Public Order Act, states that any person intending to convene a public meeting or procession shall notify the regulating officer of such intent, at least, three days, but not more than 14 days before the proposed date of the public meeting or procession.

(c) I can assure the hon. Members that the order was not intended to prevent politicians and political parties from freely campaigning in the ongoing by-elections or the forthcoming general elections. The statement was only intended to remind the politicians to operate within the law regulating public meetings and processions.

I hereby table the statement by the Commissioner of Police, as demanded by the hon. Member.

(Mr. Munya laid the document on the Table)

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, there is a very anomalous situation, for instance, one that involves an hon. Member of Parliament in his constituency. I am sure that an hon. Member of Parliament has a right to talk to one of his constituents, or 50,000 of them at once. How then would an hon. Member of Parliament be able to notify the relevant officer if he or she is operating within his or her own constituency?

Mr. Munya: Mr. Deputy Speaker, Sir, an hon. Member of Parliament is supposed to notify the officer commanding the nearest police station from where he is holding a meeting. The importance of this regulation is, basically, to make the police arrange for the security of the politician or whoever is holding the meeting, and also to make sure that there is no other meeting taking place at the same venue.

These laws were not passed by the Commissioner of Police, but by this House. If this House wants to change these laws, it has the power to do so.

Mr. Waithaka: Mr. Deputy Speaker, Sir, when the Assistant Minister answered the Question, I was almost satisfied, but his answer to the supplementary question raises very serious issues. For example, an hon. Member of Parliament in his constituency may sometimes even meet a group of people protesting illegally, and he or she is supposed to address them, because they have a problem which must be addressed by their Member of Parliament. If you are confronted with such a situation, will you leave the protesting people and go to the police station to notify the officers of your intention to hold a meeting, and then wait for three days before you address them?

(Applause)

Mr. Deputy Speaker: The Assistant Minister is also a Member of Parliament. **[Mr. Deputy Speaker]**

Do you give a notice to the police when you are going round your constituency?

Mr. Munya: Mr. Deputy Speaker, Sir, every time I am in my constituency, the police are always aware that I am there!

Mr. Sambu: Mr. Deputy Speaker, Sir, whenever I drive in my constituency through a place called Kabiryet, people usually stop my car saying that they want to talk to me as their MP. Supposing they stop me on a market day, will all those people be arrested?

Mr. Munya: Mr. Deputy Speaker, Sir, I do not understand why hon. Members are debating on this issue. I have just stated the law that was passed by this House. If the hon. Members feel that there is a problem with this particular provision of the law, it is upon them to change it. I do not understand why they are asking me questions about the laws that they passed. I was not even in this House when they passed this law.

Mr. Deputy Speaker: Take it easy, Mr. Assistant Minister! I think the hon. Members are raising concern in respect to the areas they represent. As I said, you are a Member of Parliament. The Chair also happens to have a constituency. If hon. Members, including yourself, have to give notification whenever they are going round their constituencies, this would appear to be a new requirement. Could you clarify, Mr. Assistant Minister?

Mr. Munya: Mr. Deputy Speaker, Sir, the law does not give any exceptions. The law is very straightforward. It says that if you want to hold a rally or a procession, you should notify the police. The police may not have been keen on enforcing this particular provision when it comes to your constituencies for obvious reasons. But that is the law. It has not been changed.

Mr. Cheboi: Mr. Deputy Speaker, Sir, the Assistant Minister seems to have absolutely good intentions; that we must notify the police because of our personal security. Supposing I as an MP do not require that personal security, do I have to notify the police? I have a bodyguard.

Mr. Munya: Mr. Deputy Speaker, Sir, I do not know whether the hon. Members want me to revise the law by word of mouth. I have said that the police have been very kind and reasonable. They have not been following hon. Members to their constituencies to enforce this particular provision. Even now the police will not follow you when you are greeting your people in your constituency. When it comes to holding public rallies in situations where other people might have also organised to have a rally in the same venue, it is important for you to notify the police. The Commissioner of Police was vilified by hon. Members when he issued the statement. He talked of 36 hours, but the law requires a three days notice.

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, last week I applied for a licence to hold a public rally in Nairobi because I am a presidential candidate. I applied for the licence on a Monday. I followed up the issue on Tuesday, Wednesday and Thursday. Late Friday afternoon, I was given

permission to hold a public rally not where I had asked for, but in a social hall.

Is the Assistant Minister in order to mislead this House when I had given him five days notice and he gave me a room which could not contain the number of people that I expected to address?

Mr. Munya: Mr. Deputy Speaker, Sir, I am not very conversant with the circumstances under which the former Minister who is now a presidential candidate is referring to. This particular provision operates to ensure that two presidential candidates do not meet in the same venue at the same time.

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

Mr. Deputy Speaker: Order! The Assistant Minister must be heard! Could you sit down?

Mr. Munya: Mr. Deputy Speaker, Sir, the intention is to make sure that candidates do not have a rally at the same venue and time where there could be problems of security and public order. That is why this provision of the law is there. The police are very reasonable in advising you. The law does not require you to be given a licence. One is required to give a notification so that the police can inform you whether the venue is free or not. It is not a licence because you are free as a citizen of this country to have meetings where you want under the Constitution. The provision is basically to notify the police so that they can advise you whether that venue is already booked by another candidate and you can choose an alternative venue for your meeting. In the case relating to the presidential candidate, we can talk after this to find out exactly what happened so that we can assist him to hold his rally at another time.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the presidential candidate to show us his ignorance of the law by saying that you only notify the police-

Mr. Deputy Speaker: Order, Mr. Angwenyi! Could you moderate your language?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I withdraw the word "ignorance". Is it in order for the presidential candidate to show us that he does not know the law which states that you only notify the police that you are holding a meeting 24 hours later? If there is no response within 24 hours you go ahead and have your meeting!

(Laughter)

Mr. Deputy Speaker: I do not want to go into that.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, all of us watched the Commissioner of Police talk to the Press. He said very clearly that the police will issue or withdraw licences. The Assistant Minister has just said that the Commissioner of Police has no authority to issue or cancel any licence. I would like to invite the Assistant Minister to look at the regulations that he has read, that is Section 5 Cap.56 which states that the officer who has received the notification may disperse the meeting. These police officers normally throw teargas and fire at innocent people as was the case during the referendum. Could the Assistant Minister direct the Commissioner of Police that when a meeting is peaceful even if it violates the licence, the police officers should not shoot and kill innocent people the way they did in Kisumu?

Mr. Munya: Mr. Deputy Speaker, Sir, there is no provision in the law allowing the police to shoot innocent people. I do not know of any instance where they have shot innocent people. There are certain times when the police are allowed to disperse meetings or processions if they become unruly or if the meeting is likely to degenerate into a fight where property will be damaged or innocent lives of people will be lost. The police are empowered by the law to intervene in such circumstances and use reasonable force to disperse those meetings.

*(Mr. Ochilo-Ayacko stood up
in his place)*

Mr. Deputy Speaker: Order, Mr. Ochilo-Ayacko! This Question has taken 15 minutes. All Questions are important. I have 15 Questions on the Order Paper and I think I have exercised fairness towards this Question.

Next Question!

ORAL ANSWERS TO QUESTIONS

Question No.177

COMPLETION OF MASALANI BRIDGE

Mr. M.Y. Haji asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the construction of Masalani Bridge which started in 2002 has not been completed to date;
- (b) what has occasioned this delay, how much the original cost was and how much has been spent so far; and,
- (c) when he plans to complete the bridge.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the Masalani Bridge project which started in 2002 has not been completed to date. The delay has been occasioned by changes in the use of the original steel. The earlier design was to use steel that was formerly used at Sabaki Bridge in Malindi District. However, the steel was found to be so badly corroded that it was found necessary to fabricate new steel parts. The new steel parts had to be fabricated and transported to the site; that is Masalani. The original cost of the bridge was Kshs556,198,900.40. So far, payment has been made to the tune of Kshs339,322,664.92. The work is expected to be completed by 30th May, 2007.

Mr. M.Y. Haji: Mr. Deputy Speaker, Sir, I am more than grateful for the answer given by the Minister. I wish to add that I was given a similar answer way back in 2004. I was told then that the bridge would be completed by July, 2004. This Minister was my boss and he is an honest and reliable person. When this bridge is completed, the approach from Tana River is normally the area where it floods. It will be a useless bridge without that approach. What does the Ministry intend to do about it?

Mr. Nyachae: Mr. Deputy Speaker, Sir, first I must apologise to the people who have been using this bridge and who have been inconvenienced for a long time. The hon. Member is right regarding the extensions that have been given in the past. There have been many promises and the last extension which was done last year, was the fifth one. There have been a lot of problems, but this time I would like to ask the hon. Member to raise the issue in this House if the bridge is not completed by July, so that I can respond to it. I am sure this will be done before then.

Mr. Omingo: Mr. Deputy Speaker, Sir, most bridge projects in this country are in bad shape and most of them take quite a long time to implement. There is a new technology of bailey bridges where the fabrication takes a short time. There is no issue of curing and it costs about half the amount we spend on normal bridges.

Mr. Deputy Speaker, Sir, could the Minister consider changing technology in the current times to go to bailey bridges as opposed to conventional ones which take long and are too expensive?

Mr. Nyachae: Mr. Deputy Speaker, Sir, the hon. Member is raising a very reasonable question. Technology is changing from time to time. It is true that we cannot use similar technology everywhere because the texture of the soil differs from one area to another.

Mr. Deputy Speaker, Sir, in some places like Coast Province, where bridges were swept away recently, we had to take steel mobile bridges and cement them on the ground. There are areas where you have very complicated soil. If it rains the water digs up to the foundation of the bridge. That requires a different technology. Therefore, we are applying various techniques and we are training more staff. The engineers who have been dealing with bridges are very few. We are now building capacity on bridge construction.

Mr. Deputy Speaker, Sir, those who supervise the construction of roads are not specialised in the construction of bridges. That department is so small and we are now expanding it, in addition to applying new technology.

Mr. Deputy Speaker: Last question, Mr. M.Y. Haji!

Mr. M.Y. Haji: Mr. Deputy Speaker, Sir, I have no question, but only to thank him. God bless you!

Mr. Deputy Speaker: Thank you, Mr. M.Y. Haji. Mr. Minister, you have blessings from Mr. M.Y. Haji!

Mr. Nyachae: Mr. Deputy Speaker, Sir, I thank him. He has been my colleague all these years, so he is my friend. He knows me! He cannot come here and say that he does not trust me!

(Applause)

Question No.213

MEASURES TO RAISE STANDARDS OF
ELDORET DISTRICT HOSPITAL

Dr. Manduku asked the Minister for Health:-

- (a) whether she is aware that Eldoret District Hospital is in a pathetic situation;
- (b) what the staff compliment is in each department and what services the hospital is offering; and,
- (c) what measures she is taking to raise the standards of the facility to those of a district hospital.

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

(a) That is not true. What I am aware of is that the former Eldoret District Hospital was elevated to Moi Teaching and Referral Hospital through a Gazette Notice dated 12th June, 1998. Due to the upgrading, the District Health Services (DHS) have been offered at Huruma Health Centre since the year 2000. Through the District Development Committee's (DDC's) resolutions, the district hospital relocated to the former District Commissioner's Office on the land parcel No.Eldoret Municipality Block 4/5 measuring 0.4 hectares on 28th April, 2003. Currently, this parcel of land is under dispute.

(b) In order to answer in detail the hon. Member's Question on the staff compliment in each department, I will table a list that shows the type of medical cadre, numbers and the departments in which they serve.

*(Dr. Machage laid the document
on the Table)*

I would like to say that the hospital currently is offering basic curative, promotive, rehabilitative and preventive outpatient services to approximately 660 patients and clients a day. They have a total number of medical personnel of about 70 and non-medical personnel of six.

(c) My Ministry has put in place the following measures to raise the standards of the facility to be commensurate with those of the district hospital. I have improved the infrastructure, provision of an ambulance for referral cases, deployment of additional staff, adequate and regular supply of drugs. I understand, however, that consultations are going on between the DC's Office, the Lands Department and the local leaders to try and solve and arbitrate on the DC's residence. However, I am requesting the leadership in the area to give me an alternative land to put up a new district hospital.

Dr. Manduku: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that comprehensive answer. We understand very well that Uasin Gishu District has no district hospital. Once Eldoret District Hospital was elevated to a referral hospital, indeed, they got a makeshift of a DC's Office which was very dilapidated and put a hospital there. They are calling it a district hospital without any facilities. How do we serve the people of Uasin Gishu when they have no theatre, laboratory, X-Ray or labour room? They have nothing and they are calling it a district hospital! Is there anything to be done so that the people of Uasin Gishu can have a district hospital?

Dr. Machage: Mr. Deputy Speaker, Sir, I am equally concerned like the hon. Member. Indeed, in 2005, I allocated Kshs3 million to that institution and started renovating and building new structures. I completed about 80 per cent of the construction just to receive a court order to stop everything that I was doing. I appeal, again, maybe through the hon. Member who has asked this Question, to talk to the leadership of that area. I need another piece of land on which to build a district hospital.

Dr. Manduku: Mr. Deputy Speaker, Sir, thank you for the concern by the Ministry. I am wondering if the Government does not have land in Uasin Gishu. Could the Government not allocate land for the district so that they can put up a district hospital? However, we have about 95 members of staff working in that hospital and there are so many other health centres around that do not have staff. For example, we have two doctors, eight clinical officers and 40 nurses without working facilities. Could they distribute the staff members to other health centres in the district so that they can offer services in other areas because they have no district hospital?

Dr. Machage: Mr. Deputy Speaker, Sir, I have clearly shown the House that the personnel in Uasin Gishu serve a population of 660 patients per day. I am now being requested to transfer this personnel away. Please, put it in writing and I will gladly do it!

Question No.209

STATUS OF NYANDO WARDS ADMINISTRATIVELY
MOVED TO NEW DISTRICT

Eng. Nyamunga asked the Minister of State for Administration and National Security:-

(a) whether he is aware that Kadibo Division of Nyando Constituency has been joined administratively to the new Kisumu East District and is no longer part of Nyando District; and,

(b) what the status now will be of the four wards within Kadibo Division, three of which were hitherto in Nyando County Council and one in Ahero Town Council.

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

(a) Yes, I am aware that Kadibo Division has always been in Kisumu District administratively and in Nyando Constituency politically since 1998, when Nyando District was hived off from the then Greater Kisumu District. Kisumu District has now been again subdivided into Kisumu East and Kisumu West districts with Kadibo Division falling and remaining in Kisumu East administratively. Kadibo Division has never been in Nyando District.

(b) The four electoral wards in Kadibo Division will retain their current status, which is: Luanda-Kochieng and Luanda-Kotieno are in Nyando County Council and Kano-Kobura is in Ahero Town Council, unless and until their case is reviewed.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for a satisfactory answer. However, this Question was initially intended for the Minister for Local Government. My fear is that as the Assistant Minister has said, Kadibo Division is politically in Nyando District but administratively in Kisumu District. That, in itself, is very unconvincing. However, I fear a situation where, politically, the same Kadibo Division will be transferred to Kisumu East District so that it will be politically and administratively in Kisumu East District while Nyando Division will be in Nyando District. It will be very inconvenient and difficult to manage the constituency. Could the Assistant Minister assure us that he will make sure that when it comes to gazetting the Local Government part of it, Kadibo Division stays politically in Nyando District?

Mr. Kingi: Mr. Deputy Speaker, Sir, I think I said in my final part of the answer that the situation will remain as it is until the issue of the wards is revisited. So, my advice is that we need to come together, as leaders of the provincial administration, members of the Electoral Commission of Kenya (ECK) and even the Local Government so that we can harmonise the situation of those four wards.

Mr. Keter: Mr. Deputy Speaker, Sir, the issue which Eng. Nyamunga has raised is valid. There is a case in my constituency where, politically, it falls under my constituency but administratively, it falls under a different constituency. What is the Ministry going to do to harmonise even past mistakes?

Mr. Kingi: Mr. Deputy Speaker, Sir, when we gazetted our intention to create more districts, we issued instructions to our Provincial Commissioners and other provincial officers on the ground to bring leaders together and consider the boundaries of the new districts, their names and the headquarters. Alongside that, they were to ensure that constituency boundaries do not overlap into districts. We do not want a situation where one part of the constituency is in one district while the other part is in another one. I think, in most areas, that was done. However, if there are still a few areas, let them be brought to our attention and we will give fresh instructions to our provincial administrators to ensure that this anomaly is resolved.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, I am satisfied with the answer for as long there will be co-ordination such that the whole constituency is in one district.

Mr. Deputy Speaker: Thank you, Mr. Assistant Minister, for giving the hon. Member satisfaction. I think that is how we should be moving.

Mr. Kingi: Thank you, Mr. Deputy Speaker, Sir.

Question No.237

STATUS OF ANGLO LEASING-TYPE FINANCING PROMISSORY NOTES

Mr. J. Nyagah asked the Minister for Finance:-

- (a) what the status of the various Anglo Leasing-type financing promissory notes is;
- (b) what the value of the notes is; and,
- (c) if he could confirm that the Government has not made payments towards the same since the matter was made public and assurance given that no further payments would be made.

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The promissory notes that were issued relating to six contracts were cancelled and an amount of Kshs1 billion refunded with respect to those contracts.

(b) The value of the promissory notes relating to those contracts was Kshs25.1 billion. As far as we are concerned, there are no outstanding promissory notes beyond those that we are aware of.

(c) I can confirm that there have been no payments on the Anglo Leasing type of contracts since May, 2005, and no further payments will be made until the report from the consulting firm, which was hired by the Government to value the contracts and provide independent expert advice on the way forward, is completed and its recommendations evaluated.

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I want to thank the Minister for that answer. However, as you know, irrevocable promissory notes are documents that cannot be cancelled by one party. Therefore, the Government cannot say that it has cancelled them if the other party holding those documents somewhere in the world has not cancelled them. Is the Minister now in agreement that irrevocable promissory notes amounting to Kshs54.5 billion and not Kshs25.1 billion were, in fact, issued and that there is a schedule of repayment that goes up to 2013? One day, our grandchildren will be forced to pay the money whether this Government refuses to recognise that fact or not.

Mr. Kimunya: Mr. Deputy Speaker, Sir, allow me ample time to clarify this matter, hopefully, once and for all. A total of 18 contracts amounting to Kshs54 billion were issued. Of these contracts, we know that Kshs32.5 billion was issued between 1997 and 2002. Another Kshs22 billion was issued between 2003 and 2004. I would like to give this House the true status of those projects so that when hon. Members talk about irrevocable promissory notes out there, they can do so from a point of information, rather than depending on rumours that are circulating in the media.

Mr. Deputy Speaker, Sir, five contracts worth Kshs14 billion did not have any promissory notes issued against them. The projects are:

Nexus, Kshs33.284 billion; Broadband Network, Kshs895 million; Bandwidth Spectrum, Kshs2.1 billion; The Oceanographic Survey Vessel, which is the current subject of debate in this House, Kshs4.6 billion; and Flagstaff, Kshs3.135 billion. Therefore, for Kshs14.04 billion there were straight contracts with no promissory notes issued against them.

There were three projects worth Kshs6.6 billion which were completed and fully paid for long before we came to power. Since they were completed and fully paid for, the issue of promissory notes does not arise. They were paid for through financing. The projects here include: The Kenya Police, Supply and Security, Addendum No.2, Kshs2.25 billion; The Kenya Police Airwing Support Project I, Kshs2.27 billion; and The Kenya Prisons Service Security and Telecommunications Project, Kshs1.845 billion. The total amount for these projects was Kshs6.795 billion. Mr. J. Nyagah was in Government then, so he might be able to tell us how those projects were contracted.

(Laughter)

Mr. Deputy Speaker, Sir, it has also been mentioned, with regard to the other category of

four contracts worth Kshs8.6 billion, that promissory notes were issued. However, we are not aware of any promissory notes that were issued in respect of these projects. In fact, the way payments were being effected suggests that there was no issue of promissory notes. The projects in this category are: The Kenya Police Supply, Supply of Security, Addendum No.3, which was a carry-over from the previous Government; The Kenya Police Airwing Support Project II - Mr. J. Nyagah will tell us how they were contracted; The National Early Warning Security Systems; and the Kenya Prisons Service and Security Telecommunications Project. All these four projects amount to Kshs8.6 billion and no promissory notes that we are aware of were issued.

With regard to the six projects where promissory notes amounting to Kshs25.1 billion were issued, the first one is the Forensic Science Laboratories, Kshs4.095 billion. This project was cancelled and the commitment fee of Kshs375 million was subsequently returned complete with the promissory notes. Second, is the Immigration Security and Document Control System for Kshs3.393 billion. It was cancelled and the promissory notes returned, complete with the commitment fee of Kshs93 million. Third, is the Export Lease Purchase for various security vehicles for Kshs6.75 billion. The project was also cancelled and promissory notes returned. A commitment fee of Kshs72 million was actually refunded.

The fourth project is the Modernisation of Police Equipment and Accessories worth Kshs3 billion. This project was also cancelled. No payment was issued, therefore, there was no refund. The fifth project is the Kenya Police Law and Order, E-Cops Project worth Kshs4.478 billion. It was cancelled and a commitment fee of Kshs509 million was refunded. The last project is the Telecommunications Network for the Administration Police worth Kshs4.423 billion. This project has never started and is still the subject of protracted issues. No promissory notes were issued against this project and there is no refund because no payments were made in respect of this.

So, when I say that the promissory notes have been cancelled, I am not saying that they have been cancelled by word of mouth. I am talking of promissory notes that have been returned to the Treasury and cancelled and are now comfortably placed in my safe.

Mr. Maore: Mr. Deputy Speaker, Sir, we have read of Jesus and especially that day when he cast demons out of human beings and sent them to the pigs. That is exactly what the Minister is trying to do here. The promissory notes were issued with a statement or sealed by the Attorney-General that they are legally binding. Could the Minister state here that the Attorney-General, in concurrence with his office, has the promissory notes, not out there, but with him and that he has cancelled all of them that were ever issued?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I will repeat this very slowly for the purpose of enabling hon. Members to hear what I have just said. The promissory notes that were issued in respect to the six contracts which I have enumerated have been cancelled. They are with me in my safe at the Treasury. So, there is no promissory note out there. The deal was cancelled and nobody can bring them.

For the information of hon. Members, a promissory note is just like a bankers cheque. Once a bankers cheque is cancelled, it does not matter whether you have it or not. It is irrevocable. However, you must have it to present it for payment. However, these had been returned and nobody, out there, has any Promissory Note that they can forward to me to authenticate for them to be paid. I already have them and they have been cancelled. That is the confirmation I am giving this august House.

Capt. Nakitare: Mr. Deputy Speaker, Sir, the Minister for Finance is not a custodian of the Kenyan Government. He is a supplier to the Government. Could he tell this House how many international cases, under arbitration, have been served to the Kenyan Government against those contracts that were abused by this country?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I think this Parliament has given the Ministry of

Finance, through the Treasury, the responsibility for or the custody of all finances of this country. However, in terms of how many cases have been filed, I am hard pressed to respond to that. I do not even know where they are being filed and by who.

Mr. Billow: Mr. Deputy Speaker, Sir, I have a copy of the contract between the consultant and the Minister. In it, the Government is going to spend not just the US\$1.3 million fees but also another US\$1 million for reimbursement. However, the main concern we have is that when the Controller and Auditor-General tabled his Report on the 18 contracts, he said very clearly that the nature of the subject matter of this Report precludes the publication of the detailed audit reports of the contracts. In other words, they are so confidential that unless the President clears them, even the Public Accounts Committee (PAC) could not be availed some of the documents relating to those contracts. Here we are engaging a private audit firm to, among other things, determine the engineering designs of the specific projects relating to technical work. This is a company that does not have the capacity to deal with engineering matters. More importantly, in the contract, the consultants are required to do forensic investigation to determine if criminal activity had taken place.

Mr. Deputy Speaker, Sir, if the PAC Report has been thrown into the dustbin, the Kenya Anti-Corruption Commission (KACC) is not able to determine criminal activities. The Attorney-General's office is also unable to do that. How does an audit firm, which looks at figures, do that? My main question is: Under what circumstances did the Ministry procure the services of this consultancy firm through single-sourcing? Could the Minister explain that?

(Applause)

Mr. Kimunya: Mr. Deputy Speaker, Sir, let me, first of all, confirm that there are a couple of issues that have not been truly mentioned by the hon. Member. I tabled the audit report of the 18 contracts and gave it to the PAC. We then challenged them to look through it and bring a report on it to the House with the same vigour as they did following their trip to London. We are still awaiting for the report from the PAC on the 18 contracts. I suspect they will not move with the same vigour because the biggest valued contract was contracted by the same people who are purportedly investigating those contracts.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Minister to mislead this House yet the PAC is still waiting for the consent of the President in order to release the Report?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I will not comment on whether consent is required or not. That is beyond my jurisdiction. However, going to specific areas of the questions raised, the Controller and Auditor-General, in his report, raised, the issue that among the 18 contracts some are ongoing. We cancelled those that had not started. There are those that had been contracted from as early as 1997, 2000 and 2001, and they were ongoing. People had started delivering on the contracts and it was only fair that they be evaluated to establish; whether they had begun, under which circumstances they were negotiated and whether the Kenyan public received value for those contracts. That is the essence of the forensic audit that is going on.

Mr. Deputy Speaker, Sir, let me confirm that we advertised the contracts internationally. We had very detailed terms of reference on what was required. We are not just looking at PriceWaterHouseCoopers, or whichever firm, as an audit firm especially in forensic audit to clarify the issues that were there.

Mr. Deputy Speaker, Sir, the firms have also signed up a duty of care for professionalism in terms of the secrecy which is not exactly what the case will be if these matters were just discussed casually through the committees.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, as you can realise, the issue of Anglo Leasing continues to be shrouded in more and more cloud. It is very interesting that the Minister says, with a lot of authority, that they have cancelled those contracts worth Kshs25.5 billion and then hired another firm to give the Government the reasons why they cancelled the contracts. This is very puzzling!

(Laughter)

The Government must have known why they were cancelling the contracts. Behind all that is the concern of the Kenyan public that there were tremendous kick-backs in all these contracts to the detriment of the Kenya population. I am wondering when the Government and the KACC will liaise to look into these shady deals. The Government cancelled the contracts, they know the reasons although they do not tell who was returning the money, then the Government hired another firm and paid it US\$1 million to tell them why they cancelled the contracts. How do you explain this? We need more time to discuss these issues with the Minister. I do not think the answer he is giving us is adequate nor is he being transparent.

(Applause)

Mr. Deputy Speaker: The Minister is addressing the Question. This is not a Motion!

Mr. Minister, you can respond to Prof. Anyang'-Nyong'o!

Mr. Kimunya: Mr. Deputy Speaker, Sir, I have deliberately tried to be very slow so that hon. Members can follow what I am saying. I said that there were 18 contracts. Out of this, six were cancelled. The promissory notes for these contracts were also cancelled. Of the remaining 12 contracts, three were completed and payments had been made. There is nothing we could do about that. The remaining nine contracts are ongoing. Work is being carried out to verify what exactly happened on those contracts and who was involved. When the truth comes out, some of the advocates for this anti-corruption war will be singing a different tune.

Mr. Deputy Speaker, Sir, the auditors are reviewing the nine ongoing contracts and not the cancelled ones. It is very clear the contracts were cancelled--

Mr. Billow: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to continue misleading the House that the number of contracts he is dealing with does not include the six which have already been cancelled? The terms of the agreement with the consultant includes 18 contracts. I can table it here for him to look at! There are 18 contracts. It says very clearly that the purpose is, "so that we can re-negotiate all the 18 contracts". Is he in order to mislead the House that the contracts have been cancelled?

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

Mr. Kimunya: Mr. Deputy Speaker, Sir, I do not know what the hon. Member is calling "misleading", when I am speaking the truth. We cancelled those contracts but they were included in the schedule of all the 18 contracts being looked into for different reasons. As I said, there are three categories; there are contracts that were completed and the evaluation is on a different context from those which were ongoing or those which were cancelled. For the ones that were cancelled, the terms of reference are for how they were contracted. For the ones that were completed, it is how they were contracted, executed and how they were completed. For the ones that are ongoing, how they were contracted and the status of the implementation.

So, there are different terms of reference for the different batches of the contracts. So, all the 18 contracts are being evaluated, but the important thing - I think this is the misinformation that is being peddled to Kenyans - is that Kenyans stand to lose money because of promissory notes that are out there. The position is very clear; that all those promissory notes have been cancelled and I have them within my custody and none of them will be presented to me because I already have them. Kenyans do not stand to lose a penny and anyone who has been contracted to debt-collect on behalf of those people has a long way to go.

Mr. Deputy Speaker: Hon. Members, the Chair has been over-generous because this is a weighty Question in the interest of the public, but I cannot go beyond that.

Last question, Mr. J. Nyagah!

An hon. Member: Mr. Deputy Speaker---

Mr. Deputy Speaker: Sorry! Look at the clock! This is not a debate but I have given it---

Prof. Oniang'o: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, Professor!

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, as you can see, there is a lot of misunderstanding and there is need for the misunderstanding to come to an end once and for all. Since I am not satisfied with that answer, I will be asking for the adjournment of the House to continue with this subject.

Mr. Deputy Speaker: Mr. J. Nyagah, the rules are very clear. Under Standing Order No.18, if you are not satisfied with an answer you can bring a Motion. But that is not to adjourn the House. That comes at the rise of the House. That is, 30 minutes after 6.30 p.m. That is according to the Standing Orders. Nevertheless, I think we are done with that Question.

Next Question by hon. Member for Ugenya! You see, we have already finished Question Time but I think it was worth it.

Question No.244

DELAY IN COMMISSIONING OF JERA MARKET ELECTRIFICATION PROJECT

Archbishop Ondiek asked the Minister for Energy:-

(a) whether he is aware that a transformer has already been installed at Aboke Market, and poles for Jera Market have never been taken there even after the Ministry had promised work would be done before the end of 2006; and,

(b) whether he could explain why he has not commissioned the above market and state what happened to the poles for Jera market.

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

(a) Yes, I am aware that a transformer has already been installed at Aboke Market and that poles for Jera market have not been taken to the site.

(b) Construction work of Aboke Market was awarded to M/s Rears Limited who abandoned the site after completing about 90 per cent of the work. Kenya Power and Lighting Company (KPLC) has already taken over the remaining work---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members. I am sure Archbishop Ondiek wants to hear the answer! Could you please consult in low tones?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, the completion is anticipated by the end of May, 2007. With regard to Jera Market, the initial contractor M/s Unified Agencies Limited abandoned the site after digging holes and this contract has since been nullified and the same re-awarded to M/s Services Limited who is currently mobilising and is expected to be at the site in two weeks' time. Poles for the team are available and work is targeted for completion by 30th June, 2007.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, while I appreciate what the Assistant Minister has told us, could he tell us which criteria they use when appointing a contractor, because most of their contractors abandon a project before completion? Which criteria do they use; do they just pick them on the road or streets?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we call for expression of interest.

Mr. Manoti: Mr. Deputy Speaker, Sir, quite a number of electricity projects have been done but very few of them have been commissioned. Primary or secondary schools are being asked to pay Kshs126,000. Could the Assistant Minister clarify why those primary and secondary schools are being asked to pay Kshs126,000 instead of Kshs32 per metre?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we have a category of how we pay. For example, for our own domestic consumption, we pay around Kshs31,000 to Kshs34,000. For a three phase you can pay around Kshs46,000 depending on the amount of power you want to be supplied with. For institutions, it is Kshs100,000 plus Value Added Tax and other charges. It is standard all over the country.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, the Assistant Minister is not really giving me the exact position of the contractor and how they give out contracts. Last time the Assistant Minister promised this House that those two projects were going to be completed in November last year. Today, it is May, 2007 and he is still telling us that the project will be completed between May and June.

Could he give us the exact date - instead of talking about June - when those projects are going to be commissioned?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have clearly said that the contractor failed to fulfil his obligation and that we have taken over the works. We have contracted a reliable contractor. The actual date I have given is 30th June, 2007. It is true that the hon. Member has really been pushing me on this matter. I will make sure that I will practically go on the ground and supervise, to make sure that this work is completed by 30th June, 2007.

Mr. Deputy Speaker: Archbishop Ondiek is saying he is grateful. Is that not what you are saying? Did you say you are grateful?

Archbishop Ondiek: Mr. Deputy Speaker, Sir, I do appreciate if he could come by 30th June, 2007. If it is not done, he should report to this House because he has not been keeping his promises.

Mr. Deputy Speaker: The Assistant Minister has promised to do so. I think we shall take his word.

Hon. Members, as you can see, we are past Question Time. This was because of the very weighty Question that we had. I will allow another ten minutes for the remaining two Questions.

Next Question by Prof. Ojiambo.

Question No.245

EXPOSURE OF HORTICULTURAL
WORKERS TO TOXIC PESTICIDES

Prof. Ojiambo asked the Minister for Labour and Human Resource Development:-

- (a) whether he is aware that many workers in the horticulture industry are exposed to toxic pesticides and work under no written contracts;
- (b) when he will table the report of the task force appointed in 2003 to review the labour laws; and,
- (c) if he could inform the House whether the recommendations of the task force have been implemented.

The Assistant Minister for Labour and Human Resource Development (Ms. Mwau): Mr. Deputy Speaker, Sir, I have discussed with Prof. Ojiambo and we have agreed that I will answer this Question tomorrow. I am not satisfied with the answer I have.

Mr. Deputy Speaker: That is fine but you have to seek the indulgence of the House. Will you seek the indulgence of the House?

The Assistant Minister for Labour and Human Resource Development (Ms. Mwau): Mr. Deputy Speaker, Sir, I seek the indulgence of the House to answer this Question tomorrow. I have already talked to and agreed with Prof. Ojiambo.

Mr. Deputy Speaker: Prof. Ojiambo, is that in order?

Prof. Ojiambo: Mr. Deputy Speaker, Sir, the Assistant Minister has been very courteous and asked to be allowed to answer the Question tomorrow. I do hope that she is serious that she will bring the answer tomorrow.

Mr. Deputy Speaker: She is and that is why she was so courteous. So, we defer the Question to tomorrow afternoon.

(Question deferred)

Question No.263

TARMACKING OF ROADS IN
MT. ELGON GAME RESERVE

Capt. Nakitare asked the Minister for Tourism and Wildlife:-

- (a) whether he is aware that Mt. Elgon Game Reserve does not have electricity and roads in the area are in a deplorable state; and,
- (b) if the answer to the above is in the affirmative, whether he could inform the House when the roads will be tarmacked and electricity supplied to the Game Reserve.

The Assistant Minister for Tourism and Wildlife (Mr. Muriungi): Mr. Deputy Speaker, Sir, I beg to reply.

I am aware that Mt. Elgon National Park has no electricity, and that the roads are in a poor state. The park offices operate on a generator and some staff houses are on solar power at the moment. The KWS had applied for electricity a few months ago but the organisation was not able to raise the Kshs10 million for the supply before the expiry of 90 days given by the KPLC. The KWS has teamed up with neighbouring potential consumers, and has received a quotation Kshs9.4 million which will be required to tap power from the national grid, which is not far from the hon. Member's house. The Kenya Roads Board, through the District Roads Committee, has graded 11 kilometres and gravelled 5.6 kilometres of Road E337 between last year and this year at a cost of Kshs4 million. The African Development Bank (ADB) is gravelling the road to Endebes from Cholim. The roads within the park are currently being patched up and graded.

Capt. Nakitare: Mr. Deputy Speaker, Sir, you can see that my learned friend has not given me a written answer, but I allowed him to answer the Question verbally.

Mr. Deputy Speaker: Order, Capt. Nakitare! Does the terminology "learned friend" apply

here? Mr. Muriungi, are you a lawyer?

Mr. Muriungi: No, I am a teacher.

Mr. Deputy Speaker: You are a teacher? Capt. Nakitare, are you a lawyer?

Capt. Nakitare: Mr. Deputy Speaker, Sir, that is a profession. Lawyers are not the only professionals in this country. We have doctors, teachers---

Mr. Deputy Speaker: Order, Capt. Nakitare! There is no dispute. The Chair was just wondering whether you and Mr. Muriungi are lawyers, because commonly that is how lawyers refer to each other.

Capt. Nakitare: Mr. Deputy Speaker, Sir, in the profession of wildlife and tourism, he is my learned friend. But lawyers are not the only academicians in this country. We are engineers but we keep quiet. You know this House comprises of many professionals, and we cannot recognise lawyers as the only professionals in the country.

Mr. Deputy Speaker: Order! Will you now ask your question?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member for Saboti in order to continue making disparaging remarks against the only learned profession known the world over?

Mr. Deputy Speaker: Capt. Nakitare, will you ignore that point of order and ask your question?

Capt. Nakitare: Mr. Deputy Speaker, Sir, I will ignore it. My question is, now that the Ministry has branded Mt. Elgon a national park, and one of the international wildlife attractions, what steps is he taking, apart from allocating Kshs9 million for only four kilometres? This is a very important area. We are in the process of expanding the national park from what it is to 485 square kilometres. What is the Ministry going to give us so that the headquarters at Mt. Elgon National Park has communications facilities and power and attracts tourists?

Mr. Deputy Speaker: Order, Capt. Nakitare! You know, you are going to spoil things for yourself? When you get an opportunity, instead of asking a question, you engage in all sorts of things.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. I do not know whether this Question has been put to the correct Ministry. The roads within national parks and game reserves fall under the Kenya Roads Board Act and under the Kenya Wildlife Service. Is the Question addressed to the proper Ministry? I do not think the Ministry of Tourism and Wildlife has the information the hon. Member requires!

Mr. Deputy Speaker: Indeed, the Question is properly addressed to the Ministry, because these are roads within a game reserve and the Minister for Tourism and Wildlife can answer it.

Mr. Muriungi: Mr. Deputy Speaker, Sir, I think it was not a very technical question that required an answer from the Minister for Roads and Public Works. A report from our warden was sufficient to say what has happened there. For example, the ADB gravelling of the road to Endebes through Cholim was done last week, and we got a simple report about it from the warden.

Mr. Deputy Speaker: Okay; can you address Capt. Nakitare's question?

Mr. Muriungi: Mr. Deputy Speaker, Sir, on the provision of electricity, the Kshs9.4 million will be raised in the following manner: The CDF for Kwanza Constituency has pledged to contribute Kshs1 million. We have requested, through the KWS, Kshs6.3 million in the next financial year.

Mt. Elgon Lodge and the Agricultural Development Corporation (ADC) will provide the balance, that is Kshs2.1 million. That will be sufficient to provide power to the park. From Capt. Nakitare's house, it is not far.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I believe this Question was meant to show how

soon Mt. Elgon National Park will begin attracting tourists, because tourism is a foreign exchange earner for this country, and actually can enable that part of the country to develop. So, could the Assistant Minister tell us when they expect it to start receiving a lot of tourists and how they plan to go about it?

Mr. Muriungi: Mr. Deputy Speaker, Sir, I think that is a different Question altogether. We are marketing all our national parks at the same time, and I would like the hon. Member to know that even the issue of the roads that we are addressing has been ongoing. On the 15th of March this year, we had done all these roads, prior to the branding. So, the situation is not as bad as it might sound. We are doing all we can to market the national park along with others.

Capt. Nakitare: Mr. Deputy Speaker, Sir, just recently during the branding, this Ministry promised to extend the runway of Mt. Elgon National Park Airstrip at a cost of Kshs 2 billion. You cannot have landing rights unless there is electricity. How quickly is he going to provide electricity to Mt. Elgon National Park before he starts extending the runway for the safety of aircraft?

Mr. Muriungi: Mr. Deputy Speaker, Sir, I think this is a matter for a different office.

Mr. Deputy Speaker: Hon. Members, that is the end of Question Time.
Next Order!

MOTIONS

ADOPTION OF REPORT ON INSPECTION OF OCEANOGRAPHIC SURVEY VESSEL

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the fact finding visit to the Kingdom of Spain to inspect the Oceanographic Survey Vessel laid on the Table of the House on November 1, 2006

*(Mr. G.G. Kariuki on 26.4.2007)
(Resumption of Debate
interrupted on 26.4.2007)*

Mr. Deputy Speaker: Mr. G.G. Kariuki, you were still moving the Motion. Could you continue?

Mr. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir. When the House adjourned last week, I had spoken for a few minutes, and I think I need a little more time to come to the conclusion of my presentation.

Before we adjourned, I talked about the Government's lack of quick response in dealing with the company that is working on this project.

Mr. Deputy Speaker, Sir, I have said how surprised we were when we found that this matter was fully known by the Ministry of State for Defence and that they had already appointed a marine engineer who was there when the company started constructing the ship.

Mr. Deputy Speaker, Sir, I think Kenyans are mesmerized by the issue of corruption. If you look at this business, you will see that, if there was underhand business, it was not quite clear to all of us how it was because the people who are---

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. Mr. G.G. Kariuki is moving a very important Report. Could he be allowed to speak from the Dispatch Box so that we can hear him properly?

Mr. Deputy Speaker: Well, I have a problem with the short hon. Members---

An hon. Member: The voice!

Mr. Deputy Speaker: But then, I think hon. Raila's request is reasonable. Therefore, Mr. G.G. Kariuki, you may come to the Dispatch Box.

*(Mr. G.G. Kariuki moved
to the Dispatch Box)
(Applause)*

Let hon. Members not think that they will be doing this every day.

Can I also ask the Clerk to look at this public address system because, I think, this is why we now have to bend rules because the public address system is not serving hon. Members properly.

Hon. G.G. Kariuki, you may proceed now!

Mr. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir. I am glad that you have noticed that we have a lot of problems back there. I think this is a matter the Clerk should have known with his team because this problem has been there for a long time.

Mr. Deputy Speaker, Sir, what I was trying to say is that, Euro Marine, the company which is doing the construction of the vessel we are talking about, went through the international tender. They won the tender and started constructing the ship. As I said last week, and I explained very ably last week from the day this company started work and when it was put through the international tenders. What was left undone at the rise of the House last week was the issue of our recommendations. The Committee had, therefore, recommended that the Government of Kenya (GoK) should urgently give an official response to the International Arbitration Court (IAC), which has not been done. The IAC was approached by the company which is building this ship because the GoK kept quiet about what happened after the officer who was dealing with this matter was withdrawn when the issue of corruption was first mentioned in this country regarding this business. They kept quiet without responding to any correspondence, and we found it very outrageous that the Government could just keep quiet without answering to the company which has constructed this ship, which is 90 per cent ready for delivery.

Mr. Deputy Speaker, we recommended the following: First, the Government should respond and state their position. Secondly, the Government should consider having an independent surveyor to see how much of the contract has been done and what kind of money they are expected to pay following the finishing of the construction. As I said last week, the ship is 98 per cent ready. All that is remaining and expected by the builder of this ship, that is Euro Marine, is for the officers to be chosen to go for training. After everything is ready, all money is paid, they require some officers to go and get some training, which is all that is expected now.

Mr. Deputy Speaker, Sir, the other option is that, the GoK must consider nullifying the existing contract if they are not happy with it. But they have to explain whether they have any right of suspending this contract, which was done through international requirements. We have to deal with it the way it is. But if they are tired with Euro Marine, they should now introduce a new group. But before they do that, the Government must employ new people who will survey and consider how much is left and how much they are expected to pay. Nullifying the contract will involve a lot of other interests, because the Government of Spain is a bit concerned that the Kenyan Government would behave the way it is behaving, by not responding to the company which is registered in Spain. That company is registered by the Government of Spain, and Spain is wondering whether Kenya is now going to be respected internationally in terms of bilateral agreements.

Mr. Deputy Speaker, Sir, we also recommended that the Government should deal firmly, both politically and legally, with persons implicated in committing the crime, if there is any crime.

The Government should come out and explain the sort of crime which has been committed. The Department of Defence (DoD) had gone there to witness the launch of this ship and immediately the issue of corruption was mentioned, they kept off and went completely underground. Now, the ship is lying there and it has been given a name. When we went to see the ship, we found it had a Kenyan flag flying there, and it has been baptized "Jasiri". You wonder why these things are just left like that.

So, Mr. Deputy Speaker, Sir, when the matter was reported as one of the 18 Anglo Leasing companies which was giving Kenya a bad name, I think that the Media and the newspapers just took up the matter. I will not blame the newspapers and the Media, because they ought to have been told exactly what it is. But here, everybody appears to have disappeared. So, we stayed in a situation without knowing what is happening, and that is why the Media kept on and on, and the issue which was brought up by the Media made all the officers to go underground. But it was the responsibility of the Government to remain firm and say what it is, because that is what, I think, the Government failed to do.

Mr. Deputy Speaker, Sir, the money which was involved in building this ship is Kshs3.9 billion. Already, Kshs1.55 billion has been paid. By June, 2006, Kshs1.833 had not been paid, which includes interest, penalties and instalments. Since we would like debate on this Report to come to an end today, if all goes well, the Committee is convinced that the Oceanographic Survey Vessel is still urgently needed by the Kenya Navy. Every necessary measure to resolve the issue hindering its delivery to Mombasa should be urgently considered.

Mr. Deputy Speaker, Sir, our territorial sea boundaries are not defended. We were told that the Oceanographic Survey Vessel would be the only one of its kind in East and Central Africa. If you look at that machine, you will wonder why it is lying where it is.

Mr. Deputy Speaker, Sir, I talked about this matter last week and almost exhausted what is in the Report. Hon. Members have a copy of that Report and I do not need to repeat it. But on behalf of my Committee, I wish to present the Report on the fact-finding visit to the Kingdom of Spain to inspect the Oceanographic Survey Vessel, pursuant to the provisions of Standing Order, No.162.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move and request Maj. Madoka to second the Motion.

Maj. Madoka: Mr. Deputy Speaker, Sir, the Chairman of the Committee, who I travelled to Spain with, has given us a very detailed report. The Report, which has been presented, contains all the necessary details.

Mr. Deputy Speaker, Sir, the main mission of our Committee's visit to Spain was to, first of all, establish whether the vessel is there. Rumours had been circulating that, in fact, there was no vessel. We established that there was a vessel. Not only did we establish it was there, but it was made according to our specifications because a marine engineer from the Kenya Navy had been attached to that construction company from the very first stage. We were shown a video footage of the various stages of construction of the vessel with our naval officer present. According to the naval officer who was seconded to the company, the vessel was, indeed, made according to our specifications.

Mr. Deputy Speaker, Sir, the vessel was not only made to our specifications, but the navy commander is the one who went to launch its first sea trial. He went and broke a bottle of champagne to launch the vessel for its first sea trial. So, they were all involved. What surprised us is how the Ministry of State for Defence, even after realising it needed that vessel because of very many pirating incidents along our seas, kept mum. The Ministry said nothing and yet, it had specifically ordered that vessel. It made us wonder whether the officials of the Ministry of State for Defence were not involved in any shady deals.

Mr. Deputy Speaker, Sir, when the first sea trial was conducted, the vessel was found to be fit. It was only the second sea trial and the fitting of the armoury that was remaining. In fact, the 10 per cent work that is remaining is the fitting of the armoury, which was to be done by another consulting firm. The construction firm had basically finished its bit. It was only the armoury that was not fitted. The construction company has been very reasonable to Kenya. They were only paid their first deposit, but because of the relationship they had with the Kenya Navy--- It is the same company that constructed seven other vessels operating in Kenya. The company had faith that the Government would pay up the remaining payments quickly. But that never happened! The company kept on asking for payments, but it was not paid. It wanted to take the matter for international arbitration, but it held back. That is because of the past relationship with the Kenya Government. It is important that the Government honours its obligation because the ship, which is there now--- In fact, other countries, especially in Asia, wanted to buy that vessel at almost double the price we were buying.

It is important that the Government honours its pledge. Since we seriously need that vessel to patrol our seas, the Government should immediately enter into an agreement with the consulting company and settle what they owe. That way, we will get our vessel back. As you have heard, the vessel has already been given a name, "Jasiri Kenya".

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

(Question proposed)

(Mr. Keter stood up in his place)

Mr. Deputy Speaker: Order, Mr. Keter! Are you not a member of that Committee?

Mr. Keter: No, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Okay! Proceed and make your contribution!

Mr. Keter: Thank you, Mr. Deputy Speaker, Sir. I want to, straightaway, say that I support this Report. It is a detailed Report that was presented by the Departmental Committee on Defence and Foreign Affairs. Some members of that Committee have served in the military. The Chair was a Minister in the Office of the President for a long time. That gives me all the authority to say that whatever is contained in this Report is detailed.

Mr. Deputy Speaker, Sir, there was another detailed Report that was brought to this House by the Public Accounts Committee (PAC) on the status of all the 18 other related projects.

One of PAC's recommendations directed the Government to re-enter into negotiations with those companies to ascertain their genuineness before paying for goods which have been supplied. It is very surprising that, even as we discuss this Report, the Minister for Finance has constituted another committee and signed an agreement with PriceWaterHouseCoopers to look into what this committee came up with. For how long are we going to have committees coming up with other reports? That will take us ages!

Mr. Deputy Speaker, Sir, on the issue of promissory notes, which the Minister said that they are as good as banker's cheques, the Attorney-General gave a legal opinion on those agreements. But we are now discussing this Report so that the House can adopt it. We adopted the Report of the PAC, but nothing has been done to even one of the recommendations that were made. So, as much as I support this Report, I have doubts. The Mover of this Motion is wondering why the Government has kept quiet. Why can the Government not come out and say: "For this project, we will or will not pay." For how long are we going to shy away? The promissory notes were signed up to the year, 2013. The penalties which are accruing are hefty. We are talking about Kshs1.83 billion. If the Government was serious, it should have re-entered and re-negotiated those

agreements to stop that.

We want the Government to come out and say whether it has terminated or cancelled all those projects. It should issue a statement to tell Kenyans which of those 18 related projects have been cancelled, and whether any of those companies has taken us to court. In this Report, there is evidence to show that the Government has not sent any representation to the International Court of Arbitration (ICA) in the Hague. So, why the silence?

Therefore, I urge the Government to move faster, so that the issue of the 18-related projects can be sorted out as soon as possible. This is just one project. The other projects fall under different Departmental Committees of this House. The Public Accounts Committee travelled. The Departmental Committee on Defence and Foreign Relations travelled to Spain. If other Departmental Committees also travel, we will end up spending a lot of money simply because the Government is quiet on these issues.

With those remarks, I beg to support.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. First, let me register my appreciation to this delegation, which comprised of very distinguished gentlemen from this House, and people whom we know have had outstanding military service record before they joined this House.

Mr. Deputy Speaker, Sir, what I find interesting about this Report is that Lieutenant-Colonel Kituku, who accompanied the delegation of the hon. Members, made it very clear that he was there to supervise the construction of that ship from its inception. He was involved when the work began, and he gave a clear report that the work was actually 90 per cent done. He had said, in his report, that there were a few things awaiting to be done and then we have the ship at home. What was being published by the Press and the general media at that time, without bothering to find out the facts from the people who were involved, was that the Government of Kenya, which I serve, was, in fact, involved in scandals, and that it was paying for a ship that was non-existent, and the Kenyan public actually believed it. Unfortunately, without even clarifying the position, our comrades on the Opposition side went on the assault. This matter continued to be magnified in the eyes of the public, and the Government continued to be vilified for something which today we sit here and listen to legislators from the Opposition saying the Government must pay for. In fact, the Government was so intimidated that it started saying that it would not pay any of the bills relating to those projects despite the obvious legal implications, and the greater burden that failure to pay would have caused on the taxpayers. My sincere appeal, as a Kenyan citizen and a Member of this House, is that yes, we should have an Opposition which must speak when we go wrong; yes, we should have the media, which should report when things are not right but, please, for the sake of this nation and its posterity, let us be objective.

Mr. Deputy Speaker, Sir, in this case, we are talking about billions of shillings. Even the stoppage of the payment is going to cost us billions of shillings, because somebody decided that this was an opportunity for them to "hit" or mudsling the Government. We have many things coming up. We are saying, let us have responsible discussions on matters that concern the security of this country. It would be very appropriate if we saw some of the legislators who were on the forefront, claiming this or that was a scandal, coming here to also contribute and, in fact, apologise to this House for the things they said, which were totally non-factual.

I urge hon. Members to support this Report. I really thank the hon. Members who went out there, verified this matter and put this matter straight before the Kenyan Government and her people. Most unfortunately, as we know, facts do not make news. Real issues do not make news. What makes news are rumours and other matters. However, I urge and appeal to our colleagues in the media to, please, correct the wrong impression that has been created over time about these

contracts. I wholly support this Report.

Thank you.

Mr. Raila: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. I would like to pay tribute to the Committee for the work that it has done, which has shed some light on an issue which was fairly opaque to most of us. This is basically because of the manner in which contracts of this nature were handled in the past. When the alarm was raised over the Anglo Leasing scandal, it appeared that a blanket cancellation was effected on a number of projects that had been contracted at that point in time. This project was one of the victims.

However, we have learnt the hard way that without having some kind of transparency in negotiations and contracting, particularly in procurement in the Department of Defence (DoD), this country ends up losing a lot of money. In the past, everything was labelled "security", and procurement was very opaque in the DoD. So, we ended up with officers retiring from the DoD as millionaires. People would be recruited as cadet officer. They are trained. They just do exercises. They fight no wars, but end up as multi-millionaires, basically because they were put there to purchase equipment for this country. The prices of that equipment were very inflated because commissions were being earned by the officers handling the purchases and by members of the political class of the time. Time has now come, therefore, for us to tighten our belts and ensure that this country is not fleeced the way it has been fleeced in the past.

Mr. Deputy Speaker, Sir, having said that, from the Report itself, and all have to believe what we are being told by the hon. Members of the Committee, this is a genuine contract. The Government signed the contract. The vessel is also there. They have seen it. Whether we are actually getting value for money or not, is another matter. It appears that an officer of this Government was present from the very beginning when the foundation of the vessel was being laid, as it were, and supervised her construction until it was about 90 per cent complete.

[Mr. Deputy Speaker left the Chair]

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

We have had several projects abandoned in the past when they were nearing completion in the past. The Molasses Plant in Kisumu is one of them. The project was abandoned when it was 90 per cent complete. We moved in and salvaged it, and it is now working. It is, therefore, a fact that this vessel can be completed. It has also been established that there is need for it. So, the sooner that the Government does this, the better. What we need to do is carry out negotiations, rather than go through litigation. The Government stands to lose a lot of money if we allow this matter to be solved through litigation; hence the need to move with speed and meet the obligation, so that the whole transaction can be completed and the vessel delivered to the country.

I would like to conclude by saying that the Government needs to display more professionalism in handling these matters. Right from the beginning, I considered it a big insult to appoint a whole Major-General - Maj-Gen. Nkaisserry - as an Assistant Minister. So, the Major-General did the right thing to reject that appointment. He considered it a big insult, but did not cast aspersions on the Minister himself. If ODM(K) comes to power, the Major-General will be the Minister for Defence, and not an Assistant Minister.

Thank you very much.

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir. We are talking about professionalism. I was one of the Members of the Kenyan delegation that went to Spain but I

would like to make a correction. The vessel that we had in Kenya was an oceanographic vessel. There is a difference between a national oceanographic vessel and a defence frigate. On our trip we discovered that the vessel that had been misconstrued to be a replica of a navy vehicle was a real frigate.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Let us listen to the professional advice from the hon. Member on the Floor!

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I am conversant with ship building, having gone through my profession overseas on learning boating skills and seamanship, which I acquired.

I have pictures of the vessel that we saw, which I can lay on the Table of the House. It is a real frigate that our Kenya Navy had ordered. This vessel was inspected by one of our own officers, Lt. Col. Kituku of the Kenya Navy.

The Temporary Deputy Speaker (Mr. Khamasi): Capt. Nakitare, I think we would like to have a look at that picture. Is it the same as the one attached on the Report?

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, you can have a look at it.

*(Capt. Nakitare laid the picture
on the Table)*

Mr. Temporary Deputy Speaker, Sir, it is the same one. I took the initiative of taking pictures for the sake of the doubting Thomases. The team that investigated and was taken round by the Ocean Marines, comprised of Lt. Col. Kituku, Capt. Davies, one of the directors of Ocean Marines, Maj-Gen. Nkaiserry, Maj. Madoka and one of our Ambassadors who is based in Paris, France, because we do not have an Embassy in Spain.

We are looking at bi-lateral relations. It may surprise this House to know that by the time we had a meeting with the owners of this company, they were on the verge of taking Kenya for international arbitration at the Hague. So, this is not a matter that we can say was fictitious.

We later on learnt that these are the same people who had supplied the Kenya Navy with speed boats. We cannot compare speed boats with warship patrol boats. We need a frigate. Without a frigate we cannot contain the piracy that has just arisen in the recent times. Piracy on the oceans ended in the 18th Century. But it is mushrooming again because there is no adequate security.

Mr. Temporary Deputy Speaker, Sir, our Kenya Navy is well-trained, but the personnel have no adequate equipment. But the issue of politicising matters of defence is sickening, because some of the materials that the Department of Defence acquires are classified. It is restricted to a few people who know how to handle them. It is not a question of democracy; that everybody has to see your bedroom.

I looked at this ship at its mooring, floating far away on a river bed. It is like a child who has been bequeathed and abandoned. Was this child born of a prostitute, so that we have to say that we do not know how it was born? Let us deal with external and internal relationships separately. Why do we have to cause the people who built this ship to suffer? This ship was not built by one person; it was built by many companies.

Mr. Temporary Deputy Speaker, Sir, I would like to briefly outline the history of this ship. We were taken down to the borough, right to the stairs of the ship, where the guns were supposed to be installed. We went down three storeys. This ship is capable of refuelling another ship on the high seas during distress, should the

other ship run aground because of lack of fuel. We found that the frigate has two generators which are capable of supplying electricity to the entire Nairobi City. Is that not wonderful? Why are we denying the Kenya Navy what is supposed to be done? We are professionals. I did not come into this House with a uniform, but with qualifications. I am learned and I have certificates that support my arguments.

In defence, it is said: "Prepare for war to make peace." Had the Kenya Navy been well-prepared, we would not be having drug barons operating on the high seas. We do not even need these frigates. I now call for Kenyans to demand that we be given a submarine at Mtongwe, which has over 487 kilometre-stretch of water.

Mr. Temporary Deputy Speaker, Sir, there are also trained dolphins in the Blue Sea, which can deal with international terrorism. Dolphins are intelligent enough to depict if there is a torpedo coming. You cannot fight people on the high seas with a torpedo unless you have a sub-marine. So, why do we have to deny our Kenya Navy what it deserves?

This ship has our Kenyan emblem. The flag is there. We also have high-ranking, conversant and trained personnel who went to see the vessel. I would like to table these pictures for whoever wants to have a look at them to do so.

(Capt. Nakitare laid the pictures on the Table)

We do not take issues to the Press. This was a copied replica of a ship when they heard of the Anglo Leasing scandal. However, we have to understand this: How was the procurement done? Let that be dealt with here at home.

Mr. Temporary Deputy Speaker, Sir, on the other hand, that ship in the high seas is moored on a river. We have a problem, leave alone payment of the demurrage charges. We have undergrowth and marine stuff that clings to the bottom of the ship. That will also need clearing. Why do we not have our personnel? We saved Lt. Col. Kituku because when the Anglo Leasing issue was raised here, everybody ran away from it. Lt. Col. Kituku's personal effects and Government documents were locked in a room and he was chased away from Spain under the guise of having been recalled home. We had to save him! We pleaded with the people and owners of the shipyard to give him his personal effects. We were the ambassadors of Kenya. It is high time the Government paid for this ship and dealt with the domestic issues as they come. As a Committee, we do not want to talk about what it was.

With those few remarks, I beg to support.

Maj-Gen. Nkaisserry: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish that when Mr. Raila comes to power, then I will occupy a substantive position as he promised.

I thank you for giving me this opportunity. I was an hon. Member of the delegation. What surprises the citizens of this country is the denial by the Government of the Republic of Kenya that a contract did not exist concerning this ship. It is very shameful! The Government entered into a contract with Euromarine on 15th July, 2003. The building of the ship started and a project officer was posted; a marine engineer from the Kenya Navy. The ship became ready and was launched into the sea in January, 2005. The people who witnessed the launching of the ship were the Kenya Navy Commander, representing the Kenya Government; a representative of our Embassy in Paris; the Chief of Logistics, Kenya Navy, and the Chief of Procurement, Department of Defence (DoD), yet the Government denied that the contract ever existed. Euromarine, for the information of this country, has been building ships for the Kenya Navy since the 1990s. It has delivered nine vessels to the Kenya Navy. So, this company was not a shady company.

Mr. Temporary Deputy Speaker, Sir, the second shocking thing for this country is that

despite the Government of the Republic of Kenya having a Parliamentary Committee on Defence and Foreign Relations visiting Spain and bringing a report, and the Public Accounts Committee (PAC) bringing a report--- This matter touches on confidentiality; top secrets, yet this Government has the audacity of contracting a civilian foreign organisation to go and investigate the DoD.

An hon. Member: Shame!

Maj-Gen. Nkaiserry: Mr. Temporary Deputy Speaker, Sir, this is shameful for this nation. We will never have--- You never know whether PriceWaterHouseCoopers have secret agents. They are going to go into details of all the files, contracts of the Republic of Kenya concerning defence issues, yet this House has a PAC and the Departmental Committee on Defence and Foreign Relations which has brought a report to this House. The Government has gone out of its way to breach confidentiality and at the same time pay a whooping sum of over Kshs100 million to a company to just bring a report which this Committee has brought to this House. It is completely shameful and we cannot allow this to happen!

(Applause)

Since we went and found out that this Government entered into a contract, if it is afraid to tell Kenyans the truth, that: "Yes, we entered into a contract. In this contract we are supposed to do ABC, and D---" You must meet your international obligations, otherwise this Government is going to bring shame, tarnish the name and image of our country internationally. We cannot accept that! This Government will go and another one will come, but Kenya, as a nation, will remain. We do not want shame to be brought to our country by a very inefficient Government.

Mr. Temporary Deputy Speaker, Sir, the ship, as I said, was launched in January, 2005 and it went for sea trial. It was ready for delivery in July, 2005. As I speak, the warranty of the equipment has expired. We are going to pay for different equipment because the warranty has expired. We are paying for demurrage charges as the ship continues docking. This country is going to lose more money just for that ship to be sitting there because the Government is afraid of saying: "Yes, we are ready to pay", then the ship is released to the Kenya Navy.

Mr. Temporary Deputy Speaker, Sir, the other critical issue is the security. You cannot compare money with national security interests. Just paying Kshs3 billion for the sake of security of this nation is peanuts. This Government is collecting - or alleging to be collecting - a whooping over Kshs400 billion. We have an unstable situation in Somalia and pirates in the Indian Ocean, yet this ship has been ready for delivery since July, 2005. It is still sitting there just because the Government is afraid to meet its obligations. We demand that, if that is the situation and because the security of this nation is threatened, this ship be released to the Kenya Navy. Moreover, the Government must fulfil its obligation.

(Applause)

With those few remarks, I beg to support.

Dr. Murungaru: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to join my colleagues who have congratulated Mr. G.G. Kariuki and his able hon. Members of the Committee for doing this Parliament proud and, by extension, for doing this country proud.

I would not want to dwell on what has been said. I am happy that finally, some light is coming into matters which were deliberately shrouded in thick darkness, which was artificial darkness.

Mr. Temporary Deputy Speaker, Sir, I would like to support all those who have demanded that our national sovereignty and security comes before politics. Therefore, I would like also to add

my voice to those who are saying that the presence of this ship in our waters is long overdue.

(Applause)

As has been mentioned by a good number of hon. Members, we cannot gainsay - overstate - the importance of properly securing our waters. Apart from the financial losses that this country is likely to incur as a result of breaching contractual obligations, there is a cost which is far beyond and enormous than the loss of this contractual amount. Today, as we are talking, perhaps this country is feeding more than half a billion people in Asia or more than 200 million---

I am talking about Government statistics and I ought to know. Our waters are fished with impunity because we cannot do anything about it. Our 200 nautical miles in the Indian Ocean are overfished by foreign vessels and it will only take a bit of patrolling for us to enforce our rights. This is because it is not a favour. Those are our waters according to international treaties and all we are obliged to do is to mind that God-given natural resource. The value of that is far greater than the cost of this ship and all others that we have.

Mr. Temporary Deputy Speaker, Sir, obviously, I have a personal interest in this matter and I should declare it. I was the Minister who gave the green light for that ship to be procured. I have said it before, publicly, that if I have to do it again, I will do exactly that because as we had stated earlier, with regard to the procurement process - I am happy that the Departmental Committee on Defence and Foreign Relations has been able to verify that - I was advised by people who know, for example, my former Shadow Minister, Maj-Gen. Nkaisserry. I do not know if he is still a Shadow Minister now that I am not the real thing!

(Laughter)

I am happy that they were able to verify that the procurement process was actually followed to the letter.

The Temporary Deputy Speaker (Mr. Khamasi): Dr. Murungaru, Maj-Gen. Nkaisserry is still the Shadow Minister as far as the Chair is concerned.

Dr. Murungaru: Thank you, Mr. Temporary Deputy Speaker, Sir, for that advice.

I would like to urge other Departmental Committees of this House to proceed on the same track as the Departmental Committee on Defence and Foreign Relations.

Mr. Temporary Deputy Speaker, Sir, let us talk about corruption in our country. Corruption does not do this country any good. In fact, all that it does is to make people out there in the wider world form the impression that in Kenya nothing else happens except corruption. In this nation, we are just about to go the Venezuela way! I believe that in another one year, we will afford to say that we do not need the International Monetary Fund (IMF) and the World Bank because we will be able to mobilise sufficient resources for both our Recurrent and Development Expenditure.

I would like to urge other Departmental Committees that it is about time that we brought this - forgive me, Mr. Temporary Deputy Speaker, Sir, if this is an unparliamentary word - nonsense about mirages to an end. I remember that when I was the Minister of State for Administration and National Security, I found a contract that had been executed for a forensic laboratory. Money had been paid by the previous Government for a forensic laboratory, but work had not yet started. I remember that I harassed my officers, almost to madness, to ensure that we got value for the money which had been paid. Indeed a plot had been identified at the current CID Headquarters to construct that forensic laboratory. We had only said that no more cent would be paid until work, for the money which had already been paid, was shown. Now, because of the same shroud which was put around the ship and the forensic laboratory, today we are crying that

we are unable to deal with crime. Why is that the case? It is because we do not have the forensic resources to deal with that crime. I urge both the Government and the concerned Departmental Committees to consider concluding this matter efficiently and effectively so that our country does not lose.

Mr. Temporary Deputy Speaker, Sir, having said so, and having agreed with the Committee, I must also revisit an issue which was raised this afternoon on the Floor of this House. This is about the application of public resources on some of these activities. We know that a contract for a whopping US\$1.5 million has been executed by the Government. I can also say, with a bit of authority, that I am aware that in actual fact that sum has been escalated because PriceWaterhouseCoopers have asked for an extension, not once, but twice, of the contract period. So, it is not even the Kshs100 million we have been told about; it may be more than that.

What I am concerned about, and I am very happy that the Assistant Minister for Justice and Constitutional Affairs is here, is that in this contract, whose documents I had the opportunity to peruse, there are what appear to be glaring illegalities. For example, the Kenya Anti-Corruption Commission (KACC) purports to cede powers donated and granted to it by Parliament to exercise solely. They have purported to cede some of those powers to PriceWaterhouseCoopers. Using those ceded powers, PriceWaterhouseCoopers has proceeded to a number of banks in the name of doing forensic works. They have down-loaded all the banking data in those banks. They have also carted away that data and they are purporting to be investigating these matters. So, one fails to relate these things because even lawyer-client accounts have been illegally, without court orders, hacked into and information carted away. The relationship between a lawyer and the client is like that of a doctor and his patient. The confidentiality is sacrosanct and it should not be breached.

Mr. Temporary Deputy Speaker, Sir, at the same time, crime has been committed because if these people are going to collect data without the necessary legal authorization--What I am trying to say, in short, is that you cannot break law in the name of enforcing the same law. Two wrongs do not make a right. This is the recipe for creating the kind of state that existed in the USA in the days of Edgar Hoover, the infamous director of FBI. During his time, people never used to sleep at all.

Mr. Temporary Deputy Speaker, Sir, I would like to remind this House that all institutions that function in this country are creatures of laws passed in this House. When institutions appear to be running amok, it is the duty of this House to re-evaluate their performance and take the necessary remedial measures.

Finally, the fight against corruption takes much more than just a title. It takes leadership and courage. It takes the kind of courage that made Mr. G.G. Kariuki, Maj-Gen. Nkaiserry, Maj. Madoka and Capt. Nakitare to come on the Floor of this House, in spite of what appears to be the public mood to say: "This is the truth as we know it." That is the only way we can fight corruption.

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

Mr. Keter: On a point of order, Mr. Temporary Deputy Speaker, Sir. Am I in [Mr. Keter] order to request, through the Chair, that Dr. Murungaru be reappointed as the Minister for Defence?

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Mr. Keter, you are giving the Chair a job that is not the Chair's. So, keep it out of the Chair!

Prof. Oniang'o: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I am not a military person, but I am a Kenyan who cares about the image of this country internationally.

Mr. Temporary Deputy Speaker, Sir, it appears that while the rest of Kenyans sit back hoping that our international relations and foreign affairs are doing well, there are people who are actually working towards promoting the integrity of Kenya. However, there are some fishy things that go on out there. This is something that many Kenyans do not know. When some of us struggle hard out there, people look at us in amazement and say, "You are from Kenya!" Comments are made about us and one does not really understand why those comments are being made.

Mr. Temporary Deputy Speaker, Sir let me congratulate this delegation which seems to have been assembled in a very professional way. In Kenya, today, we do not seem to respect our professions and our professionals. We do not seem to respect our professions and our professionals. When they have done a job, the rest of us, who do not even know anything about it, begin to make a mockery of their work. I am just imagining the ship sitting in Spain with the Kenyan flag floating at sea and the same people saying: "Those are the Kenyans who produce runners who do us proud. We are so proud to see Kenyans run. Is this a country which actually behaves in this manner?" It is true that the media goes with what they are fed with. However, let me congratulate Dr. Chris Murungaru who has stated that they knew what they were doing, and that the truth eventually will prevail and set us free. I hope, as Kenyans, we can begin to move forward and do things in a professional way.

Mr. Temporary Deputy Speaker, Sir, I am also looking at the amount of money we are going to pay. I then think of the children who are unable to afford secondary school fees. That money could be used to pay school fees for these students. It could enable schools to release the certificates which are being held in schools. The detention of certificates render many children imprisoned because they cannot get training or jobs. This is money we are going to spend unnecessarily. I hope that we shall learn from this experience and try to do things professionally. I hope that other committees can do the same. I would like to urge this committee to take on the issue of the forensic science laboratory, which Dr. Murungaru mentioned. We are sure that we need a forensic science laboratory. Young people want to study forensic science. If Kenya does not get the forensic laboratory, we are going to find ourselves in a lot of trouble.

Mr. Temporary Deputy Speaker, Sir, it is amazing that with the length of shoreline we have, we do not know how to use the waters. We have left them to foreigners! With all the terrorism, Kenya is in a very vulnerable situation. We are surrounded by areas of insecurity. Right now, we have very many refugees on our soil. Our waters are just open and nobody is able to defend us should we be attacked. Therefore, we would like to support the Kenya Navy. I want to tell this House that when we have cases of drowning in Nairobi, and there is a special case in Butere where a young man drowned in a quarry, we have to seek the services of the Kenya Navy officers from Mombasa. We need to support our institutions. We have had long standing institutions. We need to recognise our professionals and give them support. We also need to be careful to promote and preserve the integrity and the image of this country.

I would like to urge my colleagues and other Kenyans who go out there to do contractual work for this country that, Kenya needs her image preserved, and the rest of us, as citizens, count on them. I know that when Maj-Gen Nkaisserry becomes the Minister for Defence, he will restore the image of Kenya.

Thank you Mr. Temporary Deputy Speaker, Sir.

(Applause)

The Minister for Water and Irrigation (Mr. Katuku): Thank you Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I would want to join my colleagues to thank the committee for doing a good job.

Mr. Temporary Deputy Speaker, Sir, the Report which was tabled in this House about the Oceanographic Survey Vessel is very encouraging to me. At one time, having served in the Treasury, we were being accused, as a Government, to have done something wrong by contracting for this ship. I am, however, happy now that hon. Members have come forward to say the Government was right on this. This is very important.

Mr. Temporary Deputy Speaker, Sir, we only need to look at the history of this issue. The only conclusion I can make is that, we have over-politicised all the contracts the Government has entered into, so long as we are not in that Government. It is important that we have a responsible Opposition and media. I have looked at one of the recommendations on this Report, and it says exactly that. For the interest of this country, we must be responsible for our utterances. We must be responsible for whatever we report in our newspapers and the Opposition must be responsible for what they utter in this House.

Mr. Temporary Deputy Speaker, Sir, it has now become clear that the same Opposition, which was crucifying the Government, has come here today to verify the Government. I am happy the Opposition is becoming mature towards the of the life of this Parliament. However, they have become mature too late when they have done a lot of damage to this country. They need to apologise to Kenyans for the damage they have done to this Government and Kenyans for alleging that all Anglo Leasing projects were corrupt. They are now coming here to say: "We were wrong". They should say this very clearly and apologise.

Mr. Temporary Deputy Speaker, Sir, I agree with Mr. Keter. Dr. Murungaru was crucified here. Now, Mr. Keter is here verifying Dr. Murungaru. I want to join him in wishing to see Dr. Murungaru reappointed to the Cabinet. He was crucified for no good reason! Both sides of the House now agree that it was only politics. We must be careful about other people's careers. If Dr. Murungaru was not a tall and strong man, he would not be here. He would be in hospital somewhere recovering from a stroke. We must care about others. Let us not just do things for the sake of politics and spilling blood here. We must remember that others have a career.

Maj-Gen. Nkaiserry: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead the House that the Opposition was accusing the Government wrongly while it is the Government that entered into those contracts and refused to inform Kenyans about the situation of those contracts?

The Minister for Water and Irrigation (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I am very right. I am not misleading this House. I remember when the issue of Anglo Leasing came up, I was an Assistant Minister for Finance. If you go to the HANSARD, I kept answering Questions on Anglo Leasing. I said: "This was worth it. We needed the ship for patrolling our seas". I also came here personally to answer a Question on the forensic laboratory. Now, hon. Members are saying this laboratory is long overdue. I am totally right.

Mr. Temporary Deputy Speaker, Sir, criminals get away with offences because we do not have the capacity to determine this and Maj-Gen Nkaiserry knows this very well. He has passed through this. We needed the laboratory as early as yesterday. It is now time we put aside our political differences and looked at issues of national security. We should not politicise everything we do.

Mr. Temporary Deputy Speaker, Sir, one of the recommendations says:-

"The Kenyan media should carry out research and establish facts before publishing unfounded but damaging articles that hurt Kenya's overall image".

This is very important.

I want to appeal to the media that they should not write stories just to make capital out of it. We need to guard our integrity as a nation because that is very important. I am sure the media will take up some of these recommendations and correct the impression they created through their

reporting on utterances made by some hon. Members. Since they sold their newspapers, they should also come up and clear the issue of Anglo Leasing because it is a major concern.

Mr. Temporary Deputy Speaker, Sir, we should also look at our armed forces. Our armed forces are respected worldwide for discipline. Whenever armed forces are needed anywhere in the world to keep peace, Kenyans are called upon to assist. But when we come up with damaging stories about our armed forces, we are eroding the confidence the rest of the world has in our armed forces. I want to appeal to them to soldier on because we are happy with what they doing.

Mr. Temporary Deputy Speaker, Sir, when the former Shadow Minister for Internal Security and also the current Shadow Minister for Provincial Administration and Internal Security was speaking, an hon. Member mentioned that he could become a Minister in the Raila Government. I want to wish him well, but that will take a long time. I am sure by then, he will not be able to take on the job. But I still want to wish him well. I hope he will continue to be a shadow Minister if all goes well. If not so, then I am seeing a situation where he may not even be a shadow Minister. The best thing would be for him to join the Government so that he can be appointed substantively.

Mr. Temporary Deputy Speaker, Sir, it is important to note that we have passed the Procurement Bill here, which details how contracts are supposed to be awarded. We need to trust the people who are doing those kind of contracts because once a process has been done professionally, if anybody has anything to query, there is a tribunal he can go to and query how tenders are awarded rather than politicize it. That will not do any good to this country.

With those many remarks, I beg to support the Report.

Mr. Keter: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it be in order to call upon the Mover to reply because it seems that we are repeating ourselves and we are also in agreement. There is no controversy.

Mr. Temporary Deputy Speaker (Mr. Khamasi): Yes, I have been sitting here and listening. I think there is nothing new that we are saying. We all seem to be in agreement and I will, therefore, put the Question.

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

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I want to thank hon. Members for supporting this Report because the Report is quite clear. The comments by hon. Members are very encouraging. Time has come when we should come out of that cocoon of fearing to be labelled corrupt. As Dr. Murungaru has said, time has come when we should go and investigate all the 18 projects which have been giving us a very bad image internationally. It is said in overseas that Kenya is seen as the most corrupt country because it is so democratic. People say what they want to say. Any report that comes from Kenya is taken very seriously out there because Kenya is expected to be a country where corruption does not exist.

Mr. Temporary Deputy Speaker, Sir, as I said when I was moving the Motion, there is no need to criticise the media because they were not told the truth. If you want to hide the truth, then be ready to be misrepresented. The media is bound to report what they do not know and eventually the public will accept what they say. I think that this is a lesson. We were told that the ship was a civilian second-hand ship which was being modified to a navy kind of ship, and yet, that was not the case. Our officers stayed there for one year and some months watching and inspecting the building of that vessel. The person who was there, Mr. Kituku, was ordered to come back abruptly by the Government when the issue of that vessel came up in the media.

There are some important projects in this country which we need to have, for example, the communication centre for the armed forces. Even if there was any other business, we better deal with the principle of the matter first. Let us get the project to go on and then deal with the culprit if there is any. But you will find that the Kenya Ant-Corruption Commission (KACC) Director will say, "stop paying." We had the opportunity to meet the Director of KACC, the Chief Secretary, the Minister and all the people involved before we undertook to go to Spain. Those people are very clear in their own mind about what happened. But the politics of 2003/2004 were very disturbing. Everybody in the Government was perceived to be corrupt. If you had any money or a new car you would be labelled corrupt. I think that time has come for us to be responsible and look for what is good for this country.

We are going through a very difficult period in our political life where we have liberalised procurement. Procurement used to be a monopoly of certain countries in the Western World, but now it is open internationally. Therefore, we have to be ready to be kicked around by those who have enjoyed buying and supplying equipment for our armed forces in Kenya since Independence. I think we have learnt a lot. I would like to thank hon. Members for supporting this Report.

With those few remarks, I beg to move.

(Question put and agreed to)

Mr. Temporary Deputy Speaker (Mr. Khamasi): Next Order!

ADOPTION OF REPORT ON SIXTH
SESSION OF PAN AFRICAN PARLIAMENT

THAT, this House adopts the Report of the 6th Ordinary Session of the Pan African Parliament held in Gallagher Estate, Midrand, South Africa from 13th to 24th November, 2006, laid on the Table of the House on Wednesday, 18th April, 2007.

Mr. Temporary Deputy Speaker (Mr. Khamasi): Where is the leader of the delegation? If he is not there, where is the Leader of Government Business? The Government is unable to say anything!

We will skip it and go to the next Order.

(Motion deferred)

BILLS

Second Reading

THE EMPLOYMENT BILL

The Temporary Deputy Speaker (Mr. Khamasi): Is the Minister for Labour and Human Resource Development not here? How about the Leader of Government Business? There is no response from the Government side.

Let us skip it and go to the next Order.

(Bill deferred)

Second Reading

THE LABOUR RELATIONS BILL

The Temporary Deputy Speaker (Mr. Khamasi): I notice this is also for the same Minister. He is not here!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, it was not anticipated today that we would reach this Order of the House. Therefore, I beg some understanding on your part. It was not intended that the Minister would be absent today.

The Temporary Deputy Speaker (Mr. Khamasi): You know very well, hon. Mungatana, that, that has never been accepted as an excuse in this House. Once a matter is on the Order Paper, it can be reached at any time, and the Minister responsible has to be in the House to deal with it. The House will not sit here in vain when all the matters on the Order Paper are not being attended to.

We will skip it also and go to the next Order.

(Bill deferred)

Second Reading

THE FISCAL MANAGEMENT BILL

The Temporary Deputy Speaker (Mr. Khamasi): Is hon. Oloo-Aringo not here also? This is a very sad afternoon!

(Bill deferred)

POINT OF ORDERPRIORITIZATION OF BUSINESS
ON THE ORDER PAPER

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. You can see it is, in fact, very shortly after 5.00 p.m. and we have virtually one-and-half hours left. Could the Chair do something to get the Leader of Government Business and the House Business Committee to, at least, list matters on the Order Paper in which there is a lot of interest, so that we can debate them? An example is the Miscellaneous Statute Law (Amendment) Bill which we debated earlier.

Why is the House Business Committee not bringing some of these Bills forward so that we can debate them? We have got a very short year, and it is really tragic that on a Wednesday like today, the House has to adjourn one and half hours earlier.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Muite, those sentiments are shared by the Chair. What you are suggesting, however, is beyond the jurisdiction of the Chair. You know that is within the province of the House Business Committee, and it is up to them to keep this House busy by listing all matters that need to be discussed in this House.

Mr. Biwott: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it be in order for the Chair to advise the other side to ensure that, at least, one of them, a Minister, an Assistant Minister or the Leader of Government Business or his deputy, is always here? There is nothing to anticipate.

Mr. Temporary Deputy Speaker, Sir, in fact, the plea for understanding by the Assistant Minister has no basis. The Order Paper is the Order Paper and there is nothing to anticipate. That

way, things will move faster.

Mr. Temporary Deputy Speaker, Sir, the work of this House is to ensure that business is transacted at any given time. So, there should always be somebody on the standby in case things move faster than the legs of those who are supposed to be leading or introducing the Motions.

The Temporary Deputy Speaker (Mr. Khamasi): Yes, what you are saying, hon. Biwott, has already been said. That has been the advice of the Chair even in the past. In fact, we find it extremely difficult to appreciate that we are talking about matters that are already on the Order Paper, and a substantive Minister or his assistant is not available. It baffles!

Mr. M. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to suggest that the House allows the posting of this Order Paper to the website, which already exists for Parliament? I believe Ministers have access to the internet. My good learned friend, the Assistant Minister, has already suggested that the Minister may not have been aware of what business would come up in the House.

I believe that in this day and age, it is not proper for this country to be relying on physical paper, hard copy, when we have a website, to which we can post matters. I know that we have not yet approved the proposed unfair to the country. Would I be in order to changes to the Standing Orders, but this is suggest that?

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Yes, you are in order. I serve on the Standing Orders Committee and these are some of the proposals that have been put forward, and it will be upon this House to approve them. Besides that, all the Order Papers, according to the arrangements of this House, are delivered to the Ministers' offices physically. There is no dispute about that. So, effectively, the Ministers' offices know about the business of the House. So, it cannot be a question of them knowing or not. As I said, it is a very sad afternoon that we can go through many Bills without having any Minister to respond to them.

Hon. Members, it is necessary that we adjourn before our usual time. The House now stands adjourned until tomorrow, Thursday, 3rd May, 2007 at 2.30 p.m.

The House rose at 5.10 p.m.